

CHAPTER 60H

MANAGING GENERAL AGENTS

60H.02 Definitions.

60H.08 Penalties and liabilities.

60H.02 DEFINITIONS.*[For text of subs 1 to 3, see M.S.1994]*

Subd. 4. Managing general agent. (a) "Managing general agent" means a person, firm, association or corporation who: (1) manages all or part of the insurance business of an insurer, including the management of a separate division, department, or underwriting office, and (2) acts as an agent for the insurer whether known as a managing general agent, manager, or other similar term, who, with or without the authority, either separately or together with affiliates, produces, directly or indirectly, and underwrites an amount of gross direct written premium equal to or more than five percent of the policyholder surplus as reported in the last annual statement of the insurer in any one quarter or year, together with one or more of the following activities related to the business produced: (i) adjusts or pays claims in excess of an amount determined by the commissioner, or (ii) negotiates reinsurance on behalf of the insurer.

(b) Notwithstanding paragraph (a), the following persons shall not be considered as managing general agents for the purposes of this chapter:

(1) an employee of the insurer;

(2) a United States manager of the United States branch of an alien insurer;

(3) an underwriting manager who, pursuant to contract, manages all or a part of the insurance or reinsurance operation of the insurer, is under common control with the insurer, subject to the Insurance Holding Company Act, chapter 60D, and whose compensation is not based on the volume of premiums written; or

(4) an attorney in fact authorized by and acting for the subscribers of a reciprocal insurer or interinsurance exchange under powers of attorney.

*[For text of subd 5, see M.S.1994]***History:** 1995 c 214 s 12**60H.08 PENALTIES AND LIABILITIES.**

Subdivision 1. Commissioner's authority. If the commissioner finds pursuant to the procedural requirements of section 45.027 that a person has violated a provision of this chapter, the commissioner may take any action authorized under that section.

Subd. 2. Additional penalty. In addition to authority granted by section 45.027 for each separate violation, the commissioner may impose a penalty of up to \$10,000 for each day the violation continues and order the managing general agent to reimburse the insurer, rehabilitator, or liquidator of the insurer for any losses incurred by the insurer caused by a violation of this chapter committed by the managing general agent.

Subd. 3. Civil remedies. (a) If the commissioner finds that because of the violation that the insurer has suffered loss or damage, the commissioner may maintain a civil action for recovery of compensatory damages for the benefit of the insurer and its policyholders and creditors or other appropriate relief.

(b) If an order of rehabilitation or liquidation of the insurer has been entered pursuant to chapter 60B, and the receiver appointed under that order determines that the managing general agent or any other person has violated this chapter, or any rule or order adopted under this chapter, and the insurer suffered loss or damage, the receiver may maintain a civil action for recovery of damages or other appropriate sanctions for the benefit of the insurer.

Subd. 4. Judicial review. The decision, determination, or order of the commissioner under subdivision 1 is subject to judicial review as provided under chapter 14.

Subd. 5. Imposition of other penalties. Nothing contained in this section shall affect the right of the commissioner to impose any other penalties provided for by law.

Subd. 6. Policyholder rights. Nothing contained in this chapter is intended to or shall in any manner limit or restrict the rights of policyholders, claimants, and auditors.

History: 1995 c 214 s 13