CHAPTER 61A

LIFE INSURANCE

GENERAL PROVISIONS
61A.01 Life insurance company defined.
61A.011 Interest on unpaid benefits.
CONTRACTS
61A.02 Forms of policy.
61A.021 Sale of life insurance and annuity as single policy prohibited.
61A.03 Required provisions; life insurance policies.
61A.031 Suicide provisions.
61A.04 Spendthrift provisions.
61A.05 Life policies to contain entire contract.
61A.06 Aviation and war risk exclusion permitted.
61A.07 Prohibited provisions.
61A.071 Applications.
61A.072 Policies with accelerated benefits.
61A.073 Life insurance for the benefit of charity.
61A.074 Insurable interests.
61A.08 Exceptions.
61A.09 Group life insurance.
61A.091 Employee group life insurance plans.
61A.092 Continuation of coverage for life insurance.
61A.093 Certificate of insurance.
61A.10 Extension of time for payment of premiums.
61A.11 Misstatement, when not to invalidate policy.
61A.12 Beneficiaries.
CONTRACTS — VARIABLE BASIS
61A.13 Definitions.
61A.14 Companies entitled to issue contracts; accounts; investments.
61A.15 Contract provisions.
61A.16 Contract provisions.
61A.17 Filing of contracts.
61A.18 Disapproval of contracts.
61A.19 Company requirements.
61A.20 Rules.
61A.21 Application of other laws.
CONTRACTS — MISCELLANEOUS
61A.22 Contracts to specify benefits and consideration.
61A.23 Provisions in policies; laws of other states.
STANDARD NONFORFEITURE LAW
61A.24 Standard nonforfeiture law for life insurance.
61A.245 Standard nonforfeiture law for individual deferred annuities.
STANDARD VALUATION LAW
61A.25 Standard valuation law.
61A.255 Smoker and nonsmoker mortality tables.
DIVIDEND PROVISIONS
61A.26 Dividends.
CONTINGENCY RESERVE
61A.27 Contingency reserve; limitations.
BENEFIT ACCOUNTS
61A.275 Separate accounts; pension plans.
61A.276 Funding agreements.
INVESTMENTS
61A.28 Domestic companies, investments.
61A.281 Investments; subsidiaries.
61A.282 Investments in name of company or nominee and prohibitions.
61A.283 Admitted assets.
61A.284 Investments; capital stock of other insurance companies.
61A.29 Foreign investments.
61A.30 Joint investments.
61A.31 Real estate holdings.
61A.315 Investments and holdings; limitations.
DOMESTIC MUTUAL LIFE COMPANIES; ADDITIONAL PROVISIONS
61A.32 Domestic mutual and stock and mutual companies; voting rights of members.
STOCK AND MUTUAL COMPANIES; ADDITIONAL PROVISIONS
61A.33 Stock and mutual life insurance companies.
61A.34 Application.
61A.35 Voting rights.
61A.36 Conversion of existing companies; amendment of certificates of incorporation.
61A.37 Domestic insurance corporations may become mutual corporations.
61A.38 May acquire capital stock.
COOPERATIVE COMPANIES; SPECIAL PROVISIONS
61A.39 Cooperative life and casualty companies.
61A.40 Qualifications for license; number of members.
61A.41 Reserve fund; reciprocal provisions.
61A.42 Payments; liens; assessments; policies to be labeled.
61A.43 Accumulations; amendment to articles or bylaws.
61A.44 Limitation on expenses; life insurance.
61A.45 Limitation on expenses; companies with reserve deposits.
61A.46 Net rates; reserve fund; limitation of expenses.
61A.47 Reinsurance or consolidation.
61A.48 May change to legal reserve or level premium companies.
61A.50 Application.
61A.51 Insolvency.
61A.52 Reserve required.
REPLACEMENT INSURANCE
61A.53 Definitions.
61A.54 Exemptions.
61A.55 Duties of agents and brokers.
61A.56 Duties of all insurers.
61A.57 Duties of insurers that use agents or brokers.
61A.58 Duties of insurers with respect to direct response sales.
61A.59 Enforcement; effect of compliance.
61A.60 Required replacement notice and form.

GENERAL PROVISIONS

61A.01 LIFE INSURANCE COMPANY DEFINED.

Every corporation or association, domestic or foreign, operating upon any plan involving payment of money or other thing of value to policy or certificate holders, or members, or families, or representatives of either, conditioned upon the continuance or cessation of human life, or for the payment of endowments or annuities (except benevolent, fraternal, cooperative or secret societies of orders for the sole purpose of mutual welfare, protection and relief of their members and the payment of stipulated amounts, or the proceeds of assessments, to the families of deceased members), shall be deemed a life insurance company, and wherever used in this chapter, the terms "company," "life company," "corporation" or "association" shall be construed to mean life insurance company unless the context clearly indicates otherwise.

History: *1967 c 395 art 2 s 1*

61A.011 INTEREST ON UNPAID BENEFITS.

Subdivision 1. Notwithstanding any other provision of law, when any insurer, including a fraternal benefit society, admitted to transact life insurance in this state pays the proceeds of or payments under any policy of life insurance, individual or group, such insurer shall pay interest at a rate not less than the then current rate of interest on death proceeds left on deposit with the insurer, computed from the insured's death until the date of payment, on any such proceeds or payments payable to a beneficiary residing in this state, or to a beneficiary under a policy issued in this state, or to a beneficiary under a policy insuring a person resident in this state at the time of death. If the insurer has no established current rate of interest for death proceeds left on deposit with the insurer, then the rate of interest to be paid under this subdivision shall be the rate of interest charged by the insurer to policy holders for loans under the insurer's policies.

Subd. 2. Notwithstanding the provisions of subdivision 1, if an insurer admitted to transact life insurance in this state does not pay within 60 days after receipt of due proof of death of the insured, the proceeds or payments under any policy of life insurance, individual or group, such insurer shall pay interest at an annual rate that is two percent more than the rate of interest provided for in subdivision 1. Such interest shall be computed from the date of the insured's death until the date of payment, on any such proceeds or payments payable to a beneficiary residing in this state, or to a beneficiary under a policy issued in this state or to a beneficiary under a policy insuring a person resident in this state at the time of death. Interest payments under this subdivision shall be in lieu of interest payments required under subdivision 1.

Subd. 3. In any case in which interest on the proceeds of, or payments under, any policy of life insurance becomes payable pursuant to this section, the insurer shall enclose with the payment a notice stating that interest is being paid and specifying the rate of interest and the amount paid.

Subd. 4. This section shall not require the payment of interest in any case in which: (a) the beneficiary or policy owner elects in writing delivered to the insurer to receive the proceeds of, or payments under, the policy by any means other than a lump sum payment thereof, provided that the effective date of the policy settlement option shall not be later than 60 days after the date of the insured's death; (b) the terms of the policy insure an indebtedness owed by the insured and the proceeds include postdeath interest on the indebtedness; or (c) the beneficiary resides in a jurisdiction which has a law requiring the payment of interest to beneficiaries residing in that jurisdiction.

Nothing in this subdivision shall be construed to preclude the payment of interest required under subdivisions 1 or 2 on any proceeds remaining after extinguishment of the insured's indebtedness.

Subd. 5. This section shall apply only to deaths of insureds which occur on or after August 1, 1977.

Subd. 6. For the purposes of this section "to pay" means to issue a check for payment and "date of payment" means the date on which the insurer issues a check to transfer the amount in question to the beneficiaries or to deposit that amount:

(a) With the district court of this state in accordance with rule 67, Minnesota rules of civil procedure for the district courts;

(b) With the courts of any foreign jurisdiction as authorized by the laws of that jurisdiction; or

(c) In a trust account in any bank or trust company operating under the laws of this state or in any foreign bank, provided that the insurer keeps records of the account and makes these records open to inspection by the commissioner of commerce.

Subd. 7. **Accidental death benefits.** Payments of accidental death benefits under an individual or group policy, whether payable in connection with a separate policy issued solely to provide that type of coverage or otherwise, are subject to this section. If the applicable rate of interest cannot be determined as provided in this section, the rate of interest for purposes of subdivision 1 is the rate provided in section 549.09, subdivision 1, paragraph (c).

Subd. 8. [Repealed, 1993 c 13 art 1 s 17]

History: *1977 c 353 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1989 c 330 s 4; 1992 c 520 s 1; 1992 c 564 art 1 s 29*

CONTRACTS

61A.02 FORMS OF POLICY.

Subdivision 1. **Prohibited.** So–called coupon policies shall not be issued or delivered by any company to any residents of this state.

Subd. 2. **Approval required.** No policy or certificate of life insurance or annuity contract, issued to an individual, group, or multiple employer trust, nor any rider of any kind or description which is made a part thereof shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been approved by the commissioner. In making a determination under this section, the commissioner may require the insurer to provide rates and advertising materials related to policies or contracts, certificates, or similar evidence of coverage issued or delivered in this state.

Subdivisions 1 to 5 apply to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. Subdivisions 1 to 5 do not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Subd. 3. **Disapproval.** The commissioner shall, within 60 days after the filing of any form, disapprove the form:

(1) if the benefits provided are unreasonable in relation to the premium charged;

(2) if the safety and soundness of the company would be threatened by the offering of an excess rate of interest on the policy or contract;

(3) if it contains a provision or provisions which are unlawful, unfair, inequitable, misleading, or encourages misrepresentation of the policy; or

(4) if the form, or its provisions, is otherwise not in the public interest. It shall be unlawful for the company to issue any policy in the form so disapproved. If the commissioner does not within 60 days after the filing of any form, disapprove or otherwise object, the form shall be deemed approved.

For purposes of clause (2), an excess rate of interest is a rate of interest exceeding the rate of interest determined by subtracting three percentage points from Moody's corporate bond yield average as most recently available.

Subd. 4. **Withdrawal of approval.** The commissioner may at any time withdraw approval of any policy or form upon the grounds stated in subdivision 3. It is unlawful for the insurer to issue the form or use it in connection with any policy after the effective date of the withdrawal of approval.

Subd. 5. **Hearing.** Notification of disapproval or withdrawal of approval must be made to the insurer in writing, specifying the grounds for the disapproval. Upon written request

made by the insurer, the commissioner shall grant a hearing within 30 days after receipt of the request. All hearings must be conducted in accordance with chapter 14. Following the hearing, the commissioner may affirm, reverse, or modify the previous determination made with respect to the subject policy or form.

Subd. 6. **Filing by domestic insurers for purposes of complying with another state's filing requirements.** A domestic insurer may file with the commissioner for informational purposes only a policy, certificate of insurance, or annuity contract that is not intended to be offered or sold within this state. This subdivision only applies to the filing in Minnesota of a policy, certificate of insurance, or annuity contract issued to an insured, certificate holder, or annuitant located outside of this state when the filing is for the express purpose of complying with the law of the state in which the insured, certificate holder, or annuitant resides. In no event may a policy, certificate of insurance, or annuity contract filed under this subdivision for out–of–state use be issued or delivered in Minnesota unless and until the policy, certificate of insurance, or annuity contract is approved under subdivision 2.

History: *1967 c 395 art 2 s 2; 1984 c 592 s 44; 1993 c 319 s 1,2; 1994 c 485 s 16; 1996 c 446 art 1 s 9,10*

61A.021 SALE OF LIFE INSURANCE AND ANNUITY AS SINGLE POLICY PROHIBITED.

Subdivision 1. **Sale as single policy prohibited.** The sale of a life insurance product and an annuity as a single policy, whether in the form of a life insurance policy with an annuity rider or otherwise, is prohibited in this state. This subdivision does not prohibit the simultaneous sale of these products, but the sale must involve two separate and distinct policies.

Subd. 2. **Tying prohibited.** The tying of the sale of a life insurance product and an annuity is expressly prohibited. The sale of one policy cannot be conditioned upon the sale of a second policy. A violation of subdivision 1 is an unfair and deceptive trade practice under chapter 72A.

Subd. 3. **Exemption.** The commissioner may exempt by order such a product from this section if it is in the public interest.

Subd. 4. **Implementation.** This section applies to all sales where applications are completed on or after July 1, 1985.

History: *1Sp1985 c 10 s 56*

61A.03 REQUIRED PROVISIONS; LIFE INSURANCE POLICIES.

Subdivision 1. **Generally.** No policy of life insurance may be issued in this state or by a life insurance company organized under the laws of this state unless it contains the following provisions:

(a) **Premium.** A provision that all premiums are payable in advance either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one or more officers named in the policy and countersigned by the agent, but a policy may contain a provision that the policy itself is a receipt for the first premium;

(b) **Grace period.** A provision for a one month grace period for the payment of every premium after the first, during which the insurance will continue in force. The provision may subject the late payment to a finance charge and contain a stipulation that if the insured dies during the grace period, the overdue premium will be deducted in any settlement under the policy;

(c) **Entire contract.** A provision that the policy constitutes the entire contract between the parties and is incontestable after it has been in force during the lifetime of the insured for two years from its date, except for nonpayment of premiums and except for violations of the conditions of the policy relating to naval and military services in time of war; that at the option of the company, provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident, may be excepted; and that a special form of policy may be issued on the life of a person employed in an occupation classified by the company as extra hazardous or as leading to hazardous employment, which provides that service in certain designated occupations may re-

duce the company's liability under the policy to a certain designated amount not less than the full policy reserve;

(d) **Representations and warranties.** A provision that, in the absence of fraud, all statements made by the insured are representations and not warranties, and that no statement voids the policy unless it is contained in a written application and a copy of the application is endorsed upon or attached to the policy when issued;

(e) **Misstatement of age.** A provision that if the age of the insured is understated the amount payable under the policy will be the amount the premium would have purchased at the correct age;

(f) **Dividends on participating policies.** A provision that the policy will participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will annually determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy has the right, each year after the fifth, to have the current dividend arising from the participation paid in cash. If the policy provides other dividend options, it must specify which option is effective if the owner of the policy does not elect an option. The provision may condition any dividends payable during the first five years of the policy upon the payment of the next ensuing annual premium. This provision is not required in nonparticipating policies, in policies issued on under–average lives, or in insurance in exchange for lapsed or surrendered policies;

(g) **Policy loans.** A provision (1) that after three full years' premiums have been paid, the company at any time while the policy is in force, will advance, on proper assignment of the policy, and on the sole security thereof, at a specified rate of interest, not to exceed eight percent per annum, or at an adjustable rate of interest as otherwise provided for in this section, a sum equal to, or, at the option of the owner of the policy, less than the loan value thereof; (2) that the loan value is the cash surrender value thereof at the end of the current policy year; (3) that the loan, unless made to pay premiums, may be deferred for not more than six months after the application for it is made; (4) that the company will deduct from the loan value any existing indebtedness on the policy and any unpaid balance of the premium for current policy year, and may collect interest in advance on the loan to the end of the current policy year; (5) that the failure to repay an advance or to pay interest does not void the policy unless the total indebtedness thereon to the company equals or exceeds the loan value at the time of the failure, nor until one month after notice has been mailed by the company to the last known address of the insured and of the assignee of record at the home office of the company; and (6) that no condition other than those provided in this section will be exacted as a prerequisite to an advance. This provision is not required in term insurance;

(h) **Reinstatement.** A provision that if, in event of default in premium payments, the nonforfeiture value of the policy is applied to the purchase of other insurance, and if that insurance is in force and the original policy has not been surrendered to the company and canceled, the policy may be reinstated within three years after the default upon evidence of insurability satisfactory to the company and payment of arrears of premiums with interest;

(i) **Payment of claims.** A provision that, when a policy becomes a claim by the death of the insured, settlement will be made within two months after receipt of due proof of death;

(j) **Settlement option.** A table showing the amount of installments in which the policy may provide its proceeds may be payable;

(k) **Description of policy.** A title on the face and on the back of the policy briefly and correctly describing the policy in bold letters stating its general character, dividend periods, and other particulars, so that the holder will not be able to mistake the nature and scope of the contract;

(l) **Form number.** A form number in the lower left–hand corner of the first page of each form, including riders and endorsements.

Any of the foregoing provisions or portions thereof relating to premiums not applicable to single premium policies must not be incorporated therein.

Subd. 2. **Interest rates on policy loans.** (a) A life insurance policy which provides for policy loans must contain a provision concerning maximum policy loan interest rates as follows:

(1) a provision permitting a maximum interest rate of not more than eight percent per annum; or

(2) a provision permitting an adjustable maximum interest rate established from time to time by the life insurer as permitted by this subdivision.

(b) No life insurer may issue policies with a policy loan provision providing for an adjustable maximum interest rate under paragraph (a), clause (2), unless the insurer also makes available policies with a policy loan provision providing for a fixed rate of interest under paragraph (a), clause (1).

(c) The rate of interest charged on a policy loan made under paragraph (a), clause (2), may not exceed the higher of the following:

(1) the rate used to compute the cash surrender values under the policy during the applicable period plus one percent per annum; or

(2) the monthly average of the composite yield on seasoned corporate bonds as published by Moody's Investors Service, Incorporated, or any successor thereto, for the calendar month ending two months before the date on which the rate is determined. If the monthly average is no longer published, the commissioner shall substitute a substantially similar average by rule.

(d) If the maximum rate of interest is determined pursuant to paragraph (a), clause (2), the policy must contain a provision setting forth the frequency at which the rate is to be determined for that policy.

(e) The maximum rate referred to in paragraph (d) must be determined at regular intervals at least once every 12 months, but not more frequently than once in any three–month period. At the intervals specified in the policy:

(1) The rate being charged may be increased whenever the increase as determined under paragraph (c) would increase that rate by one–half percent or more per annum; and

(2) The rate being charged must be reduced whenever the reduction as determined under paragraph (c) would decrease that rate by one–half percent or more per annum.

(f) The life insurer shall:

(1) notify the policyholder at the time a policy loan, other than a premium loan, is made, of the initial rate of interest on the loan, that the interest rate on the loan is adjustable and that the policyholder will be notified of any increase in the interest rate;

(2) notify the policyholder with respect to premium loans of the initial rate of interest on the loan as soon as it is reasonably practical to do so after making the initial loan. Notice need not be given to the policyholder when a further premium loan is added, except as provided in clause (3);

(3) send reasonable advance notice of any increase in the rate to the policyholder with loans; and

(4) include in the notices required by this paragraph the substance of the pertinent provisions of paragraphs (a) and (d), a summary of the plan required by paragraph (h), and the effect of the policy loan on the policyholder's net cost of insurance per $1,000 of coverage based on that plan.

(g) The loan value of the policy must be determined in a manner consistent with section 61A.24 or 61A.245, but no policy may terminate as the sole result of a change in the interest rate during that policy year, and the life insurer shall maintain coverage during that policy year until the time at which it would otherwise have terminated if there had been no change during that policy year.

(h) Prior to offering insurance policies with an adjustable policy loan interest rate or offering to add a provision for an adjustable policy loan interest rate to existing policyholders, the insurer shall file a written plan setting forth the manner in which policyholders will receive a reasonable benefit in the form of price reductions, increased amounts of insurance, or increased dividends from the increased earnings of the insurer resulting from the use of the adjustable rate and, if applicable, the effect of a policy loan on dividends and dividend rates. A summary of this plan must be made available upon request to each policyholder and must be provided to each applicant for a policy before the initial premium is received.

(i) The pertinent provisions of paragraphs (a) and (e) must be set forth in substance in the policies to which they apply.

(j) For the purposes of this subdivision:

(1) The rate of interest on policy loans permitted under this subdivision includes the interest rate charged on reinstatement of policy loans for the period during and after any lapse of a policy.

(2) The term "policy loan" includes any premium loan made under a policy to pay one or more premiums that were not paid to the life insurer as they fell due.

(3) The term "policyholder" includes the owner of the policy or the person designated to pay premiums as shown on the records of the life insurer.

(4) The term "policy" includes certificates issued by a fraternal benefit society and annuity contracts which provide for policy loans.

Subd. 2a. No life insurer subject to this section is required to file more than one policy with a policy loan provision providing for a fixed rate of interest.

Subd. 3. **Applicability to policies.** The provisions of subdivision 2 do not apply to any insurance policy issued before January 1, 1984, unless the insurer provides the policyholder with a summary of the plan required by subdivision 2, paragraph (h), and thereafter the policyholder agrees in writing to the applicability of those provisions. Upon election of policies providing adjustable policy loan interest rates, the cash surrender values of any policies subject to the provisions of this section shall be determined in accordance with section 61A.24 or 61A.245 at the time of the election. The provisions of subdivision 2 shall not apply to any insurance policy that the commissioner determines provides insufficient benefits to the policyholder to justify loan interest rates in excess of those provided in subdivision 1.

Subd. 4. **Nonapplication of usury.** Neither section 334.01 nor any other law of this state which regulates rates of interest applies to policy loans governed by this section.

Subd. 5. **Rules.** The commissioner may adopt rules pursuant to chapter 14 to further implement and administer the provisions of this section.

History: *1967 c 395 art 2 s 3; 1983 c 292 s 1; 1984 c 592 s 45; 1995 c 258 s 15*

61A.031 SUICIDE PROVISIONS.

The sanity or insanity of a person shall not be a factor in determining whether a person committed suicide within the terms of an individual or group life insurance policy regulating the payment of benefits in the event of the insured's suicide. This section shall not be construed to alter present law but is intended to clarify present law.

History: *1981 c 286 s 1*

61A.04 SPENDTHRIFT PROVISIONS.

In addition to the provisions now required by law to be in the standard form of life insurance policies issued or delivered in this state, there shall be, when such policy provides for the payment to the beneficiary the proceeds thereof, in either monthly, quarterly, semiannual or annual installments, to continue during the lifetime of the beneficiary, or for a stipulated number of years, whenever requested by the insured under the policy, the following provisions:

All rights of the beneficiary to commute, change time of payment or amount of installments, surrender for cash, borrow against or assign for any purpose, are hereby withdrawn and those parts of this policy giving the beneficiary such rights are hereby declared inoperative and void; it being the intent hereof that the beneficiary shall have no right under this contract except to receive the installments at such times and in such amounts as stated in this policy, and all the provisions of this policy in conflict herewith are hereby declared to be inoperative.

This provision may be attached to any policy in the form of a rider thereon, and, when so attached, shall become a part of and form a part of the contract of insurance, evidenced by the policy to all intents and purposes as if set forth at length therein.

History: *1967 c 395 art 2 s 4*

61A.05 LIFE POLICIES TO CONTAIN ENTIRE CONTRACT.

Every policy of insurance issued or delivered within this state on or after the first day of January, 1908, by any life insurance corporation doing business within the state, shall contain the entire contract between the parties.

Every policy which contains a reference to the application, either as a part of the policy or as having any bearing thereon, shall have a copy of such application attached thereto or set out therein.

History: *1967 c 395 art 2 s 5*

61A.06 AVIATION AND WAR RISK EXCLUSION PERMITTED.

Policies of life insurance may be delivered or issued for delivery in this state which limit the amount to be paid in the event of death occurring as a result of travel or flight in, or descent from or with, any kind of aircraft if the insured (1) is a pilot, officer or member of the crew of such aircraft, or is participating in aeronautic or aviation training during such flight, or (2) is in the military, naval or air forces of any country and is being transported in a military, naval or air force aircraft. Such amount shall not be less than the reserve on the policy plus any dividends standing to the credit of the policy and the reserve for any paid–up additions, less any indebtedness to the company on the policy. Such limitation may be made by a provision in the policy or by a rider made a part thereof provided, that no such limitation shall be effective unless and until the insured or applicant shall agree in writing thereto; and provided, further, that except in case of policies issued on the lives of persons who have received aeronautic or aviation training or whose occupation entails duty aboard aircraft in flight, such limitation shall apply only in event death occurs within five years after date of issue of the policy. This section shall not affect the validity of provisions which limit the amount to be paid in the event of death of the insured while in the military, naval or air forces of any country at war, or of provisions relative to benefits in the event of total and permanent disability, or of provisions which grant additional insurance specifically against death by accident. Policies issued by life insurance companies organized under the laws of this state for delivery in any other state, territory, district, or country may contain any provisions limiting the amount to be paid in the event of death which are permitted by the laws of such other state, territory, district, or country.

History: *1967 c 395 art 2 s 6*

61A.07 PROHIBITED PROVISIONS.

No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, if it contains a provision:

(1) for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any, notice of whose address and contract of the assignment has been filed with the company, at its home office; or

(2) in a life policy or annuity contract, limiting the time within which any action at law or in equity may be commenced to less than five years after the cause of action shall accrue; or

(3) by which the policy shall purport to be issued or to take effect more than six months before the original application for the insurance was made; or

(4) for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus any dividend additions, less any indebtedness to the company on the policy, and less any premium that may be deducted by the terms of the policy.

History: *1967 c 395 art 2 s 7; 1994 c 485 s 17*

61A.071 APPLICATIONS.

No individual life insurance policy shall be issued or delivered in this state to a person age 65 or older unless a signed and completed copy of the application for insurance is left

with the applicant at the time application is made. This requirement will not apply to life insurers who mail a copy of the signed, completed application to the applicant within 24 hours of receiving the application. However, where an individual life policy is marketed on a direct response basis, a copy of any application signed by the applicant shall be delivered to the insured along with, or as part of, the policy.

History: *1983 c 263 s 7; 1994 c 485 s 18; 1995 c 258 s 16*

61A.072 POLICIES WITH ACCELERATED BENEFITS.

Subdivision 1. **Disclosure.** A life insurance contract or supplemental contract that contains a provision to permit the accelerated payment of benefits as authorized under section 60A.06, subdivision 1, clause (4), must contain the following disclosure: "This is a life insurance policy which pays accelerated death benefits at your option under conditions specified in the policy. This policy is not a long–term care policy meeting the requirements of sections 62A.46 to 62A.56."

Subd. 2. **Advertisements.** Any advertisement related to a contract or supplemental contract providing for the payment of accelerated benefits must be approved by the commissioner prior to its use. The commissioner shall not approve the advertisement if it is likely to lead a prospective purchaser to believe that it is a long–term care policy.

Subd. 3. [Repealed, 1995 c 258 s 67]

Subd. 4. **Long–term care expenses.** If the right to receive accelerated benefits is contingent upon the insured receiving long–term care services, the contract or supplemental contract shall include the following provisions:

(1) the minimum accelerated benefit shall be $1,200 per month if the insured is receiving nursing facility services and $750 per month if the insured is receiving home services with a minimum lifetime benefit limit of $50,000;

(2) coverage is effective immediately and benefits shall commence with the receipt of services as defined in section 62A.46, subdivision 3, 4, or 5, but may include a waiting period of not more than 90 days, provided that no more than one waiting period may be required per benefit period as defined in section 62A.46, subdivision 11;

(3) premium shall be waived during any period in which benefits are being paid to the insured during confinement to a nursing home facility;

(4) coverage may not be canceled or renewal refused except on the grounds of nonpayment of premium;

(5) coverage must include preexisting conditions during the first six months of coverage if the insured was not diagnosed or treated for the particular condition during the 90 days immediately preceding the effective date of coverage;

(6) coverage must include mental or nervous disorders which have a demonstrable organic cause such as Alzheimer's and related dementias;

(7) no prior hospitalization requirement shall be allowed unless a similar requirement is allowed by section 62A.48, subdivision 1; and

(8) the contract shall include a cancellation provision that meets the requirements of section 62A.50, subdivision 2.

Subd. 5. **Exclusion.** Subdivision 4 does not apply to contracts or supplemental contracts granting the right to receive accelerated benefits if (1) one of the options for payment provides for lump–sum payment; (2) no conditions or restrictions are imposed on the use of the funds by the insured; and (3) the offeree or insured is given written notice at the time the contract or supplemental contract is offered or sold that (i) Minnesota law sets minimum requirements for life insurance contracts where the right to receive accelerated benefits is contingent upon the insured receiving long–term care services, and (ii) the contract or supplemental contract being offered or sold does not meet those minimum requirements.

History: *1989 c 125 s 3; 1990 c 507 s 1,2; 1996 c 446 art 1 s 11*

61A.073 LIFE INSURANCE FOR THE BENEFIT OF CHARITY.

Subdivision 1. **Charitable beneficiary or owner permitted.** Subject to the terms of the policy, an organization described in section 170(c) of the Internal Revenue Code of 1986,

as amended through December 31, 1991, shall have an insurable interest in the life of an individual insured under a life insurance policy, if the organization:

(1) has become the beneficiary or owner of a previously issued policy insuring the life of the individual; or

(2) is the original beneficiary or original owner of a newly issued policy insuring the life of the individual, if the individual signs the application or consents in writing to the issuance of the policy.

Subd. 2. **Applicability.** This section applies to life insurance policies issued by life companies and fraternal benefit societies.

History: *1992 c 483 s 1*

61A.074 INSURABLE INTERESTS.

Subdivision 1. **Corporation or trustee.** A corporation or the trustee of a trust providing life, annuity, health, disability, retirement, or similar benefits to employees of one or more corporations, and acting in a fiduciary capacity with respect to the employees, retired employees, or their dependents or beneficiaries, has an insurable interest in the lives of employees for whom the benefits are to be provided. The written consent of the insured is required if the insurance purchased under this subdivision is payable to the corporation or to the trustee.

Subd. 2. **Other insurable interests.** Subdivision 1 does not limit the right of a corporation or trustee to insure the life of an individual that is otherwise insurable under common law or any statute. This section shall not be interpreted as in any way modifying the common law doctrine of insurable interest, except as expressly provided in subdivision 1.

History: *1992 c 483 s 2; 1994 c 485 s 19*

61A.08 EXCEPTIONS.

Sections 61A.02, 61A.03, 61A.07, 61A.23, and 61A.25 shall not, except as expressly provided in this chapter, apply to industrial or group term policies, or to corporations or associations operating on the assessment or fraternal plan, but every contract issued prior to the operative date specified in section 61A.245 containing a provision for a deferred annuity on the life of the insured only, unless paid for by a single premium, shall provide that, in event of the nonpayment of any premium after three full years' premium shall have been paid, the annuity shall automatically become converted into a paid–up annuity for that proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract.

History: *1967 c 395 art 2 s 8; 1978 c 662 s 1; 1994 c 485 s 20*

61A.09 GROUP LIFE INSURANCE.

Subdivision 1. No group life insurance policy or group annuity shall be issued for delivery in this state until the form thereof and the form of any certificates issued thereunder have been filed in accordance with and subject to the provisions of section 61A.02. Each person insured under such a group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) shall be furnished a certificate of insurance issued by the insurer and containing the following:

(a) Name and location of the insurance company;

(b) A statement as to the insurance protection to which the certificate holder is entitled, including any changes in such protection depending on the age of the person whose life is insured;

(c) Any and all provisions regarding the termination or reduction of the certificate holder's insurance protection;

(d) A statement that the master group policy may be examined at a reasonably accessible place;

(e) The maximum rate of contribution to be paid by the certificate holder;

(f) Beneficiary and method required to change such beneficiary;

(g) A statement that alternative methods for the payment of group life policy proceeds of $15,000 or more must be offered to beneficiaries in lieu of a lump sum distribution, at their request. Alternative payment methods which must be offered at the request of the beneficiaries must include, but are not limited to, a life income option, an income option for fixed amounts or fixed time periods, and the option to select an interest–bearing account with the company with the right to select another option at a later date;

(h) In the case of a group term insurance policy if the policy provides that insurance of the certificate holder will terminate, in case of a policy issued to an employer, by reason of termination of the certificate holder's employment, or in case of a policy issued to an organization of which the certificate holder is a member, by reason of termination of membership, a provision to the effect that in case of termination of employment or membership, or in case of termination of the group policy, the certificate holder shall be entitled to have issued by the insurer, without evidence of insurability, upon application made to the insurer within 31 days after the termination, and upon payment of the premium applicable to the class of risk to which that person belongs and to the form and amount of the policy at that person's then attained age, a policy of life insurance only, in any one of the forms customarily issued by the insurer except term insurance, in an amount equal to the amount of the life insurance protection under such group insurance policy at the time of such termination; and shall contain a further provision to the effect that upon the death of the certificate holder during such 31–day period and before any such individual policy has become effective, the amount of insurance for which the certificate holder was entitled to make application shall be payable as a death benefit by the insurer.

This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2.

Subd. 2. Any or all of the interests of a certificate holder under any group life insurance policy (excepting policies which insure the lives of debtors of a creditor or vendor to secure payment of indebtedness) may be assigned by an assignment executed by the owner of such interest and delivered to the insurer if the provisions of the policy so permit or if both the insurer and the master policyholder agree to such assignment.

An assignment of interests of a certificate holder valid hereunder may transfer to the assignee any or all the rights, privileges, and incidents of ownership of the certificate holder in the group life insurance policy and group certificate thereunder, including, but not limited to the rights to designate beneficiaries and to have an individual policy issued in accordance with subdivision 1, clause (g).

Any assignment in accordance with this subdivision shall entitle the insurer to deal with the assignee in accordance with the terms of the assignment until the insurer has received at its home office written notice of a subsequent assignment made by such assignee; provided, however, that the insurer shall not be prejudiced by any payment made or action taken inconsistent with the terms of any assignment before the insurer has received and had reasonable time to act on written notice of such assignment.

This subdivision declares and codifies without modifying the existing right of assignment of interests of certificate holders under group life insurance policies by the persons owning such interests. An assignment otherwise valid shall not be invalid because it was made prior to the enactment of this subdivision.

Subd. 3. Group life insurance policies may be issued to cover groups of not less than ten debtors of a creditor written under a master policy issued to a creditor to insure its debtors in connection with real estate mortgage loans, in an amount not to exceed the actual amount of their indebtedness plus an amount equal to two monthly payments or scheduled amount of their indebtedness, plus an amount equal to two monthly payments, whichever is greater. If the mortgage loan provides for a variable rate of finance charge or interest, the initial rate or the scheduled rates based on the initial index must be used in determining the scheduled amount of indebtedness. Each application for group mortgage insurance offered prior to or at the time of loan closing shall contain a clear and conspicuous notice that the insurance is optional and is not a condition for obtaining the loan. Each person insured under a group insur-

ance policy issued under this subdivision shall be furnished a certificate of insurance which conforms to the requirements of section 62B.06, subdivision 2, and which includes a conversion privilege permitting an insured debtor to convert, without evidence of insurability, to an individual policy of decreasing term insurance within 30 days of the date the insured debtor's group coverage is terminated for any reason other than the nonpayment of premiums. The initial amount of coverage under the individual policy shall be an amount equal to the amount of coverage terminated under the group policy and shall decrease over a term that corresponds with the scheduled term of the insured debtor's mortgage loan. The premium for the individual policy shall be the same premium the insured debtor was paying under the group policy.

History: *1967 c 395 art 2 s 9; 1973 c 439 s 1; 1986 c 444; 1989 c 330 s 5; 1994 c 485 s 21; 1995 c 116 s 1; 1995 c 171 s 65; 1996 c 446 art 1 s 12*

61A.091 EMPLOYEE GROUP LIFE INSURANCE PLANS.

Subdivision 1. **Mandatory participation.** No employer who makes available or otherwise sponsors a group life insurance plan that provides life insurance benefits to more than five employees of that employer, whether through insurance policies, self–insurance, or any combination of these arrangements, may require an employee to participate in the life insurance plan as a condition of employment, unless the employer pays the full cost of the plan. No employer may discharge any employee who pursuant to this section refuses to contribute to an employee group life insurance plan, nor shall the employer discriminate or otherwise retaliate against the employee who pursuant to this section refuses to contribute to an employee group life insurance plan. An employee may bring an action against an employer for recovery of any wages withheld in violation of this section. This remedy shall be in addition to any other remedy provided by law. For the purposes of this section, "employer" means any natural person, company, corporation, partnership, association or firm which employs any employee. "Employee" is an individual as defined by section 62E.02, subdivision 8. This section does not apply where a collectively bargained contract provides for mandatory participation in a group life insurance plan. This section does not apply to any insurance purchased or carried for the purpose of buying or selling any part of employer, its shares, its assets or its business. This section does not apply to any insurance purchased or carried by any pension, profit sharing or other retirement plan or trust.

Subd. 2. **Continuation of waiver of premiums for those otherwise eligible following termination of insurance.** All group life insurance policies covering employees of an employer containing a waiver of premium benefits upon total disability of the employee shall provide that termination of the master policy, for any reason whatsoever, will be without prejudice to the claim of any covered employee who is suffering from a disability, as defined in the group life policy waiver of premium section at the time of the termination. This subdivision may be superseded by a rule promulgated by the commissioner of commerce.

History: *1977 c 192 s 1; 1980 c 376 s 1; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

61A.092 CONTINUATION OF COVERAGE FOR LIFE INSURANCE.

Subdivision 1. **Continuation of coverage.** Every group insurance policy issued or renewed within this state after August 1, 1987, providing coverage for life insurance benefits shall contain a provision that permits covered employees who are voluntarily or involuntarily terminated or laid off from their employment, if the policy remains in force for any active employee of the employer, to elect to continue the coverage for themselves and their dependents.

An employee is considered to be laid off from employment if there is a reduction in hours to the point where the employee is no longer eligible for coverage under the group life insurance policy. Termination does not include discharge for gross misconduct.

Subd. 2. **Responsibility of employee.** Every covered employee electing to continue coverage shall pay the employee's former employer, on a monthly basis, the cost of the continued coverage. In no event shall the amount of premium charged exceed 102 percent of the cost to the plan for such period of coverage for other similarly situated employees with re-

spect to whom neither termination nor layoff has occurred, without respect to whether such cost is paid by the employer or employee. The employee is eligible to continue the coverage until the employee obtains coverage under another group policy, or for a period of 18 months after the termination or layoff from employment, whichever is shorter.

Subd. 3. **Notice of options.** Upon termination of or layoff from employment of a covered employee, the employer shall inform the employee of:

(1) the employee's right to elect to continue the coverage;

(2) the amount the employee must pay monthly to the employer to retain the coverage;

(3) the manner in which and the office of the employer to which the payment to the employer must be made; and

(4) the time by which the payments to the employer must be made to retain coverage.

The employee has 60 days within which to elect coverage. The 60–day period shall begin to run on the date coverage would otherwise terminate or on the date upon which notice of the right to coverage is received, whichever is later.

If the covered employee or covered dependent dies during the 60–day election period and before the covered employee makes an election to continue or reject continuation, then the covered employee will be considered to have elected continuation of coverage. The estate of the former employee or covered dependent would then be entitled to a death benefit equal to the amount of insurance that could have been continued less any unpaid premium owing as of the date of death.

Notice must be in writing and sent by first class mail to the employee's last known address which the employee has provided to the employer.

A notice in substantially the following form is sufficient: "As a terminated or laid off employee, the law authorizes you to maintain your group insurance benefits, in an amount equal to the amount of insurance in effect on the date you terminated or were laid off from employment, for a period of up to 18 months. To do so, you must notify your former employer within 60 days of your receipt of this notice that you intend to retain this coverage and must make a monthly payment of $..... at ..... by the ..... of each month."

Subd. 4. **Responsibility of employer and insurer.** If the employer fails to notify a covered employee of the options set forth in subdivision 3, or if after timely receipt of the monthly payment from a covered employee the employer fails to make the payment to the insurer, with the result that the employee's coverage is terminated, the employer is still liable for the employee's coverage to the same extent as the insurer would be if the coverage were still in effect.

Subd. 5. **Conversion to individual policy.** A group insurance policy that provides postermination or layoff coverage as required by this section must also include a provision allowing a covered employee, surviving spouse, or dependent at the expiration of the postermination or layoff coverage provided by subdivision 2 to obtain from the insurer offering the group policy, at the employee's, spouse's, or dependent's option and expense, without further evidence of insurability and without interruption of coverage, an individual policy of insurance contract providing the same or substantially similar benefits.

A policy providing reduced benefits at a reduced premium rate may be accepted by the employee, the spouse, or a dependent in lieu of the coverage otherwise required by this subdivision.

Subd. 6. **Application.** This section applies to a policy, certificate of insurance, or similar evidence of coverage issued to a Minnesota resident or issued to provide coverage to a Minnesota resident. This section does not apply to: (1) a certificate of insurance or similar evidence of coverage that meets the conditions of section 61A.093, subdivision 2; or (2) a group life insurance policy that contains a provision permitting the certificate holder, upon termination or layoff from employment, to retain the coverage provided under the group policy by paying premiums directly to the insurer, provided that the employer shall give the employee notice of the employee's and each related certificate holder's right to continue the insurance by paying premiums directly to the insurer. A related certificate holder is an insured spouse of the employee.

History: *1987 c 337 s 42; 1989 c 330 s 6; 1994 c 485 s 22; 1995 c 258 s 17,18*

61A.093 CERTIFICATE OF INSURANCE.

Subdivision 1. **Coverage.** A certificate of insurance or similar evidence of coverage issued to a Minnesota resident shall provide coverage for all benefits required to be covered in group policies in Minnesota by this chapter.

This subdivision supersedes any inconsistent provision of this chapter.

A policy of life insurance that is issued or delivered in this state and that covers a person residing in another state may provide coverage or contain provisions that are less favorable to that person than required by this chapter. Less favorable coverages or provisions must meet the requirements that the state in which the person resides would have required had the policy been issued or delivered in that state.

Subd. 2. **Nonapplication.** Subdivision 1 does not apply to certificates issued in regard to a master policy issued outside the state of Minnesota if all of the following are true:

(1) the policyholder or certificate holder exists primarily for purposes other than to obtain insurance;

(2) the policyholder or certificate holder is not a Minnesota corporation and does not have its principal office in Minnesota;

(3) the policy or certificate covers fewer than 25 persons who are residents of Minnesota and the Minnesota residents represent less than 25 percent of all covered persons; and

(4) on request of the commissioner, the issuer files with the commissioner a copy of the policy and a copy of each form of certificate.

Subd. 3. **Relation to other law.** Section 60A.08, subdivision 4, shall not be construed as requiring a certificate of insurance or similar evidence of insurance that meets the conditions of subdivision 2 to comply with this chapter.

History: *1994 c 485 s 23*

61A.10 EXTENSION OF TIME FOR PAYMENT OF PREMIUMS.

Parties to any policy of life insurance now or hereafter issued shall have the right at any time to mutually agree, in writing, for an extension of time in which to pay a second or subsequent premium on the policy, upon condition that the failure to pay the amount agreed upon at the time agreed, shall lapse the policy as of the date mutually agreed upon in the writing; provided, no such agreement shall impair any right to extended or paid–up insurance which the insured may have under the policy, nor any right to have the premiums, any part thereof, or the amount payable for the extension charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the insurance policy so affected.

History: *1967 c 395 art 2 s 10*

61A.11 MISSTATEMENT, WHEN NOT TO INVALIDATE POLICY.

In any claim upon a policy issued in this state without previous medical examination, or without the knowledge or consent of the insured, or, in case of a minor, without the consent of a parent, guardian, or other person having legal custody, the statements made in the application as to the age, physical condition, and family history of the insured shall be valid and binding upon the company, unless willfully false or intentionally misleading.

History: *1967 c 395 art 2 s 11; 1986 c 444*

61A.12 BENEFICIARIES.

Subdivision 1. **Proceeds of life policy or annuity, who entitled to.** When any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof, in writing, before payment.

Subd. 2. **Exemption in favor of family.** Every policy made payable to, or for the benefit of, the spouse of the insured, or after its issue assigned to or in trust for a spouse, shall inure to that person's separate use and that of the children of the insured or the insured's spouse, subject to the provisions of this section.

Subd. 3. [Repealed, 1973 c 725 s 91]

Subd. 4. **Change of beneficiary.** The person applying for and procuring a policy may change the beneficiary or beneficiaries, if the consent of the beneficiary or beneficiaries named in the policy is obtained, or if a power so to do is reserved in the contract of insurance or in case of the death of the beneficiary, or in the case of the dissolution of a marriage between the insured and the beneficiary subject to any limitations on the power to change beneficiaries imposed as a condition of the dissolution.

Subd. 5. **Substitution.** When a creditor requires credit life insurance, credit accident and health insurance, or both, as additional security for an indebtedness, the debtor shall be given the option of furnishing the required amount of insurance through existing policies of insurance owned or controlled by the debtor or procuring and furnishing the required coverage through any insurer authorized to transact insurance business in this state. If this subdivision is applicable, the debtor shall be informed by the creditor of the right to provide alternative coverage before the transaction is completed.

History: *1967 c 395 art 2 s 12; 1976 c 121 s 1,2; 1977 c 382 s 5; 1986 c 444; 1994 c 485 s 24*

CONTRACTS — VARIABLE BASIS

61A.13 DEFINITIONS.

Subdivision 1. **Contract on a variable basis.** When used in sections 61A.13 to 61A.21, "contract on a variable basis" means any contract on either a group or an individual basis issued by a life insurance company providing for the dollar amount of benefits or other contractual payments or values thereunder to vary so as to reflect investment results of a separate account in which amounts have been placed in connection with any such contracts. Such contracts may also provide benefits or values incidental thereto payable in fixed or variable dollar amounts, or both.

Subd. 2. [Repealed, 1969 c 752 s 18]

History: *1967 c 395 art 2 s 13; 1969 c 752 s 1; 1973 c 480 s 1*

61A.14 COMPANIES ENTITLED TO ISSUE CONTRACTS; ACCOUNTS; INVESTMENTS.

Subdivision 1. **Separate accounts.** Any domestic life insurance company may, by or pursuant to resolution of its governing body, establish and operate one or more separate accounts and issue contracts on a variable basis, subject to the provisions of sections 61A.13 to 61A.21.

Subd. 2. **Allocations to account.** Except as may be otherwise specifically provided by the contract concerned, all amounts received by a life insurance company in connection with any contract on a variable basis shall be allocated to the appropriate separate account. The income, if any, and gains or losses, realized or unrealized on each such account may be credited to or charged against the amount allocated to such account in accordance with such contract, without regard to the other income, gains, or losses of the company.

Subd. 3. **Investments.** Except as hereinafter provided, amounts allocated to any separate account and accumulations thereon may be invested and reinvested without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies; provided, that to the extent that the company's reserve liability with regard to (a) benefits guaranteed as to amount and duration, and (b) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability shall be, except as the commissioner may otherwise approve, invested in accordance with the laws of this state governing the investments of life insurance companies and shall be segregated from the other assets in the separate account.

Subd. 4. **Other investments.** For purposes of determining whether the capital, surplus and other funds of a domestic life insurance company, other than assets held in a separate

account pursuant to this section, are invested in accordance with sections 60A.11 and 61A.28 to 61A.31, assets held by the company in a separate account in accordance with this section shall be disregarded.

Subd. 5. **Account ownership.** The assets held in a separate account pursuant to this section shall be owned by the company, and the company shall not be, nor hold itself out to be, a trustee with respect to such amounts. If and to the extent so provided under the applicable contracts or as required pursuant to the Federal Investment Company Act of 1940 that portion of the assets of any such separate account equal to reserves and other contract liabilities with respect to such account shall not be chargeable with liabilities arising out of any other business the company may conduct, but shall be held and applied exclusively for the benefit of the holders of those contracts on a variable basis for which the separate account has been established, provided, however, that the assets shall always be at least equal to the reserves and other contract liabilities with respect to such account.

Subd. 6. **Compliance with laws.** To the extent such company deems it necessary to comply with any applicable federal or state laws, such company, with respect to any separate account, including without limitation any separate account which is a management investment company or a unit investment trust, may provide for persons having an interest therein appropriate voting and other rights and special procedures for the conduct of the business of such account, including without limitation special rights and procedures relating to investment policy, investment advisory services, selection of independent public accountants, and the selection of a committee, the members of which need not be otherwise affiliated with such company, to manage the business of such account.

Subd. 7. **Valuation of assets.** Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to such separate account; provided, that unless otherwise approved by the commissioner, a portion of the assets of such separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds referred to in clauses (a) and (b) of subdivision 3, if any, shall be valued in accordance with the rules otherwise applicable to the company's assets.

Subd. 8. **Transfer of assets.** No sale, exchange or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless, (a) in case of a transfer into a separate account, such transfer is made solely to establish the account or to support the contractual obligations of the company with respect to the separate account to which the transfer is made, or (b) in case of a transfer from a separate account, such transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to such separate account. Such transfer, whether into or from a separate account, shall be made by a transfer of cash, or by a transfer of securities having a readily determinable market value, provided that such transfer of securities is approved by the commissioner. The commissioner may approve other transfers among such accounts if, in the commissioner's opinion, such transfers would not be inequitable. Where a company transfers assets into a separate account for the purpose of establishing such account, such transfer shall be in the form of cash and, except as the commissioner may otherwise approve, shall be made only from its surplus, provided that not more than five percent of its surplus may be so invested in such accounts.

History: *1967 c 395 art 2 s 14; 1969 c 7 s 21–23; 1969 c 752 s 2–8; 1973 c 480 s 2; 1986 c 444*

61A.15 CONTRACT PROVISIONS.

Subdivision 1. **Variable annuity.** All annuity contracts on a variable basis issued in this state shall stipulate the expense, mortality, and investment–increment factors to be used in computing (1) in the case of individual contracts, the dollar amount of variable benefits or other contractual payments or values, and (2) in the case of group contracts, the dollar amount payable with respect to a unit of variable benefits purchased thereunder. All such contracts shall guarantee that expenses shall not affect such dollar amounts adversely. In computing the dollar amount of variable benefits or other contractual payments or values un-

der an individual contract on a variable basis, (a) the annual net investment increment assumption shall not exceed five percent, except with the approval of the commissioner, and (b) to the extent that the level of benefits may be affected by mortality results, the mortality factor shall be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the commissioner, from another table. The term "expense," as used in this section, may exclude some or all taxes as stipulated in the contracts and may also exclude any investment management fee which is subject to change with the approval by vote of the holders of such contracts.

Subd. 2. **Variable life insurance.** Any life insurance contract on a variable basis delivered or issued for delivery in this state shall stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other variable contractual payments or values thereunder and shall guarantee that expense and mortality results shall not adversely affect such dollar amounts.

History: *1967 c 395 art 2 s 15; 1969 c 752 s 9; 1973 c 480 s 3*

61A.16 CONTRACT PROVISIONS.

Any contract on a variable basis providing benefits payable in variable amounts delivered or issued for delivery in this state shall contain a statement of the essential features of the procedures to be followed by the insurance company in determining the dollar amount of such variable benefits. Any such contract, including a group contract and any certificate in evidence of variable benefits issued thereunder, shall state the manner in which such dollar amounts will vary and shall contain on its first page a statement to the effect that the benefits thereunder are on a variable basis.

History: *1967 c 395 art 2 s 16; 1969 c 752 s 10*

61A.17 FILING OF CONTRACTS.

No contract on a variable basis shall be issued in this state until a copy of the form thereof (and, in the case of a group contract, the form of any certificate evidencing variable benefits issued pursuant thereto) and any form of application for such contract shall have been filed with the commissioner. No life insurance contract on a variable basis shall be filed for issuance in Minnesota or issued in Minnesota before the commissioner has promulgated rules under section 61A.20 regarding life insurance contracts on a variable basis.

History: *1967 c 395 art 2 s 17; 1969 c 752 s 11; 1973 c 480 s 7; 1974 c 203 s 1; 1985 c 248 s 70*

61A.18 DISAPPROVAL OF CONTRACTS.

The commissioner shall have the power at any time to disapprove any contract form, application, or certificate (1) if it does not comply with the provisions of sections 61A.13 to 61A.21; or (2) if it contains provisions which are unjust, unfair, inequitable, ambiguous, or misleading. After the commissioner shall have notified a company of disapproval, it shall be unlawful for that company to issue or use the contract, application or certificate in the form so disapproved.

History: *1967 c 395 art 2 s 18; 1969 c 752 s 12; 1986 c 444*

61A.19 COMPANY REQUIREMENTS.

No company shall deliver or issue for delivery within this state contracts on a variable basis unless it is licensed or organized to do a life insurance or annuity business in this state, and the commissioner is satisfied that its condition or method of operation in connection with the issuance of such contracts will not render its operation hazardous to the public or its policyholders in this state. In this connection, the commissioner shall consider among other things:

(a) The history and financial condition of the company;

(b) The character, responsibility and fitness of the officers and directors of the company; and

(c) The law and regulation under which the company is authorized in the state of domicile to issue such contracts. The state of entry of an alien company shall be deemed to be state of domicile for this purpose.

History: *1967 c 395 art 2 s 19; 1969 c 752 s 13; 1973 c 480 s 4; 1995 c 214 s 14*

61A.20 RULES.

Notwithstanding any other provision of law, the commissioner shall have sole and exclusive authority to regulate the issuance and sale of contracts on a variable basis and to provide for licensing of persons selling such contracts, and to issue such reasonable rules as may be appropriate to carry out the purposes and provisions of sections 61A.13 to 61A.21.

History: *1967 c 395 art 2 s 20; 1969 c 7 s 24; 1969 c 752 s 14; 1985 c 248 s 70*

61A.21 APPLICATION OF OTHER LAWS.

Sections 61A.07, clause (4) and 61A.245 shall not apply to contracts on a variable basis. All other appropriate provisions of this chapter shall apply to separate accounts and contracts on a variable basis except those which are inconsistent with the provisions contained in sections 61A.13 to 61A.20. Any contract on a variable basis, delivered or issued for delivery in this state, shall contain in substance provisions for grace, settlement option, loan or withdrawal and nonforfeiture appropriate to such a contract and a life insurance contract on a variable basis should also contain in substance a provision for reinstatement appropriate to such a contract. The reserve liability for contracts on a variable basis shall be established in accordance with actuarial procedures that recognize the variable nature of the benefits provided and any mortality guarantees.

History: *1967 c 395 art 2 s 21; 1969 c 752 s 15; 1973 c 480 s 5; 1978 c 662 s 2*

CONTRACTS — MISCELLANEOUS

61A.22 CONTRACTS TO SPECIFY BENEFITS AND CONSIDERATION.

No life insurance company shall make any insurance, guaranty, contract, or pledge in this state, or to or with any citizen or resident thereof, which does not distinctly specify the amount and manner of payment of benefits and the consideration therefor, except that contracts on a variable basis need not specify the amount of benefits thereunder or consideration after the initial premium.

History: *1967 c 395 art 2 s 22; 1973 c 480 s 6*

61A.23 PROVISIONS IN POLICIES; LAWS OF OTHER STATES.

The policies of a life insurance company, not organized under the laws of this state, may contain any provision which the laws of the state, territory, district, or country under which the company is organized, prescribe shall be in such policies, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district, or country, contain any provision required by the laws of the state, territory, district, or country in which the same are issued, anything in this section and sections 61A.02, 61A.03, 61A.07, 61A.08, and 61A.25 to the contrary notwithstanding.

History: *1967 c 395 art 2 s 23*

STANDARD NONFORFEITURE LAW

61A.24 STANDARD NONFORFEITURE LAW FOR LIFE INSURANCE.

Subdivision 1. **Citation.** This section shall be known as the standard nonforfeiture law for life insurance.

Subd. 2. **Policy provisions.** No policy of life insurance, except as stated in subdivision 14, shall be delivered or issued for delivery in this state unless it contains in substance the

following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder as are the minimum requirements specified below and are essentially in compliance with subdivision 15:

(1) That, in the event of default in a premium payment, the company will grant, upon proper request not later than 60 days after the date of the premium in default, a paid–up nonforfeiture benefit on a plan stipulated in the policy, effective as of the due date, of the amount as may be hereinafter specified. In lieu of the stipulated paid–up nonforfeiture benefit, the company may substitute, upon proper request not later than 60 days after the due date of the premium in default, an actuarially equivalent alternative paid–up nonforfeiture benefit which provides a greater amount or longer period of death benefits or, if applicable, a greater amount or earlier payment of endowment benefits.

(2) That, upon surrender of the policy within 60 days after the due date of a premium payment in default after premiums have been paid for at least three full years in the case of ordinary insurance or five full years in the case of industrial insurance, the company will pay, in lieu of a paid–up nonforfeiture benefit, a cash surrender value of an amount as may be hereinafter specified.

(3) That a specified paid–up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make the election elects another available option not later than 60 days after the due date of the premium in default.

(4) That, if the policy becomes paid–up by completion of all premium payments or if it is continued under a paid–up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of an amount as may be hereinafter specified.

(5) In the case of a policy which causes, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provides an option for changes in benefits or premiums other than a change to a new policy, a statement of the mortality table, interest rate, and method used in calculating cash surrender values and the paid–up nonforfeiture benefits available under the policy. In the case of any other policy, a statement of the mortality table and interest rate used in calculating the cash surrender values and the paid–up nonforfeiture benefits available under the policy, and a table showing the cash surrender value, if any, and paid–up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, the values and benefits to be calculated upon the assumption that there are no dividends or paid–up additions credited to the policy and that there is no indebtedness to the company on the policy.

(6) A statement that the cash surrender values and the paid–up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance laws of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid–up nonforfeiture benefits are altered by the existence of any paid–up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that the method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid–up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which the values and benefits are consecutively shown in the policy.

Subd. 3. **Exception; deferred payment.** Any provision or portion of subdivision 2 not applicable by reason of the plan of insurance may be omitted from the policy. The company shall reserve the right to defer the payment of any cash surrender value for a period of six months after demand therefor with surrender of the policy.

Subd. 4. **Cash surrender value.** (a) Except as otherwise provided by paragraphs (b) and (c), the cash surrender value available under the policy in the event of default in a premium payment due on a policy anniversary, whether or not required by subdivisions 2 and 3,

shall be an amount not less than the excess of the present value on the anniversary of the future guaranteed benefits which would have been provided for by the policy, including any existing paid–up additions, if there had been no default, over the sum of (1) the then present value of the adjusted premiums as prescribed in subdivisions 6 to 12, corresponding to premiums which would have fallen due on and after the anniversary, and (2) the amount of any indebtedness to the company on the policy.

(b) For a policy issued on or after the operative date of subdivision 12 which provides supplemental life insurance or annuity benefits at the option of the insured and for an identifiable additional premium by rider or supplemental policy provision, the cash surrender value referred to in paragraph (a) shall be an amount not less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without the rider or supplemental policy provision and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by the rider or supplemental policy provision.

(c) For a family policy issued on or after the operative date of subdivision 12 which defines a primary insured and provides term insurance on the life of the spouse of the primary insured expiring before the spouse becomes 71 years old, the cash surrender value referred to in paragraph (a) shall be an amount not less than the sum of the cash surrender value as defined in that paragraph for an otherwise similar policy issued at the same age without the term insurance on the life of the spouse and the cash surrender value as defined in that paragraph for a policy which provides only the benefits otherwise provided by the term insurance on the life of the spouse.

The cash surrender value available within 30 days after a policy anniversary under a policy paid–up by completion of all premium payments or a policy continued under a paid–up nonforfeiture benefit, whether or not required by subdivisions 2 and 3, shall be an amount not less than the present value on the anniversary of the future guaranteed benefits provided for by the policy, including any existing paid–up additions, decreased by any indebtedness to the company on the policy.

Subd. 5. **Paid–up nonforfeiture benefit.** Any paid–up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

Subd. 6. **Calculation of adjusted premiums; general.** Except as provided in subdivision 8, the adjusted premiums for a policy shall be calculated on an annual basis and shall be the uniform percentage of the respective premiums specified in the policy for each policy year, excluding extra premiums on a substandard policy. The present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) two percent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as hereinafter defined, if the amount of insurance varies with duration of the policy; (3) 40 percent of the adjusted premium for the first policy year; (4) 25 percent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less. In applying the percentages specified in clauses (3) and (4), no adjusted premiums shall be deemed to exceed four percent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

This subdivision does not apply to policies issued on or after the operative date of subdivision 12.

Subd. 7. **Adjusted premiums; varying amount of insurance.** In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of subdivisions 6 to 11 is the uniform amount of insurance provided by an otherwise similar policy containing the same endowment benefit or benefits

issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, however, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age ten, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age ten were the amount provided by such policy at age ten.

Subd. 8. **Adjusted premiums; supplemental term insurance.** The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to (a) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by (b) the adjusted premiums for such term insurance, the foregoing items (a) and (b) being calculated separately and as specified in subdivisions 6 and 7 except that, for the purposes of (2), (3) and (4) of subdivision 6, the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in (b) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in (a).

Subd. 9. **Adjusted premiums; ordinary insurance.** In the case of ordinary policies hereafter issued all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1958 Standard Ordinary Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid–up nonforfeiture benefits. The rate of interest shall not exceed 3–1/2 percent per annum for policies issued prior to April 11, 1974. A rate of interest not exceeding 4 percent per annum may be used for policies issued on or after April 11, 1974 and prior to August 1, 1978. A rate of interest not exceeding 5–1/2 percent per annum may be used for policies issued on or after August 1, 1978, except that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6–1/2 percent per annum may be used. For any category of ordinary insurance issued on female risks, adjusted premiums and present values may be calculated according to an age not more than six years younger than the actual age of the insured. However, in calculating the present value of any paid–up term insurance with the accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1958 Extended Term Insurance Table. Provided, further, that for insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on any other table of mortality specified by the company and approved by the commissioner.

This subdivision does not apply to ordinary policies issued on or after the operative date of subdivision 12.

Subd. 10. **Adjusted premiums; industrial insurance.** Except as otherwise provided in subdivisions 11 and 11a, all adjusted premiums and present values referred to in this section shall for all policies of industrial insurance be calculated on the basis of the 1941 Standard Industrial Mortality Table. All calculations shall be made on the basis of the rate of interest, not exceeding 3–1/2 percent per annum, specified in the policy for calculating cash surrender values and paid–up nonforfeiture benefits. In calculating the present value of paid–up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than 130 percent of the rates of mortality according to the applicable table. For insurance issued on a substandard basis, the calculation of adjusted premiums and present values may be based on any table of mortality specified by the company and approved by the commissioner.

Subd. 11. **Adjusted premiums; industrial insurance.** In the case of industrial policies issued on or after the operative date of this subdivision as defined in subdivision 11a, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table and the rate of interest specified in the policy for calculating cash surrender values and paid–up nonforfeiture benefits. The rate of interest shall not exceed 3–1/2 percent per annum for policies issued prior to April 11, 1974. A rate of interest not exceeding four percent per annum may be used for policies issued on or after April 11, 1974 and prior to August 1, 1978. A rate of interest not exceeding 5–1/2 percent per annum may be used for policies issued on or after August 1, 1978, except

that for any single premium whole life or endowment insurance policy a rate of interest not exceeding 6–1/2 percent per annum may be used. In calculating the present value of any paid–up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners 1961 Industrial Extended Term Insurance Table. For insurance issued on a substandard basis, the calculations of adjusted premiums and present values may be based on any other table of mortality specified by the company and approved by the commissioner.

This subdivision shall not apply to industrial policies issued on or after the operative date of subdivision 12.

Subd. 11a. **Operative date of subdivision 11.** After April 9, 1963, a company may file with the commissioner a written notice of its election to comply with the provisions of subdivision 11 after a specified date before January 1, 1968. After the filing of the notice, then upon the specified date, which shall be the operative date of subdivision 11 for the company, subdivision 11 shall become operative with respect to the industrial policies thereafter issued by the company. If a company makes no election, the operative date of subdivision 11 for the company shall be January 1, 1968.

Subd. 12. **Calculation of adjusted premiums by the nonforfeiture net level premium method.** (a) This subdivision applies to all policies issued on or after its operative date. Except as provided in paragraph (g), the adjusted premiums for a policy shall be calculated on an annual basis and shall be the uniform percentage of the respective premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments or special hazards and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid–up nonforfeiture benefits, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (1) the then present value of the future guaranteed benefits provided for by the policy; (2) one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and (3) 125 percent of the nonforfeiture net level premium as hereinafter defined. In applying the percentage specified in clause (3), no nonforfeiture net level premium shall be deemed to exceed four percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years. The date of issue of a policy for the purpose of this section is the date as of which the rated age of the insured is determined.

(b) The nonforfeiture net level premium shall be equal to the present value, at the date of issue of the policy, of the guaranteed benefits provided for by the policy divided by the present value, at the date of issue of the policy, of an annuity of one per annum payable on the date of issue of the policy and on each anniversary of the policy on which a premium falls due.

(c) In the case of a policy which causes, on a basis guaranteed in the policy, unscheduled changes in benefits or premiums, or which provides an option for changes in benefits or premiums other than a change to a new policy, the adjusted premiums and present values shall initially be calculated on the assumption that future benefits and premiums do not change from those stipulated at the date of issue of the policy. At the time of the change in the benefits or premiums the future adjusted premiums, nonforfeiture net level premiums, and present values shall be recalculated on the assumption that future benefits and premiums do not change from those stipulated by the policy immediately after the change.

(d) Except as otherwise provided in paragraph (g), the recalculated future adjusted premiums for a policy shall be the uniform percentage of the respective future premiums specified in the policy for each policy year, excluding amounts payable as extra premiums to cover impairments and special hazards, and also excluding any uniform annual contract charge or policy fee specified in the policy in a statement of the method to be used in calculating the cash surrender values and paid–up nonforfeiture benefits, that the present value, at the time of change to the newly defined benefits or premiums, of all future adjusted premiums shall be equal to the excess of: (1) the sum of the then present value of the then future guaranteed benefits provided for by the policy, and the additional expense allowance, if any, over; (2) the then cash surrender value, if any, or present value of any paid–up nonforfeiture benefit under the policy.

(e) The additional expense allowance, at the time of the change to the newly defined benefits or premiums, shall be the sum of: (1) one percent of the excess, if positive, of the average amount of insurance at the beginning of each of the first ten policy years subsequent to the change over the average amount of insurance prior to the change at the beginning of each of the first ten policy years subsequent to the time of the most recent previous change, or, if there has been no previous change, the date of issue of the policy; and (2) 125 percent of the increase, if positive, in the nonforfeiture net level premium.

(f) The recalculated nonforfeiture net level premium shall be equal to the result obtained by dividing clause (1) by clause (2) where clause (1) equals the sum of the nonforfeiture net level premium applicable prior to the change times the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of the change on which a premium would have fallen due had the change not occurred, and the present value of the increase in future guaranteed benefits provided for by the policy; and clause (2) equals the present value of an annuity of one per annum payable on each anniversary of the policy on or subsequent to the date of change on which a premium falls due.

(g) Notwithstanding any other provisions of this subdivision to the contrary, in the case of a policy issued on a substandard basis which provides reduced graded amounts of insurance so that, in each policy year, the policy has the same tabular mortality cost as an otherwise similar policy issued on the standard basis which provides higher uniform amounts of insurance, adjusted premiums and present values for the substandard policy may be calculated as if it were issued to provide the higher uniform amounts of insurance on the standard basis.

(h) All adjusted premiums and present values referred to in this subdivision shall: for all policies of ordinary insurance be calculated on the basis of the Commissioners 1980 Standard Ordinary Mortality Table, or at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten–Year Select Mortality Factors; for all policies of industrial insurance be calculated on the basis of the Commissioners 1961 Standard Industrial Mortality Table; and for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this section for policies issued in that calendar year. However:

(1) At the option of the company, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subdivision, for policies issued in the immediately preceding calendar year;

(2) Under a paid–up nonforfeiture benefit, including any paid–up dividend additions, any cash surrender value available, whether or not required by subdivision 2, shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of the paid–up nonforfeiture benefit and paid–up dividend additions, if any;

(3) A company may calculate the amount of a guaranteed paid–up nonforfeiture benefit including any paid–up additions under the policy on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values;

(4) In calculating the present value of paid–up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners 1961 Industrial Extended Term Insurance Table for policies of industrial insurance;

(5) For insurance issued on a substandard basis, the calculation of any adjusted premiums and present values may be based on appropriate modifications of these tables;

(6) Any ordinary mortality tables, including any adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the Commissioners 1980 Standard Ordinary Mortality Table with or without Ten–Year Select Mortality Factors or for the Commissioners 1980 Extended Term Insurance Table; and

(7) Any industrial mortality tables, including any adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum nonforfeiture standard may be substituted for the

Commissioners 1961 Standard Industrial Mortality Table or the Commissioners 1961 Industrial Extended Term Insurance Table.

(i) The nonforfeiture interest rate per annum for a policy issued in a particular calendar year shall be equal to 125 percent of the calendar year statutory valuation interest rate for the policy as defined in section 61A.25, rounded to the nearer one-quarter of one percent.

(j) Notwithstanding any other provision in this chapter to the contrary, a refiling of nonforfeiture values or their methods of computation for any previously approved policy form which involves only a change in the interest rate or mortality table used to compute nonforfeiture values shall not require refiling of any other provisions of that policy form.

(k) After August 1, 1982, a company may file with the commissioner a written notice of its election to comply with the provision of this section after a specified date before January 1, 1989, which shall be the operative date of this subdivision for the company. If a company makes no election, the operative date of this subdivision for the company shall be January 1, 1989.

Subd. 12a. **Nonforfeiture benefits; plans not covered by other subdivisions.** In the case of a plan of life insurance which is of a nature that minimum values cannot be determined by the methods described in subdivisions 2 to 12:

(a) the commissioner must be satisfied that the benefits provided under the plan are substantially as favorable to policyholders and insureds as the minimum benefits otherwise required by subdivisions 2 to 12;

(b) the commissioner must be satisfied that the benefits and the pattern of premiums of that plan are not likely to mislead prospective policyholders or insureds; and

(c) the cash surrender values and paid-up nonforfeiture benefits provided by the plan must not be less than the minimum values and benefits required for the plan computed by a method consistent with the principles of this section, as determined by rules adopted by the commissioner.

Subd. 13. **Default in premium payment.** A cash surrender value and a paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at a time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subdivisions 4 to 12 may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the amounts used to provide the additions. Notwithstanding the provisions of subdivision 4, additional benefits payable (1) in the event of death or dismemberment by accident or accidental means, (2) in the event of total and permanent disability, (3) as reversionary annuity or deferred reversionary annuity benefits, (4) as term insurance benefits provided by a rider or supplemental policy provisions to which, if issued as a separate policy, this section would not apply, (5) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if the term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid-up by reason of the death of a parent of the child, and (6) as other policy benefits additional to life insurance and endowment benefits, and premiums for all additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no additional benefits shall be required to be included in paid-up nonforfeiture benefits.

Subd. 14. **Application.** Subdivisions 1 to 13 do not apply to any of the following:

(a) reinsurance;

(b) group insurance;

(c) a pure endowment;

(d) an annuity or reversionary annuity contract;

(e) a term policy of uniform amount, which provides no guaranteed nonforfeiture or endowment benefits, or renewal thereof, of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(f) a term policy of decreasing amount, which provides no guaranteed nonforfeiture or endowment benefits, on which each adjusted premium, calculated as specified in subdivi-

sions 6 to 12, is less than the adjusted premium so calculated, on a term policy of uniform amount, or renewal thereof, which provides no guaranteed nonforfeiture or endowment benefits, issued at the same age and for the same initial amount of insurance and for a term of 20 years or less expiring before age 71, for which uniform premiums are payable during the entire term of the policy;

(g) a policy, which provides no guaranteed nonforfeiture or endowment benefits, for which no cash surrender value, if any, or present value of any paid–up nonforfeiture benefit, at the beginning of any policy year, calculated as specified in subdivisions 4 to 12, exceeds 2–1/2 percent of the amount of insurance at the beginning of the same policy year; or

(h) a policy delivered outside this state through an agent or other representative of the company issuing the policy.

For purposes of determining the applicability of this section, the age at expiry for a joint term life insurance policy shall be the age at expiry of the oldest life.

Subd. 15. **Consistency of progression of cash surrender values with increasing policy duration.** (a) This subdivision, in addition to all other applicable subdivisions of this section, applies to all policies issued on or after January 1, 1985. Any cash surrender value available under the policy in the event of default in a premium payment due on a policy anniversary shall be in an amount which does not differ by more than two–tenths of one percent of either the amount of insurance, if the insurance is uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years, from the sum of (1) the greater of zero and the basic cash value hereinafter specified, and (2) the present value of any existing paid–up additions less the amount of any indebtedness to the company under the policy.

(b) The basic cash value shall be equal to the present value, on the anniversary, of the future guaranteed benefits which would have been provided for by the policy, excluding any existing paid–up additions and before deduction of any indebtedness to the company, if there had been no default, less the then present value of the nonforfeiture factors, as hereinafter defined, corresponding to premiums which would have fallen due on and after the anniversary; provided, however, that the effects on the basic cash value of supplemental life insurance or annuity benefits or of family coverage, as described in subdivision 4 or 6, whichever is applicable, shall be the same as are the effects specified in subdivision 4 or 6, whichever is applicable, on the cash surrender values defined in those subdivisions.

(c) The nonforfeiture factor for each policy year shall be an amount equal to a percentage of the adjusted premium for the policy year, as defined in subdivision 6 or 12, whichever is applicable. Except as is required by paragraph (d), the percentage:

(1) must be the same percentage for each policy year between the second policy anniversary and the later of the fifth policy anniversary or the first policy anniversary at which there is available under the policy a cash surrender value in an amount, before including any paid–up additions and before deducting any indebtedness, of at least two–tenths of one percent of either the amount of insurance, if the insurance be uniform in amount, or the average amount of insurance at the beginning of each of the first ten policy years; and

(2) must be such that no percentage after the later of the two policy anniversaries specified in clause (1) may apply to fewer than five consecutive policy years.

(d) No basic cash value may be less than the value which would be obtained if the adjusted premiums for the policy, as defined in subdivision 6 or 12, whichever is applicable, were substituted for the nonforfeiture factors in the calculation of the basic cash value.

(e) All adjusted premiums and present values referred to in this subdivision shall for a particular policy be calculated on the same mortality and interest bases as are used in demonstrating the policy's compliance with the other subdivisions of this section. The cash surrender values referred to in this subdivision shall include any endowment benefits provided for by the policy.

(f) The cash surrender value available other than in the event of default in a premium payment due on a policy anniversary, and the amount of a paid–up nonforfeiture benefit available under the policy in the event of default in a premium payment shall be determined in manners consistent with the manners specified for determining the analogous minimum amounts in subdivisions 2, 3, 4, 5, 12 and 13. The amounts of cash surrender values and of

paid–up nonforfeiture benefits granted in connection with additional benefits such as those listed in subdivision 13, clauses (1) to (6), shall conform with the principles of this subdivision.

History: *1967 c 395 art 2 s 24; 1974 c 433 s 1,2; 1978 c 662 s 3–5; 1982 c 589 s 3–14*

61A.245 STANDARD NONFORFEITURE LAW FOR INDIVIDUAL DEFERRED ANNUITIES.

Subdivision 1. This section shall be known as the standard nonforfeiture law for individual deferred annuities.

Subd. 2. This section shall not apply to any reinsurance, group annuity purchased under a retirement plan or plan of deferred compensation established or maintained by an employer, including but not limited to a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under section 408 of the Internal Revenue Code, as amended, premium deposit fund, variable annuity, investment annuity, immediate annuity, any deferred annuity contract after annuity payments have commenced, or reversionary annuity, nor to any contract which shall be delivered outside this state through an agent or other representative of the company issuing the contract.

Subd. 3. In the case of contracts issued on or after the operative date specified in subdivision 12, no contract of annuity, except as stated in subdivision 2, shall be delivered or issued for delivery in this state unless it contains in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the contract holder, upon cessation of payment of considerations under the contract:

(a) That upon cessation of payment of considerations under a contract, the company will grant a paid–up annuity benefit on a plan stipulated in the contract of the value specified in subdivisions 5, 6, 7, 8 and 10;

(b) If a contract provides for a lump sum settlement at maturity, or at any other time, that upon surrender of the contract at or prior to the commencement of any annuity payments, the company will pay in lieu of any paid–up annuity benefit a cash surrender benefit of the amount specified in subdivisions 5, 6, 8 and 10. The company shall reserve the right to defer the payment of the cash surrender benefit for a period of six months after demand therefor with surrender of the contract;

(c) A statement of the mortality table, if any, and interest rates used in calculating any minimum paid–up annuity, cash surrender or death benefits that are guaranteed under the contract, together with sufficient information to determine the amounts of the benefits;

(d) A statement that any paid–up annuity, cash surrender or death benefits that may be available under the contract are not less than the minimum benefits required by any statute of the state in which the contract is delivered and an explanation of the manner in which the benefits are altered by the existence of any additional amounts credited by the company to the contract, any indebtedness to the company on the contract or any prior withdrawals from or partial surrenders of the contract.

Notwithstanding the requirements of this section, any deferred annuity contract may provide that if no considerations have been received under a contract for a period of two full years and the portion of the paid–up annuity benefit at maturity on the plan stipulated in the contract arising from considerations paid prior to the period would be less than $20 monthly, the company may at its option terminate the contract by payment in cash of the then present value of the portion of the paid–up annuity benefit, calculated on the basis of the mortality table, if any, and interest rate specified in the contract for determining the paid–up annuity benefit, and by the payment shall be relieved of any further obligation under the contract.

Subd. 4. The minimum values as specified in subdivisions 5, 6, 7, 8 and 10 of any paid–up annuity, cash surrender or death benefits available under an annuity contract shall be based upon minimum nonforfeiture amounts as defined in this subdivision.

(a) With respect to contracts providing for flexible considerations, the minimum nonforfeiture amount at any time at or prior to the commencement of any annuity payments shall be equal to an accumulation up to that time at a rate of interest of three percent per annum of

percentages of the net considerations, as defined in this subdivision, paid prior to that time, decreased by the sum of (i) any prior withdrawals from or partial surrenders of the contract accumulated at a rate of interest of three percent per annum and (ii) the amount of any indebtedness to the company on the contract, including interest due and accrued; and increased by any existing additional amounts credited by the company to the contract.

The net considerations for a given contract year used to define the minimum nonforfeiture amount shall be an amount not less than zero and shall be equal to the corresponding gross considerations credited to the contract during that contract year less an annual contract charge of $30 and less a collection charge of $1.25 per consideration credited to the contract during that contract year. The percentages of net considerations shall be 65 percent of the net consideration for the first contract year and 87.5 percent of the net considerations for the second and later contract years. Notwithstanding the provisions of the preceding sentence, the percentage shall be 65 percent of the portion of the total net consideration for any renewal contract year which exceeds by not more than two times the sum of those portions of the net considerations in all prior contract years for which the percentage was 65 percent.

(b) With respect to contracts providing for fixed scheduled considerations, minimum nonforfeiture amounts shall be calculated on the assumption that considerations are paid annually in advance and shall be defined as for contracts with flexible considerations which are paid annually with two exceptions:

(1) The portion of the net consideration for the first contract year to be accumulated shall be the sum of 65 percent of the net consideration for the first contract year plus 22.5 percent of the excess of the net consideration for the first contract year over the lesser of the net considerations for the second and third contract years; and

(2) The annual contract charge shall be the lesser of (i) $30 or (ii) ten percent of the gross annual consideration.

(c) With respect to contracts providing for a single consideration, minimum nonforfeiture amounts shall be defined as for contracts with flexible considerations except that the percentage of net consideration used to determine the minimum nonforfeiture amount shall be equal to 90 percent and the net consideration shall be the gross consideration less a contract charge of $75.

Subd. 5. Any paid–up annuity benefit available under a contract shall be such that its present value on the date annuity payments are to commence is at least equal to the minimum nonforfeiture amount on that date. The present value shall be computed using the mortality table, if any, and the interest rate specified in the contract for determining the minimum paid–up annuity benefits guaranteed in the contract.

Subd. 6. For contracts which provide cash surrender benefits, the cash surrender benefits available prior to maturity shall not be less than the present value as of the date of surrender of that portion of the maturity value of the paid–up annuity benefit which would be provided under the contract at maturity arising from considerations paid prior to the time of cash surrender reduced by the amount appropriate to reflect any prior withdrawals from or partial surrenders of the contract, the present value being calculated on the basis of an interest rate not more than one percent higher than the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, decreased by the amount of any indebtedness to the company on the contract, including interest due and accrued, and increased by any existing additional amounts credited by the company to the contract. In no event shall any cash surrender benefit be less than the minimum nonforfeiture amount at that time. The death benefit under the contracts shall be at least equal to the cash surrender benefit.

Subd. 7. For contracts which do not provide cash surrender benefits, the present value of any paid–up annuity benefit available as a nonforfeiture option at any time prior to maturity shall not be less than the present value of that portion of the maturity value of the paid–up annuity benefit provided under the contract arising from considerations paid prior to the time the contract is surrendered in exchange for, or changed to, a deferred paid–up annuity, the present value being calculated for the period prior to the maturity date on the basis of the interest rate specified in the contract for accumulating the net considerations to determine the maturity value, and increased by any existing additional amounts credited by the company to

the contract. For contracts which do not provide any death benefits prior to the commencement of any annuity payments, the present values shall be calculated on the basis of the interest rate referred to in this subdivision and the mortality table specified in the contract for determining the maturity value of the paid–up annuity benefit. However, in no event shall the present value of a paid–up annuity benefit be less than the minimum nonforfeiture amount at that time.

Subd. 8. For the purpose of determining the benefits calculated under subdivisions 6 and 7, in the case of annuity contracts under which an election may be made to have annuity payments commence at optional maturity dates, the maturity date shall be deemed to be the latest date for which election shall be permitted by the contract, but shall not be deemed to be later than the anniversary of the contract next following the annuitant's seventieth birthday or the tenth anniversary of the contract, whichever is later.

Subd. 9. Any contract which does not provide cash surrender benefits or does not provide death benefits at least equal to the minimum nonforfeiture amount prior to the commencement of any annuity payments shall include a statement in a prominent place in the contract that the benefits are not provided.

Subd. 10. Any paid–up annuity, cash surrender or death benefits available at any time, other than on the contract anniversary under any contract with fixed scheduled considerations, shall be calculated with allowance for the lapse of time and the payment of any scheduled considerations beyond the beginning of the contract year in which cessation of payment of considerations under the contract occurs.

Subd. 11. For any contract which provides, within the same contract by rider or supplemental contract provision, both annuity benefits and life insurance benefits that are in excess of the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall be equal to the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the life insurance portion computed as if each portion were a separate contract. Notwithstanding the provisions of subdivisions 5, 6, 7, 8 and 10, additional benefits payable (a) in the event of total and permanent disability, (b) as reversionary annuity or deferred reversionary annuity benefits, or (c) as other policy benefits additional to life insurance, endowment, and annuity benefits, and considerations for all the additional benefits, shall be disregarded in ascertaining the minimum nonforfeiture amounts, paid–up annuity, cash surrender and death benefits that may be required by this section. The inclusion of the additional benefits shall not be required in any paid–up benefits, unless the additional benefits separately would require minimum nonforfeiture amounts, paid–up annuity, cash surrender and death benefits.

Subd. 12. After August 1, 1978, any company may file with the commissioner a written notice of its election to comply with the provisions of this section after a specified date before August 1, 1980. After the filing of such notice, then upon the specified date, which shall be considered the operative date of this section for such company, this section shall become operative with respect to annuity contracts thereafter issued by the company. If a company makes no election, the operative date of this section for the company shall be August 1, 1980.

History: *1978 c 662 s 6; 1979 c 50 s 8–10*

STANDARD VALUATION LAW

61A.25 STANDARD VALUATION LAW.

Subdivision 1. **Citation.** This section shall be known as the standard valuation law.

Subd. 2. **Valuation of reserves.** The commissioner shall cause to be valued annually the reserve liabilities, hereinafter called reserves, for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of a foreign or alien insurer such valuation shall be limited to its insurance transactions in the United States, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in calculation of such reserves. In calculating such reserves, the commissioner may use group methods and approximate averages for fractions of a year

or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, the commissioner may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction. In the case of insurance issued by a domestic insurer upon the lives of residents of a foreign country, the commissioner may vary the mortality standard to a standard applicable to that country.

Subd. 2a. **Actuarial opinion of reserves; general.** (a) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by rule are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner may by rule define the specifics of this opinion and add any other items considered to be necessary to its scope. The opinion must be included in the company's annual statement.

(b) The requirement to annually submit the opinion of a qualified actuary applies to service plan corporations licensed under chapter 62C, to legal service plans licensed under chapter 62G, and to all fraternal benefit societies except those societies paying only sick benefits not exceeding $250 in any one year, or paying funeral benefits of not more than $350, or aiding those dependent on a member not more than $350, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body.

(c) The opinion applies to all business in force, including individual and group health insurance plans, and must be based on standards adopted by the Actuarial Standards Board. The opinion must be acceptable to the commissioner in both form and substance.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements specified in the regulations.

(f) The board of directors of every insurer subject to this section shall appoint a qualified actuary to sign its actuarial opinion. The appointment of the qualified actuary shall be approved by the commissioner. The qualified actuary so appointed may be an employee of the insurer. Notice of the appointment, including a copy of the board of directors' resolution, and the date of appointment shall be filed with the commissioner. The notice may be filed before or at the time the actuarial opinion is submitted. The notice shall state the qualifications of the actuary. If the board appoints a new actuary to sign actuarial opinions during the year, the commissioner shall be notified of the new appointment and the reason for change.

(g) Except in cases of fraud or willful misconduct, the qualified actuary is not liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(h) A memorandum, in form and substance acceptable to the commissioner based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe, must be prepared to support each actuarial opinion.

(i) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by the commissioner, or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards based on standards adopted by the Actuarial Standards Board and on additional standards as the commissioner may by rule prescribe or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the com-

pany to review the opinion and the basis for the opinion and prepare the required supporting memorandum.

(j) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection with the memorandum, must be kept confidential by the commissioner and must not be made public and is not subject to subpoena, other than for the purpose of defending an action seeking damages from any person by reason of any action required by this section or by rules promulgated under this section. The memorandum or other material may otherwise be released by the commissioner (1) with the written consent of the company or (2) to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material. Once any portion of the confidential memorandum is cited by the company in its marketing or is cited before any governmental agency other than a state insurance department or is released by the company to the news media, all portions of the confidential memorandum are no longer confidential.

Subd. 2b. **Actuarial analysis.** (a) Every life insurance company, except as exempted by or pursuant to regulation, shall also annually include in the opinion required under subdivision 2a, paragraph (a), an opinion of the same qualified actuary as to whether the reserves and related actuarial items, including page 3, line 10, of the annual statement, held in support of the policies and contracts specified by the commissioner, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the policies and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by rule for a transition period for establishing any higher reserves which the qualified actuary may consider necessary in order to give the opinion required under subdivision 2a.

Subd. 3. **Minimum standards of valuation generally.** Except as otherwise provided in subdivisions 3a and 3b, the minimum standard for the valuation of the policies and contracts issued prior to the operative date of Laws 1947, chapter 182, shall be that provided by the laws in effect immediately prior to that date. Except as otherwise provided in subdivisions 3a and 3b, the minimum standard for the valuation of the policies and contracts issued on or after the operative date of Laws 1947, chapter 182, shall be the commissioners reserve valuation methods described in subdivisions 4, 4a and 7, 3–1/2 percent interest, or in the case of policies and contracts, other than annuity and pure endowment contracts, issued on or after April 11, 1974, four percent interest for policies issued prior to August 1, 1978, 5–1/2 percent interest for single premium life insurance policies and 4–1/2 percent interest for other policies issued on or after August 1, 1978, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in the policies, the Commissioners 1941 Standard Ordinary Mortality Table for the policies issued prior to the operative date of section 61A.24, subdivision 9 and the Commissioners 1958 Standard Ordinary Mortality Table for the policies issued on or after the operative date of section 61A.24, subdivision 9, and prior to the operative date of section 61A.24, subdivision 12; provided, that for any category of the policies issued on female risks all modified net premiums and present values referred to in Laws 1959, chapter 26, may be calculated according to an age not more than six years younger than the actual age of the insured; and for policies issued on or after the operative date of section 61A.24, subdivision 12:

(1) the Commissioners 1980 Standard Ordinary Mortality Table; (2) at the election of the company for any one or more specified plans of life insurance, the Commissioners 1980 Standard Ordinary Mortality Table with Ten–Year Select Mortality Factors; or (3) any ordinary mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in the policies, the 1941 Standard Industrial Mortality Table for the policies issued prior to the operative date of section 61A.24, subdivision 11 and for the policies issued on or after the operative date, the Commissioners 1961 Standard Industrial Mortality Table or any industrial mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the 1937 Standard Annuity Mortality Table or, at the option of the company, the Annuity Mortality Table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in the policies, the Group Annuity Mortality Table for 1951, any modification of the table approved by the commissioner, or at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplemental to ordinary policies or contracts, for policies or contracts issued on or after January 1, 1966, the tables of period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the Society of Actuaries, with due regard to the type of benefit or any tables of disablement rates and termination rates, including any adopted after 1980 by the National Association of Insurance Commissioners, that are approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies; for policies or contracts issued on or after January 1, 1963, and prior to January 1, 1966, either the tables or, at the option of the company, the class (3) disability table (1926); and for policies issued prior to January 1, 1963, the class (3) disability table (1926). The table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies, for policies issued on or after January 1, 1966, the 1959 Accidental Death Benefits Table or any accidental death benefits table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the policies; for policies issued on or after January 1, 1963, and prior to January 1, 1966, either table or, at the option of the company, the Intercompany Double Indemnity Mortality Table; and for policies issued prior to January 1, 1963, the Intercompany Double Indemnity Mortality Table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, any tables as may be approved by the commissioner.

Subd. 3a. **Minimum standard of valuation for annuities and pure endowment contracts.** Except as provided in subdivision 3b, the minimum standard for the valuation of all individual annuity and pure endowment contracts issued on or after the operative date of this subdivision and for all annuities and pure endowments purchased on or after this operative date under group annuity and pure endowment contracts, shall be the commissioner's reserve valuation methods defined in subdivisions 4 and 4a, and the following tables and interest rates:

(a) For individual annuity and pure endowment contracts issued prior to August 1, 1978, excluding any disability and accidental death benefits in the contracts, the 1971 individual annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest for single premium immediate annuity contracts, and four percent interest for all other individual annuity and pure endowment contracts.

(b) For individual single premium immediate annuity contracts issued on or after August 1, 1978, excluding any disability and accidental death benefits in the contracts, the 1971 individual annuity mortality table, any individual annuity mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of

valuation for the contracts, or any modification of these tables approved by the commissioner, and 7–1/2 percent interest.

(c) For individual annuity and pure endowment contracts issued on or after August 1, 1978, other than single premium immediate annuity contracts, excluding any disability and accidental death benefits in the contracts, the 1971 individual annuity mortality table, any individual annuity mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the contracts, or any modification of these tables approved by the commissioner, and 5–1/2 percent interest for single premium deferred annuity and pure endowment contracts and 4–1/2 percent interest for all other individual annuity and pure endowment contracts.

(d) For all annuities and pure endowments purchased prior to August 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under the contracts, the 1971 group annuity mortality table, or any modification of this table approved by the commissioner, and six percent interest.

(e) For all annuities and pure endowments purchased on or after August 1, 1978, under group annuity and pure endowment contracts, excluding any disability and accidental death benefits purchased under the contracts, the 1971 group annuity mortality table, any group annuity mortality table, including any adopted after 1980 by the National Association of Insurance Commissioners, that is approved by rule adopted by the commissioner for use in determining the minimum standard of valuation for the annuities and pure endowments, or any modification of these tables approved by the commissioner, and 7–1/2 percent interest.

After April 11, 1974, a company may file with the commissioner a written notice of its election to comply with the provisions of this subdivision after a specified date before January 1, 1979, which shall be the operative date of this subdivision for the company. A company may elect a different operative date for individual annuity and pure endowment contracts from that elected for group annuity and pure endowment contracts. If a company makes no election, the operative date of this subdivision for the company shall be January 1, 1979.

Subd. 3b. **Computation of minimum standard by calendar year of issue.** (a) The interest rates used in determining the minimum standard for the valuation of the following shall be the calendar year statutory valuation interest rates as defined in this subdivision:

(1) all life insurance policies issued in a particular calendar year, on or after the operative date of section 61A.24, subdivision 12;

(2) all individual annuity and pure endowment contracts issued in a particular calendar year on or after January 1, 1982;

(3) all annuities and pure endowments purchased in a particular calendar year on or after January 1, 1982, under group annuity and pure endowment contracts; and

(4) the net increase, if any, in a particular calendar year after January 1, 1982, in amounts held under guaranteed interest contracts.

(b) The calendar year statutory valuation interest rates, I, shall be determined as follows and the results rounded to the nearer one–quarter of one percent:

(1) For life insurance, $I = .03 + W (R1 - .03) + (W/2) (R2 - .09)$;

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and from guaranteed interest contracts with cash settlement options, $I = .03 + W (R - .03)$ where R1 is the lesser of R and .09, R2 is the greater of R and .09, R is the reference interest rate defined in this subdivision, and W is the weighting factor defined in this subdivision;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on an issue year basis, except as stated in clause (2), the formula for life insurance stated in clause (1) shall apply to annuities and guaranteed interest contracts with guarantee durations in excess of ten years and the formula for single premium immediate annuities stated in clause (2) shall apply to annuities and guaranteed interest contracts with guarantee duration of ten years or less;

(4) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the formula for single premium immediate annuities stated in clause (2) shall apply.

(5) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, the formula for single premium immediate annuities stated in clause (2) shall apply.

However, if the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year determined without reference to this sentence differs from the corresponding actual rate for similar policies issued in the immediately preceding calendar year by less than one-half of one percent, the calendar year statutory valuation interest rate for the life insurance policies shall be equal to the corresponding actual rate for the immediately preceding calendar year.

For purposes of applying the immediately preceding sentence, the calendar year statutory valuation interest rate for life insurance policies issued in a calendar year shall be determined for 1980 using the reference interest rate defined for 1979 and shall be determined for each subsequent calendar year regardless of when section 61A.24, subdivision 12 becomes operative.

(c) The weighting factors referred to in the formulas stated above are as follows:

(1) The weighting factors for life insurance are:

Guarantee Duration (Years)	Weighting Factors
ten or less	.50
more than ten, but not more than 20	.45
more than 20	.35

For life insurance, the guarantee duration is the maximum number of years the life insurance can remain in force on a basis guaranteed in the policy or under options to convert to plans of life insurance with premium rates or nonforfeiture values or both which are guaranteed in the original policy;

(2) The weighting factor for single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options is .80; and

(3) The weighting factors for other annuities and for guaranteed interest contracts, except as stated in clause (2), shall be as specified in tables (i), (ii), and (iii), according to the rules and definitions in (iv), (v), and (vi):

(i) For annuities and guaranteed interest contracts valued on an issue year basis:

Guarantee Duration (Years)	Weighting Factor for Plan Type A	B	C
five or less:	.80	.60	.50
more than five, but not more than ten:	.75	.60	.50
more than ten, but not more than 20:	.65	.50	.45
more than 20:	.45	.35	.35

(ii)

	Plan Type A	B	C
For annuities and guaranteed interest contracts valued on a change in fund basis, the factors shown in (i) increased by:	.15	.25	.05

(iii)

	Plan Type A	B	C
For annuities and guaranteed interest contracts valued on an issue year basis, other than those with no cash settlement options, which do not guarantee interest on considerations received more than one year after issue or purchase and for annuities and guaranteed interest contracts			

valued on a change in fund basis which do not guarantee interest rates on considerations received more than 12 months beyond the valuation date, the factors shown in (i) or derived in (ii) increased by:	.05	.05	.05

(iv) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the guarantee duration is the number of years for which the contract guarantees interest rates in excess of the calendar year statutory valuation interest rate for life insurance policies with guarantee duration in excess of 20 years. For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the guarantee duration is the number of years from the date of issue or date of purchase to the date annuity benefits are scheduled to commence.

(v) Plan type as used in the above tables is defined as follows:

Plan Type A: At any time policyholders may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, (2) without the adjustment but in installments over five years or more, or (3) as an immediate life annuity.

Plan Type B: Before expiration of the interest rate guarantee, policyholders may withdraw funds only (1) with an adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) without the adjustment but in installments over five years or more. At the end of interest rate guarantee, funds may be withdrawn without the adjustment in a single sum or installments over less than five years.

Plan Type C: Policyholders may withdraw funds before expiration of interest rate guarantee in a single sum or installments over less than five years either (1) without adjustment to reflect changes in interest rates or asset values since receipt of the funds by the insurance company, or (2) subject only to a fixed surrender charge stipulated in the contract as a percentage of the fund.

(vi) A company may elect to value guaranteed interest contracts with cash settlement options and annuities with cash settlement options on either an issue year basis or on a change in fund basis. Guaranteed interest contracts with no cash settlement options and other annuities with no cash settlement options must be valued on an issue year basis. As used in this subdivision, an issue year basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard for the entire duration of the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of issue or year of purchase of the annuity or guaranteed interest contract, and the change in fund basis of valuation refers to a valuation basis under which the interest rate used to determine the minimum valuation standard applicable to each change in the fund held under the annuity or guaranteed interest contract is the calendar year valuation interest rate for the year of the change in the fund.

(d) The reference interest rate referred to in paragraph (b) shall be defined as follows:

(1) For all life insurance, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year next preceding the year of issue, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(2) For single premium immediate annuities and for annuity benefits involving life contingencies arising from other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or year of purchase, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(3) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in clause (2), with guarantee duration in excess of ten years, the lesser of the average over a period of 36 months and the average over a period of 12 months, ending on June 30 of the calendar year of

issue or purchase, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(4) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a year of issue basis, except as stated in clause (2), with guarantee duration of ten years or less, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.;

(5) For other annuities with no cash settlement options and for guaranteed interest contracts with no cash settlement options, the average over a period of 12 months, ending on June 30 of the calendar year of issue or purchase, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.; and

(6) For other annuities with cash settlement options and guaranteed interest contracts with cash settlement options, valued on a change in fund basis, except as stated in clause (2), the average over a period of 12 months, ending on June 30 of the calendar year of the change in the fund, of Moody's Corporate Bond Yield Average–Monthly Average Corporates, as published by Moody's Investors Service, Inc.

(e) In the event that Moody's Corporate Bond Yield Average–Monthly Average Corporates is no longer published by Moody's Investors Service, Inc., or in the event that the commissioner determines that Moody's Corporate Bond Yield Average–Monthly Average Corporates as published by Moody's Investors Service, Inc. is no longer appropriate for the determination of the reference interest rate, then an alternative method for determination of the reference interest rate, which has been approved by rule adopted by the commissioner, may be substituted.

Subd. 4. **Reserve valuation of life insurance and endowment benefits; modified premiums.** (a) Except as otherwise provided in paragraph (b) and subdivisions 4a and 7, reserves according to the commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value at the date of valuation of future guaranteed benefits provided for by the policies over the then present value of any future modified net premiums therefor. The modified net premiums for a policy shall be the uniform percentage of the respective contract premiums for the benefits that the present value, at the date of issue of the policy, of all the modified net premiums shall be equal to the sum of the then present value of the benefits provided for by the policy and the excess of clause (1) over clause (2) as follows:

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value at the date of issue of an annuity of one per annum payable on the first and each subsequent anniversary of the policy on which a premium falls due; but the net level annual premium shall not exceed the net level annual premium on the 19 year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of the policy;

(2) A net one year term premium for the benefits provided for in the first policy year.

(b) For a life insurance policy issued on or after January 1, 1985, for which the contract premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the reserve according to the commissioners reserve valuation method as of a policy anniversary occurring on or before the assumed ending date defined herein as the first policy anniversary on which the sum of any endowment benefit and any cash surrender value then available is greater than the excess premium shall, except as otherwise provided in subdivision 7, be the greater of the reserve as of the policy anniversary calculated as described in paragraph (a) and the reserve as of the policy anniversary calculated as described in that paragraph, but with the value defined in clause (1) of that paragraph being reduced by 15 percent of the amount of the excess first year premium; all present values of benefits and premiums being determined without reference to premiums or benefits provided for by the policy after the assumed ending date; the policy being assumed to mature on that date as an endowment; and the cash surrender value provided on that date being considered as an en-

dowment benefit. In making the above comparison the mortality and interest bases stated in subdivisions 3 and 3b shall be used.

(c) Reserves according to the commissioners reserve valuation method for (1) life insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (2) group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including but not limited to a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as amended, (3) disability and accidental death benefits in all policies and contracts, and (4) all other benefits, except life insurance and endowment benefits in life insurance policies and benefits provided by all other annuity and pure endowment contracts, shall be calculated by a method consistent with the principles of paragraphs (a) and (b), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

Subd. 4a. **Annuity and pure endowment contracts.** This subdivision shall apply to all annuity and pure endowment contracts other than group annuity and pure endowment contracts purchased under a retirement plan or plan of deferred compensation, established or maintained by an employer, including but not limited to a partnership or sole proprietorship, or by an employee organization, or by both, other than a plan providing individual retirement accounts or individual retirement annuities under Section 408 of the Internal Revenue Code, as amended.

Reserves according to the commissioner's annuity reserve method for benefits under annuity or pure endowment contracts, excluding any disability and accidental death benefits in the contracts, shall be the greatest of the respective excesses of the present values, at the date of valuation, of the future guaranteed benefits, including guaranteed nonforfeiture benefits, provided for by the contracts at the end of each respective contract year, over the present value, at the date of valuation, of any future valuation considerations derived from future gross considerations, required by the terms of the contract, that become payable prior to the end of the respective contract year. The future guaranteed benefits shall be determined by using the mortality table, if any, and the interest rate, or rates, specified in the contracts for determining guaranteed benefits. The valuation considerations are the portions of the respective gross considerations applied under the terms of the contracts to determine nonforfeiture values.

Subd. 5. **Minimum aggregate reserves.** A company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the operative date of Laws 1947, chapter 182, shall not be less than the aggregate reserves calculated in accordance with the methods set forth in subdivisions 4, 4a, 7, and 8, and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for the policies.

In no event shall the aggregate reserves for all policies, contracts, and benefits be less than the aggregate reserves determined by the qualified actuary to be necessary to render the opinion required under subdivision 2a.

Subd. 6. **Calculation of reserves.** (1) Reserves for all policies and contracts issued prior to the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date.

(2) Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the operative date of Laws 1947, chapter 182, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used for policies and contracts, other than annuity and pure endowment contracts, shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein.

(3) Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided. For purposes of this section, the holding of additional reserves previously determined by a qualified actuary to be necessary to give the opinion required under subdivision 2a shall not be considered the adoption of a higher standard of valuation.

Subd. 7. **Reserve calculation; valuation net premium exceeding the gross premium charged.** If in a contract year the gross premium charged by a life insurance company on a policy or contract is less than the valuation net premium for the policy or contract calculated by the method used in calculating the reserve thereon, but using the minimum valuation standards of mortality and rate of interest, the minimum reserve required for the policy or contract shall be the greater of either the reserve calculated according to the mortality table, rate of interest, and method actually used for the policy or contract, or the reserve calculated by the method actually used for the policy or contract but using the minimum valuation standards of mortality and rate of interest and replacing the valuation net premium by the actual gross premium in each contract year for which the valuation net premium exceeds the actual gross premium. The minimum valuation standards of mortality and rate of interest referred to in this subdivision are those standards stated in subdivisions 3 and 3b. However, for a life insurance policy issued on or after January 1, 1985 for which the gross premium in the first policy year exceeds that of the second year and for which no comparable additional benefit is provided in the first year for the excess and which provides an endowment benefit or a cash surrender value or a combination thereof in an amount greater than the excess premium, the foregoing provisions of this subdivision shall be applied as if the method actually used in calculating the reserve for the policy was the method described in subdivision 4, ignoring subdivision 4, paragraph (b). The minimum reserve at each policy anniversary of the policy shall be the greater of the minimum reserve calculated in accordance with subdivision 4, including subdivision 4, paragraph (b), and the minimum reserve calculated in accordance with this subdivision.

Subd. 8. **Reserve calculation; plans not covered by other subdivisions.** In the case of a plan of life insurance or annuity for which the minimum reserves cannot be determined by the methods described in subdivisions 4, 4a, and 7, the reserves which are held under any plan must:

(a) be appropriate in relation to the benefits and the pattern of premiums for that plan, and

(b) be computed by a method which is consistent with the principles of this section as determined by rules adopted by the commissioner.

Subd. 9. **Minimum standards for health, disability, accident, and sickness plans.** The commissioner may adopt a rule containing the minimum standards applicable to the valuation of health, disability, accident, and sickness plans.

History: *1967 c 395 art 2 s 25; 1974 c 433 s 3,4; 1978 c 662 s 7–13; 1982 c 589 s 15–21; 1986 c 444; 1991 c 325 art 7 s 1–5*

61A.255 SMOKER AND NONSMOKER MORTALITY TABLES.

For the purposes of sections 61A.24 and 61A.25, insurers may utilize the 1958 Commissioners Standard Ordinary and the 1958 Commissioners Extended Term smoker and nonsmoker mortality tables and the 1980 Commissioners Standard Ordinary and the 1980 Commissioners Extended Term smoker and nonsmoker mortality tables in addition to the tables specified in sections 61A.24 and 61A.25. The tables may be utilized as provided in the model rule permitting smoker and nonsmoker mortality tables for use in determining minimum reserve liabilities and nonforfeiture benefits adopted by the National Association of Insurance Commissioners. This section applies to policies issued on or after January 1, 1984, and before January 1, 1989.

History: *1984 c 538 s 1; 1984 c 592 s 46*

DIVIDEND PROVISIONS

61A.26 DIVIDENDS.

Subdivision 1. **Annual apportionment and accounting of surplus.** Every life insurance company doing business in this state conducted on the mutual plan or in which policyholders are entitled to share in the profits or surplus shall make an annual apportionment and accounting of divisible surplus to each policyholder, beginning not later than the end of the third policy year, on all participating policies hereafter issued; and each such policyholder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by that person's policy.

Subd. 2. **Policyholder to choose.** Every policyholder shall, on all participating policies hereafter issued, be permitted, after that person's policy has been in force five years, annually, to select the manner and method of the application of the surplus to be annually apportioned to that person's policy from among those set forth in the policy. All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid–up insurance or pure endowment additions, shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy.

Subd. 3. **Waiver prohibited.** No agreement between the company and the policyholder or applicant for insurance shall be held to waive any of the provisions of subdivisions 1 and 2.

Subd. 4. **Policies issued prior to January 1, 1908.** Every life insurance company doing business in this state conducted on the mutual plan, or in which policyholders are entitled to share in the profits or surplus, shall, on all policies of life insurance issued prior to January 1, 1908, under the conditions of which the distribution of surplus is deferred to a fixed or specified time, and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall annually apportion to such policies as a class the amount of surplus so ascertained, and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose other than the express purpose for which the same was accumulated. This subdivision shall not apply to industrial policies.

Subd. 5. **Required policy provision.** The required policy provision is contained in section 61A.03(6).

History: *1967 c 395 art 2 s 26; 1986 c 444*

CONTINGENCY RESERVE

61A.27 CONTINGENCY RESERVE; LIMITATIONS.

Any life insurance company doing business in this state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders, and in addition to an amount equal to the net values of its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of these net values: When the net values are less than $100,000, 20 percent thereof, or the sum of $10,000, whichever is the greater; when the net values are greater than $100,000, the percentage thereof measuring the contingency reserve shall decrease one–half of one percent for each $100,000 of the net values up to $1,000,000; when the net values are greater than $1,000,000, but do not exceed $25,000,000, the contingency reserve shall not exceed 15 percent thereof; when the net values are greater than $25,000,000, but do not exceed $150,000,000, the contingency reserve shall not exceed 12–1/2 percent thereof; when the net values are greater than $150,000,000, the contingency reserve shall not exceed ten percent thereof; provided, that as the net values of these policies increase and the maximum percentage measuring the contingency reserve decreases, the corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may ex-

ceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage. For cause shown, the commissioner may, at any time and from time to time, permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in the commissioner's office a decision stating the reasons therefor and causing the same to be published in the next annual report. This section shall not apply to any company doing exclusively a nonparticipating business.

History: *1967 c 395 art 2 s 27; 1986 c 444*

BENEFIT ACCOUNTS

61A.275 SEPARATE ACCOUNTS; PENSION PLANS.

Subdivision 1. **Establishment.** Any domestic life insurance company, by adoption of a resolution by its governing body, may establish one or more separate accounts and may allocate thereto, in accordance with the terms of a written agreement, any amounts which are paid to or held by the company in connection with a pension, retirement, or profit–sharing plan described under section 401, 414(d), or 457 of the Internal Revenue Code of 1954, as amended through December 31, 1981. In connection with the separate accounts, the company may issue, subject to the terms of the written agreement, group policies or contracts with benefits payable in fixed or variable amounts.

The assets held in a separate account pursuant to this section shall be owned by the company. The company shall not be, nor hold itself out to be, a trustee with respect to the assets.

Subd. 2. **Allocations, credits, or charges.** The income, if any, and gains or losses realized or unrealized on each separate account may be credited to or charged against the amount allocated to that separate account in accordance with the written agreement, without regard to the other income, gains, or losses of the company.

Subd. 3. **Transfer of assets.** No sale, exchange, or other transfer of assets may be made by a company between any of its separate accounts or between any other investment account and one or more of its separate accounts unless:

(1) in case of a transfer into a separate account, the transfer is made solely to establish the account or to support the contractual obligations of the company with respect to the separate account to which the transfer is made; or

(2) in case of a transfer from a separate account, the transfer would not cause the remaining assets of the account to become less than the reserves and other contract liabilities with respect to that separate account. A transfer, whether into or from a separate account, shall be made by a transfer of cash, or by a transfer of securities having a readily determinable market value, if the transfer of securities is approved by the commissioner. The commissioner may approve other transfers among separate accounts if, in the commissioner's opinion, the transfers would not be inequitable.

Except as the commissioner may otherwise approve, where a company transfers assets into a separate account for the purpose of establishing the account, the transfer shall be in the form of cash and shall be made only from its surplus. Not more than five percent of its surplus may be so invested in its separate accounts.

Subd. 4. **Application of investment law.** Notwithstanding any inconsistent provision in the company's charter or other law, the amounts allocated to separate accounts and accumulations thereon may be invested and reinvested in any class of loans and investments. The loans and investments shall not be included in applying any of the limitations provided in section 61A.28. However, unless otherwise approved by the commissioner, a portion of the assets of each separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds, if any, shall be invested in accordance with the requirements otherwise applicable to the company's general assets.

Subd. 5. **Valuation of assets.** Unless otherwise approved by the commissioner, assets allocated to a separate account shall be valued at their market value on the date of valuation,

or if there is no readily available market, then as provided under the terms of the contract or the requirements or other written agreement applicable to the separate account. However, unless otherwise approved by the commissioner, a portion of the assets of each separate account equal to the company's reserve liability with regard to the guaranteed benefits and funds, if any, shall be valued in accordance with the requirements otherwise applicable to the company's general assets.

Subd. 6. **Other laws.** No separate account established pursuant to this section shall be subject to the provisions of sections 61A.13 to 61A.21, nor shall any of the provisions of this section be construed to have any application to separate accounts established pursuant to sections 61A.13 to 61A.21.

History: *1982 c 555 s 3; 1986 c 444*

61A.276 FUNDING AGREEMENTS.

Subdivision 1. **Authorization.** An insurer authorized to deliver or issue for delivery annuity contracts in this state may deliver or issue for delivery one or more funding agreements. The issuance or delivery of these funding agreements shall not be deemed to be doing a kind of business specifically authorized by section 60A.06. Notwithstanding the definition of contracts of life and endowment insurance or of annuities under section 60A.06, subdivision 1, clause (4) or the definition of life insurance company under section 61A.01, the issuance or delivery of a funding agreement by an insurer in this state constitutes doing an insurance business in the state.

Subd. 2. **Issuance.** The funding agreements may be issued to: (1) individuals; or (2) persons authorized by a state or foreign country to engage in an insurance business or subsidiaries or affiliates of these persons; or (3) entities other than individuals and other than persons authorized to engage in an insurance business, and subsidiaries and affiliates of these persons, for the following purposes: (i) to fund benefits under any employee benefit plan as defined in the Employee Retirement Income Security Act of 1974, as now or hereafter amended, maintained in the United States or in a foreign country; (ii) to fund the activities of any organization exempt from taxation under section 501(c) of the Internal Revenue Code of 1986, as amended through December 31, 1992, or of any similar organization in any foreign country; (iii) to fund any program of any state, foreign country or political subdivision thereof, or any agency or instrumentality thereof; or (iv) to fund any agreement providing for periodic payments in satisfaction of a claim. No funding agreement shall be issued in an amount less than $1,000,000.

Subd. 3. **General operation.** No amounts shall be guaranteed or credited under a funding agreement except upon reasonable assumptions as to investment income and expenses and on a basis equitable to all holders of funding agreements of a given class. The funding agreements shall not provide for payments to or by the insurer based on mortality or morbidity contingencies.

Subd. 4. **Allocation to separate accounts.** Amounts paid to the insurer, and proceeds applied under optional modes of settlement, under the funding agreements may be allocated by the insurer to one or more separate accounts pursuant to section 61A.275 or 61A.14. Notwithstanding the provisions of section 61A.275, subdivision 1, a separate account for funding agreement proceeds may include funds from any source authorized to purchase a funding agreement pursuant to this section.

Subd. 5. **Rules.** The commissioner may adopt rules relating to (1) the standards to be followed in the approval of forms of the funding agreements, (2) the reserves to be maintained by insurers issuing the funding agreements, (3) the accounting and reporting of funds credited under the funding agreements, (4) the disclosure of information to be given to holders and prospective holders of the funding agreements, and (5) the qualification and compensation of persons selling the funding agreements on behalf of insurers. Notwithstanding any other provision of law, the commissioner has sole authority to regulate the issuance and sale of the funding agreements, including the persons selling the funding agreements on behalf of insurers.

History: *1985 c 43 s 1; 1993 c 375 art 8 s 14*

INVESTMENTS

61A.28 DOMESTIC COMPANIES, INVESTMENTS.

Subdivision 1. **Investment guidelines and procedures.** Each domestic life insurance company must comply with section 60A.112.

No investment or loan, except policy loans, shall be made by a domestic life insurance company unless authorized or approved by the board of directors or by a committee of directors, officers, or employees of the company designated by the board and charged with the duty of supervising the investment or loan. Accurate records of all authorizations and approvals must be maintained.

The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property. An investment may not be made under this section if the required interest obligation is in default.

Investments must be valued in accordance with the valuation procedures established by the National Association of Insurance Commissioners, unless the commissioner requires or finds another method of valuation reasonable under the circumstances. Other invested assets must be valued according to the procedures promulgated by the National Association of Insurance Commissioners, if not addressed in another section, unless the commissioner requires or finds another method of valuation reasonable under the circumstances.

Subd. 2. **Government obligations.** Bonds or other obligations of, or bonds or other obligations insured or guaranteed by: (a) the United States or any state thereof; (b) the Dominion of Canada or any province thereof; (c) any county, city, town, statutory city formerly a village, organized school district, municipality, or other civil or political subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada; (d) any agency or instrumentality of the foregoing, including but not limited to, debentures issued by the federal housing administrator, obligations of the Federal Home Loan Mortgage Corporation, the Federal National Mortgage Association, the Government National Mortgage Association; and (e) obligations payable in United States dollars issued or fully guaranteed by the International Bank for Reconstruction and Development, the Inter–American Development Bank, the Asian Development Bank, the African Development Bank, the Export–Import Bank, or any other United States government sponsored organization of which the United States is a member. The life insurance company may not invest in the obligations of these banks or organizations if the investment causes the company's aggregate investments in the obligations of any one of these banks or organizations to exceed five percent of its admitted assets or if the investment causes the company's aggregate investments in the obligations of all banks or organizations described in clause (e) to exceed 15 percent of its admitted assets.

Subd. 3. **Loans or obligations secured by mortgage.** Loans or obligations (hereinafter loans) secured by a first mortgage, or deed of trust (hereinafter mortgage), on improved real estate in the United States, if the amount of the loan secured thereby is not in excess of 66–2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is to be used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan; (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1, or, if (1) the real estate is used for commercial purposes, and (2) the loan is additionally secured by an assignment of lease or leases, and (3) the lessee or lessees under the lease or leases, or a guarantor or guarantors of the lessee's obligations, is a corporation whose obligations would qualify as an investment under subdivision 6, paragraph (e), and (4) the rents payable during the primary term of the lease or leases are sufficient to amortize at least 60 percent of the loan. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the United

States or any agency or instrumentality thereof or other mortgage insurer as may be approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the property. No improvement may be included in estimating the market value of the real estate unless it is insured against fire by policies payable to the security holder or a trustee for its benefit. This requirement may be met by a program of self-insurance established and maintained by a corporation whose debt obligations would qualify for purchase under subdivision 6, paragraph (g), clause (4). Also loans secured by mortgage, upon leasehold estates in improved real property where at the date of investment the lease has an unexpired term of at least five years longer than the term of the loan secured thereby, and where the leasehold estate is unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on the leasehold estate may exceed (a) 66–2/3 percent of the market value thereof at the time of the loan, or (b) 80 percent of the market value thereof at the time of the loan if the loan is to be fully amortized by installment payments of principal which begin within five years from the date of the loan if the leasehold estate is to be used for commercial purposes, interest is payable at least annually over the period of the loan which may not exceed 40 years and the market value of the leasehold estate is shown by the sworn certificate of a competent appraiser, or (c) 90 percent of the market value of the leasehold estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the leasehold estate, no part of the amount of any loan is to be included which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee; provided, in no event may the loan exceed the market value of the leasehold estate. Also loans secured by mortgage, which the United States or any agency or instrumentality thereof or other mortgage insurer approved by the commissioner has insured or guaranteed or made a commitment to insure or guarantee. Also loans secured by mortgage, on improved real estate in the Dominion of Canada if the amount of the loan is not in excess of 66–2/3 percent of the market value of the real estate at the time of the loan, or, when the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan if the real estate is used for commercial purposes, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed (a) 80 percent of the market value of the real estate at the time of the loan, or (b) 90 percent of the market value of the real estate at the time of the loan if the loan is secured by a purchase money mortgage made in connection with the disposition of real estate acquired pursuant to section 61A.31, subdivision 1. In calculating the ratio of the amount of the loan to the value of the property, no part of the amount of any loan is to be included which the Dominion of Canada or any agency or instrumentality thereof has insured or guaranteed or made a commitment to insure or guarantee; provided in no event may the loan exceed the market value of the property. Also loans secured by mortgage, on real estate in the United States which may be unimproved provided there exists a definite plan for commencement of development for commercial purposes within not more than five years where the amount of the loan does not exceed 80 percent of the market value of the unimproved real estate at the time of the loan and the loan is to be fully amortized by installment payments of principal, which may begin up to five years from the date of the loan, and interest at least annually over a period of not to exceed 40 years. Also loans secured by second mortgage on improved or unimproved real estate used, or to be used, for commercial purposes; provided, that if unimproved real estate there exists a definite plan for commencement of development within not more than five years, in the United States or the Dominion of Canada under the following conditions: (a) the amount of the loan secured by the second mortgage is equal to the sum of the amount disbursed by the company and the then outstanding indebtedness under the first mortgage loan; and (b) the company has control over the payments under the first mortgage indebtedness; and (c) the total amount of the loan does not exceed 66–2/3 percent of the market value of the real estate at the date of the loan or, when the note or bond is to be fully amortized by installment payments of principal, beginning not more than five years

from the date of the loan, and interest at least annually over a period of not to exceed 40 years, the amount of the loan does not exceed 80 percent of the market value of the real estate at the date of the loan.

A company may not invest in a mortgage loan authorized under this subdivision, if the investment causes the company's aggregate investments in mortgages secured by a single property to exceed one percent of its admitted assets.

For purposes of this subdivision, improved real estate includes real estate improved with permanent buildings, used for agriculture or pasture, or income producing real estate, including but not limited to, parking lots and leases, royalty or other mineral interests in properties producing oil, gas, or other minerals and interests in properties for the harvesting of forest products.

A loan or obligation otherwise permitted under this subdivision must be permitted notwithstanding the fact that it provides for a payment of the principal balance prior to the end of the period of amortization of the loan.

The vendor's equity in a contract for deed qualifies as a loan secured by mortgage for the purposes of this subdivision.

Subd. 4. [Repealed, 1991 c 325 art 9 s 13]

Subd. 5. [Repealed, 1991 c 325 art 9 s 13]

Subd. 6. **Stocks, obligations, and other investments.** (a) Common stocks, common stock equivalents, or securities convertible into common stock or common stock equivalents of a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, if the net earnings of the business entity after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence if less than five years, has averaged not less than 1–1/4 times its average annual fixed charges applicable to the period.

(b) Preferred stock of, or common or preferred stock guaranteed as to dividends by a business entity organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, under the following conditions: (1) No investment may be made under this paragraph in a stock upon which any dividend, current or cumulative, is in arrears; (2) the company may not invest in stocks under this paragraph and in common stocks under paragraph (a) if the investment causes the company's aggregate investments in the common or preferred stocks to exceed 25 percent of the company's total admitted assets, provided that no more than 20 percent of the company's admitted assets may be invested in common stocks under paragraph (a); and (3) the company may not invest in any preferred stock or common stock guaranteed as to dividends, which is rated in the four lowest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment causes the company's aggregate investment in the lower rated preferred or common stock guaranteed as to dividends to exceed five percent of its total admitted assets.

(c) Warrants, options, and rights to purchase stock if the stock, at the time of the acquisition of the warrant, option, or right to purchase, would qualify as an investment under paragraph (a) or (b), whichever is applicable. A company shall not invest in a warrant, option, or right to purchase stock if, upon purchase and immediate exercise thereof, the acquisition of the stock violates any of the concentration limitations contained in paragraphs (a) and (b).

(d) In addition to amounts that may be invested under subdivision 8 and without regard to the percentage limitation applicable to stocks, warrants, options, and rights to purchase, the securities of any face amount certificate company, unit investment trust, or management type investment company, registered or in the process of registration under the Investment Company Act of 1940 as from time to time amended. In addition, the company may transfer assets into one or more of its separate accounts for the purpose of establishing, or supporting its contractual obligations under, the accounts in accordance with the provisions of sections 61A.13 to 61A.21. A company may not invest in a security authorized under this paragraph if the investment causes the company's aggregate investments in the securities to exceed five percent of its total admitted assets, except that for a health service plan corporation operating under chapter 62C, and for a health maintenance organization operating under chapter 62D,

the company's aggregate investments may not exceed 20 percent of its total admitted assets. No more than five percent of the allowed investment by health service plan corporations or health maintenance organizations may be invested in funds that invest in assets not backed by the federal government. When investing in money market mutual funds, nonprofit health service plans regulated under chapter 62C, and health maintenance organizations regulated under chapter 62D, shall establish a trustee custodial account for the transfer of cash into the money market mutual fund.

(e) Investment grade obligations that are:

(1) bonds, obligations, notes, debentures, repurchase agreements, or other evidences of indebtedness of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof; and

(2) rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or are rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(f) Noninvestment grade obligations: A company may acquire noninvestment grade obligations as defined in subclause (i) (hereinafter noninvestment grade obligations) which meet the earnings test set forth in subclause (ii). A company may not acquire a noninvestment grade obligation if the acquisition will cause the company to exceed the limitations set forth in subclause (iii).

(i) A noninvestment grade obligation is an obligation of a business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, that is not rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization, or is not rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(ii) Noninvestment grade obligations authorized by this subdivision may be acquired by a company if the business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has had net earnings after the elimination of extraordinary nonrecurring items of income and expense and before income taxes and fixed charges over the five immediately preceding completed fiscal years, or its period of existence of less than five years, has averaged not less than 1–1/4 times its average annual fixed charges applicable to the period; provided, however, that if a business entity issuing or assuming the obligation, or the business entity securing or guaranteeing the obligation, has undergone an acquisition, recapitalization, or reorganization within the immediately preceding 12 months, or will use the proceeds of the obligation for an acquisition, recapitalization, or reorganization, then such business entity shall also have, on a pro forma basis, for the next succeeding 12 months, net earnings averaging 1–1/4 times its average annual fixed charges applicable to such period after elimination of extraordinary nonrecurring items of income and expense and before taxes and fixed charges; no investment may be made under this section upon which any interest obligation is in default.

(iii) Limitation on aggregate interest in noninvestment grade obligations. A company may not invest in a noninvestment grade obligation if the investment will cause the company's aggregate investments in noninvestment grade obligations to exceed the applicable percentage of admitted assets set forth in the following table:

Effective Date	Percentage of Admitted Assets
January 1, 1992	20
January 1, 1993	17.5
January 1, 1994	15

Nothing in this paragraph limits the ability of a company to invest in noninvestment grade obligations as provided under subdivision 12.

(g) Obligations for the payment of money under the following conditions: (1) The obligation must be secured, either solely or in conjunction with other security, by an assignment of a lease or leases on property, real or personal; (2) the lease or leases must be nonterminable by the lessee or lessees upon foreclosure of any lien upon the leased property; (3) the rents

payable under the lease or leases must be sufficient to amortize at least 90 percent of the obligation during the primary term of the lease; and (4) the lessee or lessees under the lease or leases, or a governmental entity or business entity, organized under the laws of the United States or any state thereof, or the Dominion of Canada, or any province thereof, that has assumed or guaranteed any lessee's performance thereunder, must be a governmental entity or business entity whose obligations would qualify as an investment under subdivision 2 or paragraph (e) or (f). A company may acquire leases assumed or guaranteed by a noninvestment grade lessee unless the value of the lease, when added to the other noninvestment grade obligations owned by the company, exceeds 15 percent of the company's admitted assets.

(h) A company may sell exchange–traded call options against stocks or other securities owned by the company and may purchase exchange–traded call options in a closing transaction against a call option previously written by the company. In addition to the authority granted by paragraph (c), to the extent and on the terms and conditions the commissioner determines to be consistent with the purposes of this chapter, a company may purchase or sell other exchange–traded call options, and may sell or purchase exchange–traded put options.

(i) A company may not invest in a security or other obligation authorized under this subdivision if the investment, valued at cost at the date of purchase, causes the company's aggregate investment in any one business entity to exceed two percent of the company's admitted assets.

(j) For nonprofit health service plan corporations regulated under chapter 62C, and for health maintenance organizations regulated under chapter 62D, a company may invest in commercial paper rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization, or rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners, if the investment, valued at cost at the date of purchase, does not cause the company's aggregate investment in any one business entity to exceed six percent of the company's admitted assets.

Subd. 7. **Transportation equipment obligations.** Equipment trust obligations or certificates which are adequately secured or other adequately secured instruments evidencing an interest in transportation equipment purchased, leased, or under contract for purchase or lease by a corporation incorporated in the United States or in Canada or by a receiver or trustee of such corporation and a right to receive determined portions of rental, purchase or other fixed obligatory payments for the use or purchase of such transportation equipment.

Subd. 8. **Asset backed arrangements.** Investments in asset backed arrangements that meet the definitions and credit criteria provided in this subdivision. For purposes of this subdivision, "asset backed arrangement" means a loan participation or loan to or equity investment in a business entity that has as its primary business activity the acquisition and holding of financial assets for the benefit of its debt and equity holders.

In order to qualify for investment under this subdivision:

(a) the investment in the asset backed arrangement must be secured by or represent an undivided interest in a single financial asset or a pool of financial assets; and

(b) either (1) at least 90 percent of the dollar value of the financial assets held under the asset backed arrangement qualifies for direct investment under this section; (2) the investment in the asset backed arrangement is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization; or (3) the investment in the asset backed arrangement is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

Examples of asset backed arrangements authorized by this subdivision include, but are not limited to: general and limited partnership interests; participations under unit investment trusts such as collateralized mortgage obligations and collateralized bond obligations; shares in, or obligations of, corporations formed for holding investment assets, and contractual participation interests in a loan or group of loans.

A company may not invest in an asset backed arrangement if the investment causes the company's aggregate investment in the financial assets held under the asset backed arrangement to exceed any of the concentration limits contained in this section.

Subd. 9. **Obligations of trustees and receivers.** Certificates, notes, or other obligations issued by trustees or receivers of any institution created or existing under the laws of the United States or of any state, district, or territory thereof, which, or the assets of which, are being administered under the direction of any court having jurisdiction if such obligation is adequately secured as to principal and interest; the amount invested in the securities mentioned in this subdivision shall not, at any time, exceed 25 percent of the unassigned surplus and capital of the company.

Subd. 9a. **Hedging.** A domestic life insurance company may enter into financial transactions solely for the purpose of managing the interest rate risk associated with the company's assets and liabilities and not for speculative or other purposes. For purposes of this subdivision, "financial transactions" include, but are not limited to, futures, options to buy or sell fixed income securities, repurchase and reverse repurchase agreements, and interest rate swaps, caps, and floors. This authority is in addition to any other authority of the insurer.

Subd. 10. **Real estate sales contracts.** Real estate sales contracts to which the company is not an original party, involving unencumbered real property situated in the United States, having a value of at least 50 percent more than the amount of the unpaid balance of the contract, same to be assigned or otherwise transferred to the company or to a trustee or nominee of its choosing. No improvement shall be included in estimating the value unless the same shall be insured against fire by policies payable to and held by the company or a trustee or nominee for its benefit. The foregoing provisions of this subdivision shall not apply to real estate sales contracts to which the company is an original party and shall not prohibit the company from holding such contracts as an investment.

Subd. 11. **Policy loans.** Loans on the security of insurance policies issued by itself to an amount not exceeding the loan value thereof; and loans on the pledge of any of the securities eligible for investment under the provisions of subdivisions 2 to 10, with the exception of noninvestment grade obligations as defined in subdivision 6, paragraph (f), but not exceeding 95 percent of the value of securities enumerated in subdivisions 2, 3, and 4 and 80 percent of the value of stocks and other securities; in case of securities enumerated in subdivisions 3, 5, and 10 "value" means principal amount unpaid thereon and in case of other securities market value thereof; in case of securities enumerated in subdivisions 3 and 10 the pledge agreement shall require principal payments by the pledgor at least equal to and concurrent with principal payments on the pledged security; in loans authorized by this subdivision, except as otherwise provided by law in regard to policy loans, the company shall reserve the right at any time to declare the indebtedness due and payable when in excess of such proportions of value or, in case of pledge of securities other than those enumerated in subdivisions 3 and 10, upon depreciation of security. In the case of securities enumerated in subdivision 8, the provision of this subdivision must be applied in accordance with the type of security subject to the asset backed arrangement.

Subd. 12. **Additional investments.** Investments of any kind, without regard to the categories, conditions, standards, or other limitations set forth in the foregoing subdivisions and section 61A.31, subdivision 3, except that the prohibitions in clause (d) of subdivision 3 remains applicable, may be made by a domestic life insurance company in an amount not to exceed the lesser of the following:

(1) Five percent of the company's total admitted assets as of the end of the preceding calendar year, or

(2) Fifty percent of the amount by which its capital and surplus as of the end of the preceding calendar year exceeds $675,000. Except as provided in section 61A.281, a company's total investment under this section in the common stock of any corporation, other than the stock of the types of corporations specified in section 61A.284, may not exceed ten percent of the common stock of the corporation. No investment may be made under the authority of this clause or clause (1) by a company that has not completed five years of actual operation since the date of its first certificate of authority.

If, subsequent to being made under the provisions of this subdivision, an investment is determined to have become qualified or eligible under any of the other provisions of this chapter, the company may consider the investment as being held under the other provision

and the investment need no longer be considered as having been made under the provisions of this subdivision.

In addition to the investments authorized by this subdivision, a domestic life insurance company may make qualified investments in any additional securities or property of the type authorized by subdivision 6, paragraph (e), (f), or (g), with the written order of the commissioner. This approval is at the discretion of the commissioner, provided that the additional investments allowed by the commissioner's written order may not exceed five percent of the company's admitted assets. This authorization does not negate or reduce the investment authority granted in subdivision 6, paragraph (e), (f), or (g), or this subdivision.

Subd. 13. **Additional limitations.** Under the standards and procedures in sections 60G.20 to 60G.22 for individual insurers, the commissioner may impose additional limitations on all insurers on the types and percentages of investments as the commissioner determines necessary to protect and ensure the safety of the general public.

History: *1967 c 395 art 2 s 28; 1969 c 494 s 12–16; 1971 c 816 s 1,2; 1973 c 123 art 5 s 7; 1974 c 64 s 6; 1975 c 141 s 1; 1981 c 211 s 32–34; 1983 c 340 s 12–14; 1984 c 382 s 4; 1985 c 147 s 1; 1987 c 337 s 43; 1991 c 325 art 9 s 1–9; 1992 c 540 art 2 s 13; 1994 c 425 s 9,10*

61A.281 INVESTMENTS; SUBSIDIARIES.

Subdivision 1. **Special purpose corporations.** A domestic life insurance company may organize and hold, or acquire and hold, more than 50 percent of the capital stock of any corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, or if approved by the commissioner, elsewhere, which is one or more of the following: (1) a corporation providing investment advisory, management or sales services to an investment company or to an insurance company; or (2) a data processing or computer service corporation; or (3) a real property holding, developing, managing or leasing corporation; or (4) a mortgage loan corporation engaged in the business of making, originating, purchasing, or otherwise acquiring or investing in, and servicing or selling or otherwise disposing of loans secured by mortgages on real property; or (5) a corporation whose business is owning and managing or leasing personal property; or (6) a corporation other than a bank or an insurance company, whose business has been approved by the commissioner as complementary or supplementary to the business of a domestic life insurance company. Provided, however, that such percentage of stock may, with the approval of the commissioner, be 50 percent or less. The limits contained in the other investment sections of the insurance code shall not apply to such holdings, provided that the aggregate cost of the investments made under this subdivision shall not exceed five percent of the domestic life insurance company's admitted assets.

Subd. 2. **General purpose corporations.** A domestic life insurance company may organize and hold, or acquire and hold, more than 50 percent of the capital stock of any corporation organized under the laws of the United States or any state thereof, or the Dominion of Canada or any province thereof, or if approved by the commissioner, elsewhere, whether or not of the type of corporation enumerated in subdivision 1 or approved by the commissioner under subdivision 1. The limits contained in the other investment sections of Minnesota Statutes relating to insurance shall not apply to such holdings, provided that the aggregate cost of the investments made under authority of this subdivision shall not exceed ten percent of the capital and surplus of the domestic life insurance company.

Subd. 3. **Rules.** The commissioner may issue such reasonable rules as may be appropriate to carry out the purposes of this section.

Subd. 4. **Other corporations acquired or organized, activities.** A domestic life insurance company may organize or acquire a corporation domiciled in the United States and hold the capital stock thereof, provided that it shall continuously own more than 50 percent of such capital stock. The corporation so organized or acquired shall limit its activities to the investing of its assets in the same corporations, subject to the same ownership requirements, in which the insurance company may directly invest under subdivisions 1 and 2; provided that the sum of the total cost of the investments made by both it and the insurance company in corporations authorized under said subdivision 1 or said subdivision 2 shall not exceed the

dollar amount which would have been applicable had the insurance company directly made such investments. The limits contained in the other investment sections of the insurance code shall not apply to any investment made by the insurance company under this subdivision, provided that the aggregate cost of the investments made by the insurance company hereunder and under said subdivisions 1 and 2 shall not exceed the sum of five percent of the insurance company's admitted assets and ten percent of the insurance company's capital and surplus.

Subd. 5. **Corporations organized to hold investments.** A domestic life insurance company may organize one or more corporations domiciled in the United States and hold the capital stock of them, provided that it shall continuously own all of the capital stock and that the corporations so organized shall limit their activities to acquiring and holding investments, other than under subdivisions 1 to 4, that a domestic life insurance company may acquire and hold. The investments of these corporations are subject to the same restrictions and requirements as apply to domestic life insurance companies, including the applicable percentage limitations for investments in individual properties and entities and limitations on the aggregate amount to be invested in any investment category. For the purposes of calculating the amount of an investment held by the life insurance company, investments in the same property, entity, or investment category that are owned by the company and all corporations qualifying under this subdivision must be aggregated.

History: *1969 c 494 s 17; 1971 c 816 s 3–5; 1985 c 248 s 70; 1991 c 325 art 9 s 10*

61A.282 INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND PROHIBITIONS.

Subdivision 1. **Requirements.** A company's investments shall be held in its corporate name or its nominee name, except that:

(a) Investments may be held in the name of a clearing corporation or of a custodian bank or in the name of the nominee of either under the following conditions:

(1) The clearing corporation, custodian bank, or nominee must be legally authorized to hold the particular investment for the account of others;

(2) Where the investment is evidenced by a certificate and held in the name of a custodian bank or the nominee of a custodian bank, a written agreement shall provide that certificates so deposited shall at all times be kept separate and apart from other deposits with the depository, so that at all times they may be identified as belonging solely to the company making the deposit; or

(3) Where a clearing corporation is to act as depository, the investment may be merged or held in bulk in the clearing corporation's name, or in the name of its nominee, together with any other investments deposited with the clearing corporation by any other person, if a written agreement provides that adequate evidence of the deposit will be obtained and retained by the company or a custodian bank.

As used in this subdivision, the term "custodian bank" means a bank or trust company licensed by the United States or any state thereof.

(b) A company may participate, through a bank or trust company which is a member of the Federal Reserve System, in the Federal Reserve's book–entry system, if the records of the member bank or trust company at all times show that the investments are held for the company and/or for specific accounts of the company.

(c) If an investment consists of an individual interest in a pool of obligations, or of a fractional interest in a single obligation, the certificate of participation or interest, or the confirmation of participation or interest in the investment, shall be held in the manner set forth in paragraph (a) or held in the name of the company.

(d) Where an investment is not evidenced by a certificate, except as provided in paragraph (b), adequate evidence of the company's investment shall be obtained from the issuer or its transfer or recording agent and retained by the company, a custodian bank, or clearing corporation. Adequate evidence, for purposes of this section, shall mean a written receipt or other verification issued by the depository or issuer or a custodian bank which shows that the investment is held for the company. Transfers of ownership of investments held as described

in paragraphs (a)(3), (b), and (c) may be evidenced by bookkeeping entry on the books of the issuer of the investment or its transfer or recording agent or the clearing corporation without physical delivery of certificates, if any, evidencing the company's investment.

Subd. 2. **Lending of securities.** A company may loan securities held by it under this chapter to a broker–dealer registered under the Securities and Exchange Act of 1934 or to a bank which is a member of the Federal Reserve System, under the following conditions:

(a) The market value of loaned securities outstanding at any one time, excluding securities held in a separate account established pursuant to section 61A.14, subdivision 1, or 61A.275, shall not exceed 40 percent of the company's admitted assets as of the December 31 immediately preceding.

(b) The company is limited to no more than two percent of its admitted assets as of the December 31 immediately preceding being subject to lending of securities with any one borrower.

(c) Each loan must be evidenced by a written agreement which provides:

(1) that the loan will be fully collateralized by cash or obligations issued or guaranteed by the United States or an agency or an instrumentality thereof, and that the collateral will be adjusted each business day during the term of the loan to maintain the required collateral in the event of market value changes in the loaned securities or collateral;

(2) that the loan may be terminated by the company at any time, and that the borrower must return the loaned securities or their equivalent within five business days after termination;

(3) that the company has the right to retain the collateral or to use the collateral to purchase securities equivalent to the loaned securities if the borrower defaults under the terms of the agreement; and

(4) that the borrower remains liable for any losses and expenses, not covered by the collateral, which are incurred by the company due to default.

Subd. 3. **Conflicts of interest.** No officer, director, or member of any committee passing on investments shall borrow any of the funds, or become, directly or indirectly, liable as a surety or endorser for or on account of loans thereof to others, or receive for personal use any fee, brokerage, commission, gift or other consideration for, or on account of, any loan made by or on behalf of the company.

History: *1969 c 494 s 18; 1981 c 211 s 35; 1982 c 555 s 4; 1986 c 313 s 3; 1986 c 444; 1994 c 485 s 25*

61A.283 ADMITTED ASSETS.

For the purpose of applying any investment limitation based on the amount of a domestic life insurance company's admitted assets, the term "admitted assets" has the meaning given in section 60A.02, subdivision 27, with an adjustment in the admitted asset figure to exclude amounts which on the December 31 immediately preceding the date the company acquires an investment are allocated to separate accounts.

History: *1969 c 494 s 19; 1991 c 325 art 10 s 9*

61A.284 INVESTMENTS; CAPITAL STOCK OF OTHER INSURANCE COMPANIES.

Subdivision 1. **Purchase of insurance company.** A domestic life insurance company may acquire and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance for cash or through the issuance of its own stock in payment of all or part of the purchase price. The limits contained in the other investment provisions shall not apply to these holdings providing the acquiring company secures the prior approval of the purchase agreement by the commissioner.

Subd. 2. **Organization of subsidiary insurance company.** A domestic life insurance company may organize and hold all or part of the capital stock of another insurance company whether or not in the same line of insurance. The limits contained in the other investment provisions shall not apply to these holdings providing the organizing company secures the prior approval of the commissioner.

Subd. 3. **Investments in health maintenance organizations.** An investment in a health maintenance organization may be deemed by a domestic life insurance company to be an investment under this section.

History: *1981 c 211 s 36; 1990 c 538 s 11*

61A.29 FOREIGN INVESTMENTS.

Subdivision 1. **Authorization.** In addition to the Canadian investments permitted by this chapter, a domestic life insurance company may make foreign investments authorized by subdivision 2, subject to the limitations contained in subdivision 3. Investments authorized by this section are restricted to countries where the obligations of the sovereign government are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. All investments must be made as provided under foreign investment guidelines established and maintained by the company under section 60A.112.

Subd. 2. **Authorized investments.** A company may invest in (i) foreign assets denominated in United States dollars; (ii) foreign assets denominated in foreign currency; and (iii) United States assets denominated in foreign currency. The investments may be made in any combination of the following:

(a) Obligations of sovereign governments and political subdivisions thereof and obligations issued or fully guaranteed by a supranational bank or organization, other than those described in section 61A.28, subdivision 2, paragraph (e), provided that the obligations are rated in one of the two highest rating categories by at least one nationally recognized statistical rating organization in the United States. For purposes of this section, "supranational bank" means a bank owned by a number of sovereign nations and engaging in international borrowing and lending.

(b) Obligations of a foreign business entity, provided that the obligation (i) is rated in one of the four highest rating categories by at least one nationally recognized statistical rating organization in the United States or by a similarly recognized statistical rating organization, as approved by the commissioner, in the country where the investment is made; or (ii) is rated in one of the two highest categories established by the securities valuation office of the National Association of Insurance Commissioners.

(c) Stock or stock equivalents issued by a foreign entity if the stock or stock equivalents are regularly traded on the Frankfurt, London, Paris, or Tokyo stock exchange or any similar securities exchange as may be approved from time to time by the commissioner and subject to oversight by the government of the country in which the exchange is located.

(d) Financial transactions for the sole purpose of managing the foreign currency risk of investments made under this subdivision, provided that the financial transactions are entered into under a detailed plan maintained by the company. For purposes of this paragraph, "financial transactions" include, but are not limited to, the purchase or sale of currency swaps, forward agreements, and currency futures.

Subd. 3. **Investment limitations.** Investments authorized by subdivision 2 are subject to the following limitations:

(a) A company shall not make an investment under this section if the investment causes the company's aggregate investments authorized under this section to exceed ten percent of its total admitted assets.

(b) Investments made under subdivision 2 must be aggregated with United States investments in determining compliance with percentage concentration limitations, if any, contained in this chapter.

(c) A company shall not invest in the obligations of one issuer under subdivision 2 in an amount greater than authorized for investments of the same class under this chapter. A company shall not invest more than two percent of its total admitted assets in the direct or guaranteed obligations of a sovereign government or political subdivision thereof, or of a supranational bank.

History: *1967 c 395 art 2 s 29; 1969 c 494 s 20; 1981 c 211 s 37; 1983 c 340 s 15; 1991 c 325 art 9 s 11*

61A.30 JOINT INVESTMENTS.

No domestic life insurance company shall subscribe to or participate in any underwriting of the purchase or sale of securities or other property, enter into any transactions for the purchase or sale on account of the company jointly with any other person, firm, or corporation, nor enter into any agreement to withhold from sale any of its property, unless the disposition of the property shall be, at all times, within the control of its board of directors. Nothing contained herein shall be construed to invalidate or prohibit an agreement by two or more investors to join and share in the purchase of investments for bona fide investment purposes. In the investments secured by mortgage or deed of trust, provisions shall be made for a method of resolving any matters relating thereto as to which the investors are not in agreement.

History: *1967 c 395 art 2 s 30; 1981 c 211 s 38*

61A.31 REAL ESTATE HOLDINGS.

Subdivision 1. **Purposes.** Except as provided in subdivisions 2, 3, and 4, every domestic life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

(1) Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due;

(2) Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings;

(3) Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts;

(4) Such as shall have been subject to a contract for deed under which the company held the vendor's interest to secure the payment by the vendee.

Subd. 2. **Building projects.** In order to promote and supplement public and private efforts to provide an adequate supply of decent, safe, and sanitary dwelling accommodations for persons of low and moderate income; to relieve unemployment; to alleviate the shortage of rental residences; and to assist in relieving the emergency in the housing situation in this country through investment of funds, any life insurance company may purchase or lease from any owner or owners (including states and political subdivisions thereof), real property in any state in which such company is licensed to transact the business of life insurance; and on any real property so acquired or on real property so located and acquired otherwise in the conduct of its business, such company may erect apartment, or other dwelling houses, not including hotels, but including accommodations for retail stores, shops, offices, and other community services reasonably incident to such projects; or, to provide such housing or accommodations, may construct, reconstruct, improve, or remove any buildings or other improvements thereon. Such company may thereafter own, improve, maintain, manage, collect or receive income from, sell, lease, or convey any such real property and the improvements thereon. A company may not invest in the building projects if the investment causes the company's aggregate investments under this subdivision to exceed ten percent of its total admitted assets.

Subd. 3. **Acquisition of property.** Any domestic life insurance company may:

(a) acquire real property or any interest in real property, including oil and gas and other mineral interests, in the United States or any state thereof, or in the Dominion of Canada or any province thereof, as an investment for the production of income, and hold, improve or otherwise develop, and lease, sell, and convey the same either directly or as a joint venturer or through a limited, limited liability, or general partnership in which the company is a partner or through a limited liability company in which the company is a member. A company may not invest in any real property asset other than property held for the convenience and accommodation of its business if the investment causes: (1) the company's aggregate investments in the real property assets to exceed ten percent of its admitted assets; or (2) the company's investment in any single parcel of real property to exceed one-half of one percent of its admitted assets;

(b) acquire personal property in the United States or any state thereof, or in the Dominion of Canada or any province thereof, under lease or leases or commitment for lease or leases if: (1) either the fair value of the property exceeds the company's investment in it or the

lessee, or at least one of the lessees, or a guarantor, or at least one of the guarantors, of the lease is a corporation with a net worth of $1,000,000 or more; and (2) the lease provides for rent sufficient to amortize the investment with interest over the primary term of the lease or the useful life of the property, whichever is less. A company may not invest in the personal property if the investment causes the company's aggregate investments in the personal property to exceed three percent of its admitted assets;

(c) acquire and hold real estate (1) if the purpose of the acquisition is to enhance the sale value of real estate previously acquired and held by the company under this section and (2) if the company expects the real estate so acquired to qualify and be held by the company under paragraph (a) within five years after acquisition; and

(d) not acquire real property under paragraphs (a) to (c) if the property is to be used primarily for agricultural, horticultural, ranch, mining, or church purposes.

All real property acquired or held under this subdivision must be carried at a value equal to the lesser of (1) cost plus the cost of capitalized improvements, less normal depreciation, or (2) market value.

Subd. 4. **Convenience and accommodation of business.** A company may acquire and hold real estate for the convenience and accommodation of its business. Without the prior approval of the department of commerce, a company may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed five percent of its total admitted assets, except that a health service plan corporation operating under chapter 62C may not invest in real estate authorized under this subdivision if the investment causes the company's aggregate investments under this subdivision to exceed 25 percent of its total admitted assets.

History: *1967 c 395 art 2 s 31; 1969 c 494 s 21–24; 1981 c 211 s 39,40; 1983 c 289 s 114 subd 1; 1983 c 340 s 16; 1984 c 655 art 1 s 92; 1991 c 325 art 9 s 12; 1995 c 214 s 15*

61A.315 INVESTMENTS AND HOLDINGS; LIMITATIONS.

The sum of the value of assets permitted to be acquired pursuant to sections 61A.31, subdivision 3 and 61A.28, subdivision 6, paragraphs (a) and (b) shall not exceed 30 percent of admitted assets as of the end of the preceding calendar year.

History: *1981 c 211 s 41*

DOMESTIC MUTUAL LIFE COMPANIES; ADDITIONAL PROVISIONS

61A.32 DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES; VOTING RIGHTS OF MEMBERS.

Every person insured by a domestic mutual life insurance company, and every participating policyholder of a domestic stock and mutual life insurance company as defined in sections 61A.33 to 61A.36, shall be a member, entitled to one vote and one vote additional for each $1,000 of insurance in excess of the first $1,000; provided, that no member shall be entitled to more than 100 votes; and, provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed 100 votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to the member's address, or by an imprint on the back of the policy, premium notice, receipt or certificate of renewal, as follows:

"The insured is hereby notified that by virtue of this policy the insured is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock."

The blanks shall be duly filled in print. Any such member may vote by proxy by filing written proxy appointment with the secretary of the company at its home office at least five days before the first meeting at which it is to be used. Such proxy appointment may be for a specified period of time not to exceed one year. A proxy may be revoked by a member at any time by written notice to the secretary of the company or by executing a new proxy appointment and filing it as required herein: provided, however, that any member may always appear personally and exercise rights as a member at any meeting of the company.

A domestic mutual life insurance company may by its articles of incorporation or bylaws provide for a representative system of voting in any meeting of members. The articles or bylaws may provide for the selection of representatives from districts as therein specified, such representatives to represent approximately equal numbers of members with power to exercise all the voting powers, rights and privileges of the members they represent with the same force and effect as might be exercised by the members themselves. In such a representative system the votes cast by the representative shall be one vote for each member, notwithstanding the amount of insurance carried, and proxy voting shall not be permitted; provided, however, that any member may always appear personally and exercise rights as a member of the company at any meeting of the membership.

History: *1967 c 395 art 2 s 32; 1986 c 444; 1996 c 446 art 2 s 9*

STOCK AND MUTUAL COMPANIES; ADDITIONAL PROVISIONS

61A.33 STOCK AND MUTUAL LIFE INSURANCE COMPANIES.

Insurance corporations for the transaction of the kinds of business authorized and permitted by section 60A.06, subdivision 1, clause (4), and subject to these provisions and limitations, may be formed having a capital stock, but which shall be controlled by the votes of both stockholders and participating policyholders. All such companies shall be known as stock and mutual companies. Corporations so formed shall have the right to make any contracts which insurance companies formed to transact the same kinds of business upon the stock plan or upon the mutual plan are authorized by law to make.

History: *1967 c 395 art 2 s 33*

61A.34 APPLICATION.

All provisions of law relating to stock companies and all such provisions relating to mutual companies shall, so far as applicable, relate to and govern such stock and mutual companies and the rights of stockholders and members thereof.

History: *1967 c 395 art 2 s 34*

61A.35 VOTING RIGHTS.

Unless otherwise provided in the certificate of incorporation or an amendment thereto adopted as provided by section 300.45 or 61A.36, each stockholder of a stock and mutual life insurance company shall, at all meetings, be entitled to one vote for each share of stock held and, except as otherwise provided by law, each holder of a policy entitled to participate in profits or savings shall be a member and, as such, shall be entitled to the number of votes to which that person would be entitled in a mutual company.

History: *1967 c 395 art 2 s 35; 1986 c 444*

61A.36 CONVERSION OF EXISTING COMPANIES; AMENDMENT OF CERTIFICATES OF INCORPORATION.

Any existing stock or mutual insurance company authorized to do the kinds of business referred to in section 61A.33 may amend its certificate of incorporation so as to become a stock and mutual company; provided, that no such amendment shall deprive any stockholder or member or policyholder of the right, at any and all meetings of stockholders and members or policyholders held thereafter, to cast as many votes for directors as are provided by the

certificate of incorporation in force at the time of the adoption of such amendment, or by the law in force at such time. No such amendment shall be construed to change the identity of the corporation and it shall thereafter continue to be governed by the laws applicable thereto at the time of such amendment and as amended hereafter and not inconsistent with sections 61A.33 to 61A.36, as well as those relating to the added characteristic of capital stock or mutuality which it shall have acquired by such amendment.

The certificate of incorporation of a stock and mutual life insurance company may be amended in any respect therein provided by section 300.45, in the manner therein provided. The certificate of incorporation of a stock and mutual life insurance company may also be amended in respect to any matter which an original certificate of incorporation of a stock and mutual life insurance company might lawfully have contained, or so as to vest in its board of directors authority to make and alter bylaws subject to the power of the stockholders and members to change or repeal such bylaws, by the affirmative vote, at a regular meeting of stockholders and members or at a special meeting of stockholders and members called for that expressly stated purpose by the board of directors which shall first have proposed the amendment and declared it to be advisable, of (1) a majority of the total number of votes to which all stockholders are entitled, and (2) at least one–fifth of the total number of votes to which all participating policyholder members are entitled, provided the proposed amendment does not receive the negative vote of more than five percent of the total number of votes to which all participating policyholder members are entitled. The certificate of incorporation of a stock and mutual life insurance company may also be amended so as to increase or decrease its capital stock, or so as to change the number and par value of the shares of its capital stock, or so as to limit or deny to stockholders the preemptive right to subscribe to any or all shares of stock which may be authorized to be thereafter issued, by a majority vote of all its shares but without the vote of its members, at a regular meeting or at a special meeting of stockholders called for that expressly stated purpose by the board of directors which shall first have proposed the amendment and declared it to be advisable and not adverse to or in conflict with the rights and interests of the members, provided that if the proposed amendment is to increase or decrease the capital stock or to change the number of the shares of the capital stock, the resolution specifying the proposed amendment and the certificate of amendment shall expressly provide (1) that the stockholders holding all its shares shall, at all meetings, be entitled to the same number of total votes after the amendment is adopted as they were entitled to before the amendment, and (2) that each stockholder shall, at all meetings, be entitled to a fraction of one vote for each share of stock held, the numerator of which fraction shall be the number of shares outstanding before the first such amendment is adopted and the denominator of which fraction shall be the number of shares outstanding. The resolution specifying the amendment shall be embraced in a certificate duly executed by its president and secretary, or other presiding and recording officers, under its corporate seal, and approved, filed, recorded, and published in the manner prescribed for the execution, approval, filing, recording, and publishing of an original certificate of incorporation.

History: *1967 c 395 art 2 s 36; 1986 c 444*

61A.37 DOMESTIC INSURANCE CORPORATIONS MAY BECOME MUTUAL CORPORATIONS.

Any domestic insurance corporation heretofore or hereafter incorporated for the transaction of the kinds of business authorized and permitted by section 60A.06, subdivision 1, clause (4), and having capital stock may become a mutual corporation and to that end may formulate and carry out a plan for the acquisition by it of its outstanding capital stock, and for the mutualization of such corporation, as follows:

(a) Such plan shall have been adopted by vote of a majority of the directors of such company.

(b) Such plan shall have been submitted to the commissioner of commerce and shall have been approved as conforming to the requirements of this section and section 61A.38 and as not prejudicial to the policyholders of such company or to the insuring public.

(c) Such plan shall have been approved by a vote of stockholders representing a majority of the outstanding capital stock at a meeting of stockholders called for that purpose. Stockholders may vote in person or by proxy filed with the company at least five days before

the meeting at which it is to be used. Notice of such meeting shall be given by mailing such notice from the home office of such company at least 30 days prior to such meeting in a sealed envelope, postage prepaid, directed to each stockholder at the address shown on the stock records of the company.

(d) Such plan shall have been approved by a majority of the votes cast by policyholders (whether or not members) who vote at a meeting called for that purpose. Eligibility of policyholders, whether or not members of the company, and the number of votes to which each is entitled, shall be determined by the laws of Minnesota relating to the rights of members of domestic mutual life insurance companies to vote at company meetings. Policyholders may vote in person or by proxy filed with the company at least five days before the meeting at which it is to be used. Notice of such meeting shall be given by mailing such notice from the home office of such company at least 30 days prior to such meeting in a sealed envelope, postage prepaid, directed to each policyholder at the address shown on the policy records of the company. Such meeting shall be conducted in such manner as may be provided for in such plan, with the approval of the commissioner. The commissioner shall supervise and direct the methods and procedure of said meeting and appoint an adequate number of inspectors to conduct the voting at said meeting, who shall have power to determine all questions concerning the verification of the ballots, the ascertaining of the validity thereof, the qualifications of the voters and the canvass of the vote. Such inspectors, or any one thereof designated by the commissioner, shall certify to the commissioner and to such company the result of such vote, and with respect thereto shall act under such rules as shall be prescribed by the commissioner. All necessary expenses incurred by the commissioner, or incurred with the commissioner's approval by the inspectors appointed, shall be paid by such company upon the certificate of the commissioner.

(e) Approval of the plan by stockholders and policyholders as above provided may be given at a joint meeting thereof.

(f) Such plan may specify the purchase price to be paid by such company for shares of its capital stock, and in such case the price so specified shall be adhered to. If such plan does not specify the price to be paid for such shares, such company shall first obtain the approval of the commissioner for every payment made for the acquisition of any shares of its capital stock.

(g) Such plan may authorize the board of directors of the company to provide for participation in the surplus of the company by holders of policies which do not by their terms provide for such participation or which provide for a limited participation only, and may include appropriate proceedings to confer upon policyholders the right to vote at meetings of the company. Policyholders upon whom the right to vote is so conferred shall have the same voting rights and shall be entitled to the same notice of annual meeting as members of domestic mutual life insurance companies.

(h) Before approving any such plan or any such payment, the commissioner shall be satisfied, by making investigation or such evidence as the commissioner may require, that such company, after deducting the aggregate sum appropriated by such plan for the acquisition of any part or all of its capital stock, and in the case of any payment not fixed by such plan and subject to approval as aforesaid, after deducting also the amount of such payment, will be possessed of admitted assets in an amount equal to the sum of (1) and (2) as follows:

(1) Its entire liabilities, including the net value of its outstanding contracts computed as provided by law, and (2) the contingency reserve deemed by the commissioner necessary to protect its policyholders and the insuring public, in view of the past experience of such company, the character of its assets, its present management and its probable future earnings.

The commissioner's action in refusing to give any approval required by this section shall be subject to review by any court of competent jurisdiction.

Such plan may be amended by vote of stockholders representing a majority of the outstanding capital stock and by a majority of the votes cast by policyholders who vote at the meeting, but in such case the plan shall not become effective until approved, as amended, by vote of a majority of the directors of such company and by the commissioner.

History: *1967 c 395 art 2 s 37; 1983 c 289 s 114 subd 1; 1984 c 655 art 1 s 92; 1986 c 444*

61A.38 MAY ACQUIRE CAPITAL STOCK.

In pursuance of any plan such company shall have power, and shall be privileged, to acquire any shares of its capital stock by gift, bequest, or purchase. Until all of the shares of its outstanding capital stock are acquired, any shares so acquired shall be taken and held in trust for all the policyholders of such company, as hereinafter provided, and shall be assigned and transferred on the books of the company to three trustees, who shall be named in such plan and shall be approved by the commissioner. All shares held by such trustees shall be deemed admitted assets of such company at their par value. Such trustees, who may be directors of the company, shall vote all shares so acquired and held by them at all corporate meetings in accordance with the majority vote of policyholders voting on any question before the meeting. When all of the outstanding capital stock of any such corporation shall have been acquired, the entire capital stock of such corporation shall be retired and canceled and thereupon such corporation shall be and become a mutual life insurance company without capital stock. The plan of conversion formulated pursuant to section 61A.37 shall provide for the method of filling vacancies among such trustees. Before undertaking any of the duties of appointment each trustee shall file with the company a verified acceptance of appointment and a declaration that the person will faithfully discharge the duties of trustee. All dividends and other sums received by such trustees on the shares of stock so acquired by them shall, after paying the necessary expenses of executing the trust, be immediately repaid to such company for the benefit of all who are or may become policyholders of such company and entitled to participate in the profits or savings thereof.

History: *1967 c 395 art 2 s 38; 1986 c 444*

COOPERATIVE COMPANIES; SPECIAL PROVISIONS

61A.39 COOPERATIVE LIFE AND CASUALTY COMPANIES.

Subdivision 1. **Cooperative plan.** Every corporation, society, or association which issues a certificate or policy or makes an agreement with its members by which, upon the decease of a member, any money is to be paid to, or benefit conferred upon, the legal representatives or designated beneficiaries of such member, or reaching a certain age, to pay any money or benefit to the member, such money or benefit to be derived from voluntary donations, admission fees, dues, or assessments to be collected from its members or any class thereof, and which reserves the right to make any additional assessments, or without the consent of the certificate or policyholder to increase the premium named therein, shall be deemed to be engaged in the business of life insurance upon the cooperative or assessment plan. Every corporation which likewise agrees, in case of accident, sickness, or other physical disability, or reaching a certain age, to pay money or confer benefits likewise derived and issuing certificates or policies with similar conditions with reference to the payment of dues or assessments, shall be deemed to be engaged in the business of casualty insurance upon the cooperative or assessment plan, and shall, except as herein otherwise specified, be subject to the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50.

Subd. 2. **Continued corporate existence.** Notwithstanding the repeal of sections 63.01, 63.011, and 63.02 to 63.35 pursuant to Laws 1983, chapter 104, section 1, any corporation, society or association formed or having existed under Laws 1933, chapter 241, whether or not it amended its articles of incorporation in accordance with Laws 1945, chapter 178, as amended by Laws 1951, chapter 257, and which has transformed itself into a cooperative life insurance company to engage in business under the cooperative plan, shall be and continue to exist as a corporation by virtue of the provisions hereof and may exercise and shall continue to have and to hold all the rights, privileges and powers which it had, prior to the repeal of such sections, including those derived under Laws 1945, chapter 178, section 1, as amended by Laws 1951, chapter 257, section 2.

History: *1967 c 395 art 2 s 39; 1984 c 602 s 1; 1986 c 444*

61A.40 QUALIFICATIONS FOR LICENSE; NUMBER OF MEMBERS.

No corporation not now authorized to transact business in this state shall be licensed to transact the business of life or casualty insurance, or both, upon the cooperative or assess-

ment plan, until at least 300 persons eligible to membership have made individual applications, in writing, containing warranties of age, health, and other required conditions of membership, and the corporation has on deposit with the commissioner, as security for all its policyholders, stocks or bonds of this state or of the United States, or bonds of any of the municipalities of this state, or personal obligations secured by first mortgage on real estate within this state, worth, exclusive of buildings, the amount of the lien, and bearing interest of not less than three percent per annum, to an amount the actual market value of which, exclusive of interest, shall never be less than $100,000; provided, that any corporation which has heretofore procured and filed with the commissioner a part of the total number of applications required by law shall only be required to deposit securities of the market value of $5,000; and provided, that a corporation that confines its membership exclusively to the members of volunteer fire departments shall be required to have not less than 100 individual applications, in writing, from persons eligible to membership and the sum of at least $1,000, which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts.

History: *1967 c 395 art 2 s 40; 1978 c 465 s 10*

61A.41 RESERVE FUND; RECIPROCAL PROVISIONS.

Every domestic cooperative life or casualty corporation, society or association, except a fraternal benefit society, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, more than $200 is to be paid to, or benefit conferred upon, the legal representatives or designated beneficiary of such member, shall set aside ten percent of its gross premium receipts or assessments each year, as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of $25,000.

Every domestic cooperative or assessment company transacting the business of life and health and accident insurance, which does not issue health and accident policies providing indemnity for disability from accident or disease in excess of $750 on account of any one accident or illness, nor issues policies providing indemnity for disability from accident or illness in excess of $750 on account of any one accident or illness and death indemnity of more than $200, shall set aside as a reserve ten percent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to $2,000, and shall thereafter set aside as a reserve five percent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to $25,000.

Every domestic cooperative or assessment life insurance corporation, society or association, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid or funeral service is to be furnished, not exceeding $200 in amount or value, shall set aside ten percent of its gross premium receipts or assessments each year as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of $5,000, which reserve fund, accumulated as herein provided, shall be deposited with the commissioner in accordance with section 60A.10, subdivision 4, for the benefit of all its policyholders.

This deposit may consist of securities of the class in which insurance companies are authorized to invest under the laws of this state, and the company depositing the same shall be entitled to the income derived from the securities. No foreign insurance company upon the cooperative or assessment plan shall be permitted to transact business in this state unless it makes the deposit hereinbefore required of domestic companies, except that where, by the laws of the state under which the foreign company is organized, it is permitted to, and actually does, maintain for the benefit of all its policyholders a deposit with some proper officer of that state of an amount equal to the deposit required by sections 61A.39 to 61A.42 and 61A.44 to 61A.50; the deposit with the other state shall be a sufficient compliance with the provisions of this section. No deposit of securities, other than that herein provided for, shall be required of any such cooperative or assessment company. Any company transacting the business of life insurance upon the cooperative or assessment plan, and creating and maintaining a greater reserve than herein provided for, may elect, by written stipulation, filed with the commissioner, to keep on deposit with the commissioner in accordance with section

60A.10, subdivision 4, its entire reserve and special benefit funds, other than mortuary funds; and thereafter the entire reserve and special benefit funds shall be deposited with the commissioner in accordance with section 60A.10, subdivision 4, in securities of like character and upon the same terms as provided herein for the deposit of the reserve required by this section.

History: *1967 c 395 art 2 s 41; 1974 c 425 s 5; 1992 c 564 art 1 s 54*

61A.42 PAYMENTS; LIENS; ASSESSMENTS; POLICIES TO BE LABELED.

No cooperative or assessment life insurance company shall hereafter issue any policy in this state which does not provide for the payment of a fixed minimum sum, which may be increased each year the insurance remains in force, in the amounts to be provided in the policy. Any agreement or bylaw providing for the placing of a lien upon such policy, except for nonpayment of premium or assessment, and any agreement or bylaw providing for the payment of a less sum than the minimum sum specified in the contract, because of the failure of the corporation to receive or collect the amount in the contract by assessment upon the surviving members, shall be void. Nothing in this section contained shall be so construed as to render any member liable for more than one assessment for each death occurring during the period of membership, unless otherwise specified in the policy. All policies issued by the company shall contain a title including the word "assessment" on the face and on the back of the policy correctly describing the same.

This section shall not apply to any existing domestic company until it has been in existence for four years.

History: *1967 c 395 art 2 s 42; 1986 c 444*

61A.43 ACCUMULATIONS; AMENDMENT TO ARTICLES OR BYLAWS.

Any insurance company transacting the business of life or casualty insurance upon the cooperative or assessment plan under any law of this state may, upon so providing in its articles or bylaws, elect to ascertain and apportion to its outstanding policies or certificates the respective accumulations upon each such policy or certificate, and to carry to the credit of each such policy or certificate the future net premiums or assessments and the accretions thereto, less its equitable contribution to the death claims and other benefits, and that the premiums or assessments upon any such policy or certificate may, upon such credit becoming exhausted, be increased as may be necessary to meet its share of death claims and other benefits, and that the holder of any such policy or certificate may be granted extended or paid–up insurance or the right to convert into any other form of policy or insurance then being issued by such company and to have the credit on such former policy or certificate applied to such new policy or insurance. When making the ascertainment and apportionment, account shall be taken of the premiums or assessments theretofore paid and of the death claims and other benefits which should be borne by the policy or certificate, of the interest earnings and other accretions to the accumulated funds, and of other matters which should equitably be taken into consideration for the purposes of the apportionment. Subject to such adjustment as shall be equitable, the experience of the company, or any table of mortality recognized for the purpose of insurance and any law of this state, may be used as a basis for the ascertainment and apportionment herein authorized; provided, that any company availing itself of the provisions of this section shall, in its articles or bylaws, specify the table of mortality and rate of interest which are to be the basis for the charges thereafter to be made to the policies or certificates aforesaid; and, provided, further, that when any table of mortality is specified in any policy that table shall be followed.

History: *1967 c 395 art 2 s 43*

61A.44 LIMITATION ON EXPENSES; LIFE INSURANCE.

Every corporation, as described in section 61A.39, now or hereafter organized or admitted to transact the business of life insurance in this state, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than 65 percent of all premium receipts and all interest earnings thereon upon such life insurance policies that shall have been in force one year or more, and the entire amount of

receipts upon postmortem assessment certificates, except the expense dues and charges therein provided. No such funds heretofore or hereafter so appropriated to such mortuary or benefit fund, including reserve or special benefit funds, shall ever be used for the expense of conducting such business; provided, that every such corporation which issues a certificate or policy or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid, or funeral service is to be furnished, not exceeding $200 in amount or value, and which pays no accident, disability, or other benefits, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than 60 percent of all premium receipts upon such insurance policies that shall have been in force one year or more, and the entire amount of receipts upon postmortem assessment certificates, except the expense dues and charges therein provided. No such funds heretofore or hereafter so appropriated to such mortuary or benefit funds, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

The net accretions to the funds enumerated in this section derived from interest, rents, or other sources shall also be set aside and appropriated exclusively to the fund producing the net accretions.

History: *1967 c 395 art 2 s 44*

61A.45 LIMITATION ON EXPENSES; COMPANIES WITH RESERVE DEPOSITS.

No company, as described in section 61A.39, transacting the business of casualty or health insurance in this state shall incur, lay out, or expend, in any one calendar year, as and for the expenses of conducting such business, more than its application or membership fees and 40 percent of its total premiums or assessments. When any such company shall have on deposit with the commissioner a reserve of $25,000, as provided by law, then and thereafter the company may expend, in addition to the 40 percent, the interest earnings on the reserve fund and the interest on any additional surplus funds it may accumulate.

Any officer of any corporation violating, or consenting to the violation of, this section or section 61A.44 shall be guilty of a gross misdemeanor.

History: *1967 c 395 art 2 s 45*

61A.46 NET RATES; RESERVE FUND; LIMITATION OF EXPENSES.

No corporation organized to transact the business of life insurance upon the cooperative or assessment plan, and no such corporation not already admitted to transact business in this state, shall be licensed to transact such life insurance business in this state unless it shall, by its charter, bylaws and policy or certificate contracts, provide for and actually charge and collect from its members, for and on account of the insurance furnished to them, net rates which are at least equal to the rates known as the national fraternal congress rates, with four percent interest. When any such corporation has adopted the use of a net rate not less than the national fraternal congress table of mortality and interest at the rate of four percent, on the full preliminary term plan, and shall set aside the net premium to its mortuary or benefit funds, including reserve or special benefits, for the use and benefit of its members, such corporation shall, on all premiums or assessments collected from and after January 1, 1927, be exempt from the provisions of sections 61A.41 and 61A.44; but it shall keep on deposit, for the use and benefit of all its policyholders, an amount equal to the value of its individual policies, as shown by its annual statement each year, with the commissioner, until the same shall amount to the sum of $25,000. The accretions to the various funds derived from interest, rents, or other sources, less expense incidental to investment supervision, shall also be set aside and appropriated to the fund producing the accretions. Gain from lapses, savings in mortality, surrenders, and changes shall revert to the expense fund. Policies issued by such corporation may contain a provision that in the event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and the rate of interest adopted for computing such reserve, less a sum not more than 2–1/2 percent of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing

indebtedness to the company on the policy; and that the policy may be surrendered to the company, at its home office, within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance, and shall stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurance of 20 years or less. Such corporation shall value its policies at the end of each calendar year and show in its annual statement as a reserve liability the amount of such valuation. If infantile insurance is written, it may be valued on the table known as Craig's extension below age ten. If any corporation, society or association operating the business of life or casualty insurance on the assessment plan under any law of this state shall reincorporate under section 61A.39 and in connection with such reincorporation shall provide in its articles or bylaws that this section shall not apply to any class or group of assessment policies in force at the time that such reincorporation becomes effective, then this section shall not apply to such policies; provided that such corporation, society or association shall, in all other operations and as to all other policies, be subject to the provisions of sections 61A.39 to 61A.42 and sections 61A.44 to 61A.50.

History: *1967 c 395 art 2 s 46*

61A.47 REINSURANCE OR CONSOLIDATION.

Any corporation, association, or society organized or authorized to transact business under the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50 may, by contract of reinsurance, assume the risks of any other similar corporation, association, or society engaged in the business of life or casualty insurance, or both, only on the following conditions:

(1) That both the corporations, associations, or societies which propose to enter into the reinsurance contract, shall be, upon the date of reinsurance, duly authorized under the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50 to transact business in this state;

(2) That the contract of reinsurance shall have previously been submitted to the commissioner and the attorney general and received the approval of the commissioner duly endorsed thereon;

(3) That the corporation, association, or society, which proposes to reinsure and retire, shall have been thoroughly examined by the commissioner within six months of the date of the proposed consolidation or reinsurance; provided, that, in the judgment of the commissioner, the consolidation or reinsurance can in no way impair the solvency of the corporation, association, or society which proposes to reinsure and assume the business and affairs of the corporation, association, or society contemplating reinsurance and retirement;

(4) That the contract of reinsurance shall have been approved by a majority vote of all the members of the corporation, association, or society, which proposes to reinsure and retire, present in person or by proxy, at any regular meeting thereof, or at any special meeting thereof called to consider the same; and, that a written or printed notice of the purpose of the corporation, association, or society to reinsure shall have been mailed to each of its members at least 30 days prior to the date fixed for the meeting.

When the members of any such corporation, association, or society shall have so voted to reinsure and retire, its officers and the officers of the corporation, association, or society which proposes to assume the risks and other obligations are hereby authorized to enter into and consummate the contract of reinsurance as submitted and approved and to do and perform all other acts necessary to the final and complete consolidation or reinsurance. The retiring corporation, association, or society shall turn over all its property, securities, moneys, and other assets to the corporation, association, or society reinsuring and assuming its obligations, to become the sole and absolute property thereof. The actual and reasonable expenses and costs incident to proceedings under the provisions of this section may be paid by the companies so consolidating or reinsuring, and an itemized and verified statement of these expenses, together with proper vouchers for each of the same, shall be filed with the commissioner. No officer of any such company, nor any employee of the state, shall receive any compensation, gratuity, employment, or other promise or thing of value, directly or indirectly, for in any matter aiding, promoting, or assisting in the consolidation or reinsurance. Any officer or director of any company which is a party to the agreement of reinsurance herein provided

for, who shall receive any compensation or gratuity for aiding or promoting or consenting to the contract, shall be guilty of theft; and any other person guilty of willfully violating, or consenting to the willful violation of, the provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50, shall be guilty of a gross misdemeanor.

History: *1967 c 395 art 2 s 47*

61A.48 MAY CHANGE TO LEGAL RESERVE OR LEVEL PREMIUM COMPANIES.

Any corporation, association, or society, as described in section 61A.39, may, with the written consent of the commissioner, upon a majority vote of its governing body, amend its articles of incorporation and bylaws in such manner as to transform itself into a legal reserve or level premium insurance company and, upon so doing and upon procuring from the commissioner a certificate of authority, as provided by law, to transact business in this state as a legal reserve or level premium company, shall incur the obligations and enjoy the benefits thereof, the same as though originally thus incorporated, and this corporation, under its charter, as amended, shall be a continuation of the original corporation, and the officers thereof shall serve through their respective terms, as provided in the original charter, but their successors shall be elected and serve as in the amended articles provided; but the amendment or reincorporation shall not affect existing suits, rights, or contracts. Any corporation, association, or society so reincorporated to transact the business of life insurance, shall, unless a higher method of valuation be provided for in its policy, or certificates of membership previously written, value its assessment policies or certificates of membership previously written as yearly renewable term policies, according to the standard of valuation of life insurance policies prescribed by the laws of this state.

History: *1967 c 395 art 2 s 48*

61A.49 [Repealed, 1987 c 268 art 2 s 38]

61A.50 APPLICATION.

Section 60A.16, and all other laws and parts of laws, in so far as they may be inconsistent with sections 61A.39 to 61A.42 and 61A.44 to 61A.50, shall not apply to corporations transacting the business of life or casualty insurance solely upon the cooperative or assessment plan, as defined in sections 61A.39 to 61A.42 and 61A.44 to 61A.50.

History: *1967 c 395 art 2 s 50*

61A.51 INSOLVENCY.

In case any cooperative or assessment life, endowment, or casualty insurance association or society is adjudged insolvent, the balance of its reserve fund, if any, after payment of claims and other indebtedness, shall be paid to the commissioner who shall pay it into the state treasury.

History: *1967 c 395 art 2 s 51; 1986 c 444*

61A.52 RESERVE REQUIRED.

No casualty company or association organized under the cooperative or assessment laws of this state not having a reserve of at least $25,000 on deposit with the commissioner shall issue policies or contracts providing for the payment of endowments of any kind.

History: *1967 c 395 art 2 s 52*

REPLACEMENT INSURANCE

61A.53 DEFINITIONS.

Subdivision 1. **Applicability.** For purposes of sections 61A.53 to 61A.60, the terms defined in this section have the meanings given.

Subd. 2. **Replacement.** "Replacement" means any transaction in which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing

agent or broker or to the proposing insurer if there is no agent, that by reason of the transaction, existing life insurance or annuity has been or is to be:

(1) lapsed, forfeited, surrendered, or otherwise terminated;

(2) converted to reduced paid–up insurance, continued as extended term insurance, or otherwise reduced in value by the use of nonforfeiture benefits or other policy values;

(3) amended so as to effect either a reduction in benefits or in the term for which coverage would otherwise remain in force or for which benefits would be paid;

(4) reissued with any reduction in cash value; or

(5) pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding 25 percent of the loan value set forth in the policy.

Subd. 3. **Conservation.** "Conservation" means any attempt by the existing insurer or its agent or broker to dissuade a policy owner or contract holder from the replacement of existing life insurance or annuity. Conservation does not include routine administrative procedures such as late payment reminders, late payment offers, or reinstatement offers.

Subd. 4. **Direct–response sale.** "Direct–response sale" means any sale of life insurance or annuity where the insurer does not use an agent in the sale or delivery of the policy or contract.

Subd. 5. **Existing insurer.** "Existing insurer" means the insurance company whose policy or contract is or will be changed or terminated in such a manner as described within the definition of "replacement."

Subd. 6. **Existing life insurance or annuity.** "Existing life insurance or annuity" means any life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity contract that is within an unconditional refund period.

Subd. 7. **Replacing insurer.** "Replacing insurer" means the insurance company that issues or proposes to issue a new policy or contract which is a replacement of existing life insurance or annuity.

History: *1996 c 446 art 1 s 13*

61A.54 EXEMPTIONS.

Unless otherwise specifically included, sections 61A.53 to 61A.60 do not apply to transactions involving:

(1) credit life insurance;

(2) group life insurance or group annuities;

(3) an application to the existing insurer that issued the existing life insurance or annuity, where a contractual change or a conversion privilege is being exercised;

(4) proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company; or

(5) transactions where the replacing insurer and the existing insurer are the same, or are subsidiaries or affiliates under common ownership or control; provided, however, that agents or brokers proposing replacement shall comply with section 61A.55, subdivision 1.

History: *1996 c 446 art 1 s 14*

61A.55 DUTIES OF AGENTS AND BROKERS.

Subdivision 1. **Submission to insurer.** Each agent or broker who initiates the application shall submit to the insurer to which an application for life insurance or annuity is presented, with or as part of each application:

(1) a statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and

(2) a signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction.

Subd. 2. **Replacement information.** Where a replacement is involved, the agent or broker shall:

(1) present to the applicant, not later than at the time of taking the application, a "notice regarding replacement" in the form as described in section 61A.60, subdivision 1, or other substantially similar form approved by the commissioner. The notice shall be fully completed and signed by both the applicant and the agent or broker and left with the applicant. The completed notice must list all existing life insurance and annuity to be replaced, properly identified by name of insurer, the insured, and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, shall be listed;

(2) leave with the applicant the original or a copy of any written or printed communications used for presentation to the applicant; and

(3) submit to the replacing insurer with the application a copy of the fully completed and signed replacement notice provided under this subdivision.

Subd. 3. **Materials used to dissuade replacement.** Each agent or broker who uses written or printed communications in a conservation shall leave with the applicant the original or a copy of the communications.

History: *1996 c 446 art 1 s 15*

61A.56 DUTIES OF ALL INSURERS.

Each insurer shall:

(1) inform its field representatives or other personnel responsible for compliance with sections 61A.53 to 61A.60 of the requirements of those sections; and

(2) require with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether the proposed insurance or annuity will replace existing life insurance or annuity.

History: *1996 c 446 art 1 s 16*

61A.57 DUTIES OF INSURERS THAT USE AGENTS OR BROKERS.

Each insurer that uses an agent or broker in a life insurance or annuity sale shall:

(a) Require with or as part of each completed application for life insurance or annuity, a statement signed by the agent or broker as to whether the agent or broker knows replacement is or may be involved in the transaction.

(b) Where a replacement is involved:

(1) require from the agent or broker with the application for life insurance or annuity, a copy of the fully completed and signed replacement notice provided the applicant under section 61A.55. The existing life insurance or annuity must be identified by name of insurer, insured, and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, must be listed; and

(2) send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained under this section. This written communication must be made within five working days of the date that the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner.

(c) The replacing insurer shall maintain evidence of the "notice regarding replacement" and a replacement register, cross–indexed, by replacing agent and existing insurer to be replaced. Evidence that all requirements were met shall be maintained for at least six years.

(d) The replacing insurer shall provide in its policy or contract, or in a separate written notice that is delivered with the policy or contract, that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised within a period of 20 days beginning from the date of delivery of the policy.

History: *1996 c 446 art 1 s 17*

61A.58 DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SALES.

(a) If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer shall send to the applicant with the policy or

contract a replacement notice as described in section 61A.60, subdivision 2, or other substantially similar form approved by the commissioner.

(b) If the insurer proposed the replacement, it shall:

(1) provide to applicants or prospective applicants with or as a part of the application a replacement notice as described in section 61A.60, subdivision 2, or other substantially similar form approved by the commissioner;

(2) request from the applicant with or as part of the application, a list of all existing life insurance policies or annuity contracts to be replaced and properly identified by name of insurer and insured; and

(3) comply with the requirements of section 61A.57, paragraph (b), clause (2), if the applicant furnishes the names of the existing insurers, and the requirements of section 61A.57, paragraphs (c) and (d), except that it need not index the replacement register by replacing agent.

History: *1996 c 446 art 1 s 18*

61A.59 ENFORCEMENT; EFFECT OF COMPLIANCE.

(a) An agent, broker, or insurer shall not recommend the replacement or conservation of an existing policy or contract by use of a substantially inaccurate presentation or comparison of an existing policy's or contract's premiums and benefits or dividends and values, if any. An insurer, agent, representative, officer, or employee of the insurer failing to comply with the requirements of sections 61A.53 to 61A.60 is subject to such penalties as may be appropriate under this chapter.

(b) Patterns of action by policyholders or contract holders who purchase replacing policies or contracts from the same agent or broker, after indicating on applications that replacement is not involved, are prima facie evidence of the agent's or broker's knowledge that replacement was intended in connection with the sale of those policies, and the patterns of action are prima facie evidence of the agent's or broker's intent to violate sections 61A.53 to 61A.60.

(c) Sections 61A.53 to 61A.60 do not prohibit the use of additional material other than that which is required that does not violate those sections or any other statute or rule.

(d) Compliance by an insurer, agent, or broker with sections 61A.53 to 61A.60 does not limit any cause of action or other remedies that the insured may otherwise have against an insurer, agent, or broker. In a proceeding in which the insured's knowledge or understanding is an issue, compliance with those sections may be admitted as evidence on that issue, but shall not be conclusive.

History: *1996 c 446 art 1 s 19*

61A.60 REQUIRED REPLACEMENT NOTICE AND FORM.

Subdivision 1. **Notice form; agent sales.** The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE

DEFINITION	REPLACEMENT is any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid–up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)
IF YOU INTEND TO REPLACE COVERAGE	In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide **EVIDENCE OF INSURABILITY** and

(1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.

(2) Your present occupation or activities **may not be covered or could require additional premiums.**

(3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a **CLAIM under the new policy BEING DENIED** that would otherwise have been paid.

(4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.

(5) It is to your advantage to OBTAIN INFORMATION regarding your existing policies or annuity contracts **from the insurer or agent from whom** you purchased the policy or annuity contract.

(If you are purchasing an annuity, clauses (1), (2), and (3) above would not apply to the new annuity contract.)

THE INSURANCE OR ANNUITY I INTEND TO PURCHASE FROM _____ INSURANCE CO. MAY REPLACE OR ALTER EXISTING LIFE INSURANCE POLICY(IES) OR ANNUITY CONTRACT(S).

The following policy(ies) or annuity contract(s) may be replaced as a result of this transaction:

Insurer as it appears on the policy or contract	**Insured as it appears on the policy or contract**
Policy or contract number	**Insured birthdate**

The proposed policy or contract is:

_____ $_____

type of policy– or contract–generic name face amount

_____

signature of applicant date

_____

address of applicant city state

I certify that this form was given to and completed by

_____
(applicant–please print or type)

prior to taking an application and that I am leaving a signed copy for the applicant.

_____ _____
agent's signature date

_____
address

_____ _____
city state

NOTE IMPORTANT STATEMENT ON REVERSE SIDE

Subd. 2. **Notice form; direct response sales.** The notice required where sections 61A.53 to 61A.60 refer to this subdivision is as follows:

IMPORTANT NOTICE
REQUIRED BY
MINNESOTA INSURANCE LAW

DEFINITION REPLACEMENT is any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid–up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide **Evidence of insurability** and

(1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.

(2) Your present occupation or activities **may not be covered or could require additional premiums.**

(3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a **CLAIM under the new policy BEING DENIED** that would otherwise have been paid.

(4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.

(5) It may be to your advantage to OBTAIN

INFORMATION regarding your existing policies or annuity contracts **from the insurer or agent from whom you purchased the policy or annuity contract.**

(If an annuity is being purchased, Items (1), (2) and (3) above would not apply to the new contract.)

CAUTION If after studying the information made available to you, you decide to replace your existing life insurance or annuity with our policy or annuity contract, you are urged not to take action to terminate or alter your existing coverage or annuity(ies) until after you have been issued the new policy or annuity contract, examined it and found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage or annuity(ies) and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or be able to purchase it only at substantially higher rates.

INSURER'S MAILING DATE: .....

Subd. 3. **Definitions.** The following definitions must appear on the back of the notice forms provided in subdivisions 1 and 2:

DEFINITIONS

PREMIUMS: Premiums are the payments you make in exchange for an insurance policy or annuity contract. They are unlike deposits in a savings or investment program, because if you drop the policy or contract, you might get back less than you paid in.

CASH SURRENDER VALUE: This is the amount of money you can get in cash if you surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender value is the difference between the cash value printed in the policy and the loan value. Not all policies have cash surrender values.

LAPSE: A life insurance policy may lapse when you do not pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid–up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.

SURRENDER: You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid–up or extended term insurance.

CONVERT TO PAID–UP INSURANCE: This means you use your cash surrender value to change your insurance to a paid–up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you will not have to pay any more premiums.

PLACE ON EXTENDED TERM: This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.

BORROW POLICY LOAN VALUES: If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds

the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.

EVIDENCE OF INSURABILITY: This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.

INCONTESTABLE CLAUSE: This says that after two years, depending on the policy or insurer, the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the application and the insurer finds out about them, the insurer can deny a claim as if the policy had never existed.

SUICIDE CLAUSE: This says that if you commit suicide after being insured for less than two years, depending on the policy and insurer, your beneficiaries will receive only a refund of the premiums that were paid.

Subd. 4. **Printing of notices.** The notices in subdivisions 1 and 2 must be reproduced in their entirety on one side of an 8–1/2 by 11 inch sheet of plain paper. The definitions contained in subdivision 3 must be printed on the reverse side. The insurer may print its legal name in the space provided.

History: *1996 c 446 art 1 s 20*