

CHAPTER 71A

RECIPROCAL OR INTERINSURANCE CONTRACT EXCHANGE

71A.01 Powers.

71A.02 Requirements; limitations.

71A.03 Unearned premium reserve.

71A.04 Taxes.

71A.05 Reports; examination.

71A.06 Exchange of contracts.

71A.07 Effect of chapter; exclusiveness.

71A.08 Violations and penalties.

71A.01 POWERS.

Subdivision 1. **Contracts; excepted risks.** Individuals, partnerships, business trusts, and corporations, public or private, of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or interinsurance contracts with each other, or with individuals, partnerships, business trusts, and corporations, public or private, of other states and countries, providing indemnity among themselves for any loss which may be insured against under other provisions of the laws, excepting life and ocean marine insurance.

Subd. 2. **Attorney-in-fact.** These contracts may be executed by an attorney, agent, or other representative, herein designated attorney, duly authorized and acting for such subscribers.

History: 1967 c 395 art 11 s 1; 1980 c 409 s 1

71A.02 REQUIREMENTS; LIMITATIONS.

Subdivision 1. **Certificate of authority.** Each attorney by or through whom are issued any policies of or contracts for indemnity of the character referred to in this chapter shall procure from the commissioner annually a certificate of authority stating that all the requirements of this chapter have been complied with and, upon such compliance and the payment of the fees required, the commissioner shall issue this certificate.

Subd. 2. **Filing with commissioner.** The subscribers so contracting among themselves shall, through their attorney, file with the commissioner a declaration, verified by the oath of the attorney, setting forth:

(1) The name or title of the office at which the subscribers propose to exchange these indemnity contracts, which shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or association as in the opinion of the commissioner is calculated to result in confusion or deception;

(2) The kind or kinds of insurance to be effected or exchanged;

(3) A copy of the form of policy contract or agreement under or by which the insurance is to be effected or exchanged;

(4) A copy of the form of power of attorney or other authority of the attorney under which the insurance is to be effected or exchanged;

(5) The location of the office or offices from which these contracts or agreements are to be issued;

(6) That applications have been made for indemnity upon at least 100 separate risks aggregating not less than \$1,500,000, as represented by executed contracts or bona fide applications, to become concurrently effective, or, in case of liability or compensation insurance covering a total payroll of not less than \$1,500,000;

(7) That there is on deposit with this attorney and available for the payment of losses an initial sum of not less than the amount of surplus which would be required of a mutual company under section 60A.07, subdivisions 5b and 5c, to become authorized to transact insurance business in this state if it were engaged in those same lines of insurance, provided that after initial authorization has been granted the amount

shall thereafter be constantly maintained in an amount equal to that required of a mutual company. In addition, if it is a reciprocal or interinsurance exchange operating on a nonassessable basis, it must establish and maintain a guaranty fund in an amount equal to that which would be required of a mutual company pursuant to section 66A.16, if it were engaged in those same lines of insurance.

Subd. 2a. Surplus, application of prior law. Subdivision 2, as amended by Laws 1969, chapter 820, section 1, shall be effective upon enactment, and thereafter all reciprocal insurance associations shall meet the revised requirements of subdivision 2, as amended by Laws 1969, chapter 820, section 1, provided, however, that any reciprocal insurance association authorized to transact a particular kind or kinds of insurance as specified in section 60A.06, may continue to do so without complying with the revised requirements of subdivision 2, as amended by Laws 1969, chapter 820, section 1. After enactment, any reciprocal insurance association which seeks authority to transact an additional kind or kinds of insurance shall, as a condition to the granting of such authority, comply with the revised requirements of subdivision 2, as amended by Laws 1969, chapter 820, section 1, as to such additional kind or kinds of insurance that it is authorized to transact.

Subd. 3. Commissioner as agent for service. Concurrently with the filing of the declaration provided for by the terms of subdivision 2, the attorney shall execute and file with the commissioner an instrument in writing for the subscribers, conditioned that upon the issuance of the certificate of authority provided for in subdivision 1, service of process in compliance with section 45.028, subdivision 2, may be had upon the commissioner in all suits in this state arising out of these policies, contracts, or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or interinsurance contracts through such attorney.

Subd. 4. Maximum indemnity. There shall be filed with the commissioner by such attorney a statement under oath showing the maximum amount of indemnity upon any single risk, and such attorney shall, when and as often as the same shall be required, file with the commissioner a statement verified by oath to the effect that the attorney has examined the commercial rating of these subscribers, as shown by the reference book of a commercial agency having at least 100,000 subscribers, and that from this examination or from other information in the attorney's possession it appears that no subscriber has assumed on any single risk an amount greater than ten percent of the net worth of the subscriber.

History: 1967 c 395 art 11 s 2; 1969 c 820 s 1,2; 1986 c 444; 1992 c 564 art 2 s 6

71A.03 UNEARNED PREMIUM RESERVE.

Subdivision 1. How calculated. There shall at all times be maintained as a reserve a sum, in cash or convertible securities, equal to 50 percent of the net annual deposits collected and credited to the accounts of the subscriber on policies in force having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscribers' agreements for expenses.

Subd. 2. Minimum reserve. These sums shall at no time be less than \$25,000 and, if at any time, 50 percent of the deposits, so collected and credited, shall not equal that amount, the subscribers shall make up any deficiency.

History: 1967 c 395 art 11 s 3

71A.04 TAXES.

Subdivision 1. Premium tax. The attorney-in-fact, in lieu of all taxes, state, county, and municipal, shall pay to the state with the filing of each annual report on or before March 1 as an annual license fee two percent of the gross premiums or deposits for the preceding calendar year, deducting all amounts returned to subscribers or credited to their accounts; and the attorney shall pay a filing fee of \$2.

Subd. 2. Penalties. If unpaid March 1, annually, a penalty of ten percent shall

accrue thereon and thereafter such sum and penalty shall draw interest at the rate of one percent per month until paid.

History: 1967 c 395 art 11 s 4; 1969 c 1148 s 20; 1986 c 444

71A.05 REPORTS; EXAMINATION.

Subdivision 1. **Annual report.** The attorney-in-fact shall make a report to the commissioner for each calendar year on the first day of March showing the financial condition of affairs at the office where the contracts are issued and furnish such additional information and reports as may be required.

The attorney-in-fact shall not be required to furnish the names and addresses of any subscribers nor the loss ratio.

Subd. 2. **Examination.** The business affairs and assets of these organizations shall be subject to examination by the commissioner.

History: 1967 c 395 art 11 s 5

71A.06 EXCHANGE OF CONTRACTS.

Subdivision 1. **Extension of corporate powers.** Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers, and franchises specified in its articles of incorporation, have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange these contracts is hereby declared to be incidental to the purposes for which the corporations are organized and is as much granted as the rights and powers expressly conferred.

Subd. 2. **Public corporations.** Public corporations may exchange reciprocal or interinsurance contracts only when the issuing exchange has a surplus of \$300,000 or more and said contracts are issued without contingent liability.

History: 1967 c 395 art 11 s 6

71A.07 EFFECT OF CHAPTER; EXCLUSIVENESS.

Except as herein provided, no law of this state shall apply to the exchange of these indemnity contracts unless such law specifically refers to reciprocals or interinsurance exchanges.

History: 1967 c 395 art 11 s 7

71A.08 VIOLATIONS AND PENALTIES.

Subdivision 1. **Attorney-in-fact.** Any attorney who shall, except for the purpose of applying for a certificate of authority as provided in this chapter, exchange any contracts of indemnity of the kind and character specified in this chapter, or directly or indirectly solicit or negotiate any applications for same without first complying with the provisions of this chapter, is guilty of a misdemeanor; and upon conviction thereof shall be subjected to a fine of not less than \$100 nor more than \$1,000.

Subd. 2. **Exchange.** In case of the failure of any such reciprocal or interinsurance exchange to comply with any of the provisions of this chapter, it shall be the duty of the commissioner to immediately declare its license revoked, or proceed under chapter 60B or section 60A.052, and, in case of such revocation, the reciprocal or interinsurance exchange shall not be again licensed to transact business in this state for the period of one year from the date of the revocation.

History: 1967 c 395 art 11 s 8; 1969 c 708 s 63; 1993 c 13 art 2 s 1