

## CHAPTER 60K

### INSURANCE PRODUCERS

60K.30	PURPOSE AND SCOPE.	60K.41	ASSUMED NAMES.
60K.31	DEFINITIONS.	60K.42	TEMPORARY LICENSING.
60K.32	LICENSE REQUIRED.	60K.43	LICENSE DENIAL, NONRENEWAL, OR REVOCATION.
60K.33	CRIMINAL PENALTY.	60K.44	TAX CLEARANCE CERTIFICATE.
60K.34	EXCEPTIONS TO LICENSING.	60K.45	SURRENDER OF LICENSE.
60K.35	FRATERNAL BENEFIT SOCIETY REPRESENTATIVES.	60K.46	REQUIRED AND PROHIBITED ACTS.
60K.36	EXAMINATIONS.	60K.47	LIABILITY FOR PLACING INSURANCE IN UNAUTHORIZED COMPANY.
60K.361	INSURANCE EDUCATION.	60K.48	COMMISSIONS.
60K.365	PRODUCER TRAINING REQUIREMENTS FOR LONG-TERM CARE INSURANCE PRODUCTS.	60K.49	APPOINTMENTS.
60K.366	PRODUCER TRAINING REQUIREMENTS FOR FLOOD INSURANCE PRODUCTS.	60K.50	LIMITATION ON APPOINTMENTS.
60K.37	APPLICATION FOR LICENSE.	60K.51	NOTIFICATION TO COMMISSIONER OF TERMINATION.
60K.38	LICENSE.	60K.52	USE AND SHARING OF LICENSING AND INVESTIGATIVE DATA.
60K.381	SALE OF PORTABLE ELECTRONICS INSURANCE.	60K.53	RECIPROCITY.
60K.383	TRAVEL INSURANCE.	60K.54	REPORTING OF ACTIONS.
60K.39	NONRESIDENT LICENSING.	60K.55	FEES.
60K.40	INDIVIDUALS LICENSED IN ANOTHER STATE; EXEMPTION FROM EXAMINATION.	60K.56	CONTINUING INSURANCE EDUCATION.

**60K.01** [Repealed, 2001 c 117 art 1 s 28]

**60K.02** [Repealed, 2001 c 117 art 1 s 28]

**60K.03** [Repealed, 2001 c 117 art 1 s 28]

**60K.04** [Repealed, 2001 c 117 art 1 s 28]

**60K.05** [Repealed, 2001 c 117 art 1 s 28]

**60K.06** [Repealed, 2001 c 117 art 1 s 28]

**60K.07** Subdivision 1. [Repealed, 1997 c 222 s 60; 2001 c 117 art 1 s 28]

Subd. 2. [Repealed, 2001 c 117 art 1 s 28]

**60K.08** [Repealed, 1999 c 177 s 88]

**60K.081** [Repealed, 2001 c 117 art 1 s 28]

**60K.09** [Repealed, 2001 c 117 art 1 s 28]

**60K.10** [Repealed, 2001 c 117 art 1 s 28]

**60K.11** [Repealed, 2001 c 117 art 1 s 28]

**60K.12** [Repealed, 2001 c 177 art 1 s 28]

**60K.13** [Repealed, 2001 c 117 art 1 s 28]

**60K.14** [Repealed, 2001 c 117 art 1 s 28]

**60K.15** [Repealed, 2001 c 117 art 1 s 28]

**60K.16** [Repealed, 2001 c 117 art 1 s 28]

**60K.17** [Repealed, 2001 c 117 art 1 s 28]

**60K.18** [Repealed, 2001 c 117 art 1 s 28]

**60K.19** Subdivision 1. [Repealed, 2001 c 117 art 1 s 28]

Subd. 2. [Repealed, 2001 c 117 art 1 s 28]

Subd. 3. [Repealed, 2001 c 117 art 1 s 28]

Subd. 4. [Repealed, 2001 c 117 art 1 s 28; 2001 c 161 s 58]

Subd. 5. [Repealed, 2001 c 117 art 1 s 28]

Subd. 6. [Repealed, 2001 c 117 art 1 s 28]

Subd. 7. [Repealed, 2001 c 117 art 1 s 28]

Subd. 8. [Repealed, 2001 c 117 art 1 s 28]

Subd. 9. [Repealed, 2001 c 117 art 1 s 28]

Subd. 10. [Repealed, 2001 c 117 art 1 s 28]

Subd. 11. [Repealed, 2001 c 117 art 1 s 28]

**60K.20** [Repealed, 2001 c 117 art 1 s 28]

### **60K.30 PURPOSE AND SCOPE.**

(a) Sections 60K.30 to 60K.56 govern the qualifications and procedures for the licensing of insurance producers.

(b) Except as to the underlying requirement that a surplus lines agent or broker obtain an insurance producer license, this chapter does not apply to surplus lines agents or brokers licensed under sections 60A.195 to 60A.209, except as provided in sections 60K.39 and 60K.53, subdivision 2.

**History:** 2001 c 117 art 1 s 1

### **60K.31 DEFINITIONS.**

Subdivision 1. **Scope.** For purposes of sections 60K.30 to 60K.56, the terms in subdivisions 2 to 18 have the meanings given them. The definitions in section 60A.02 are applicable to terms not defined in this section, unless the language or context clearly indicates that a different meaning is intended.

Subd. 2. **Business entity.** "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

Subd. 3. **Commissioner.** "Commissioner" means the commissioner of commerce.

Subd. 3a. **Fingerprint.** "Fingerprint" means an impression of the lines on the finger taken for purpose of identification.

Subd. 4. **Home state.** "Home state" means the District of Columbia and any state or territory of the United States in which an insurance producer maintains the producer's principal place of residence or principal place of business and is licensed to act as an insurance producer.

Subd. 5. **Insurance.** "Insurance" means any of the lines of authority in section 60A.06.

Subd. 6. **Insurance producer.** "Insurance producer" means a person required to be licensed under the laws of this state to sell, solicit, or negotiate insurance.

Subd. 7. **License.** "License" means a document issued by the commissioner authorizing a person to act as an insurance producer for the lines of authority specified in the document. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

Subd. 8. **Limited line credit insurance.** "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

Subd. 9. **Limited line credit insurance producer.** "Limited line credit insurance producer" means a person who sells, solicits, or negotiates one or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

Subd. 10. **Limited lines insurance.** "Limited lines insurance" means those lines of insurance defined in section 60K.38, subdivision 1, paragraph (c), or any other line of insurance that the commissioner considers necessary to recognize for the purposes of complying with section 60K.39, subdivision 6.

Subd. 11. **Limited lines producer.** "Limited lines producer" means a person authorized by the commissioner to sell, solicit, or negotiate limited lines insurance.

Subd. 12. **Negotiate.** "Negotiate" means the act of conferring directly with or offering advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract if the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

Subd. 13. **Person.** "Person" means an individual or a business entity.

Subd. 14. **Sell.** "Sell" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

Subd. 15. **Solicit.** "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

Subd. 16. **Terminate.** "Terminate" means the cancellation of the relationship between an insurance producer and the insurer or the termination of a producer's authority to transact insurance.

Subd. 17. **Uniform Business Entity Application.** "Uniform Business Entity Application" means the current version of the Uniform Business Entity Application for resident and nonresident business entities of the National Association of Insurance Commissioners.

Subd. 18. **Uniform Application.** "Uniform Application" means the current version of the Uniform Application for resident and nonresident producer licensing of the National Association of Insurance Commissioners.

**History:** 2001 c 117 art 1 s 2; 2002 c 379 art 1 s 19; 2009 c 63 s 25,78; 2010 c 384 s 12

### **60K.32 LICENSE REQUIRED.**

A person shall not sell, solicit, or negotiate insurance in this state for any class or classes of insurance unless the person is licensed for that line of authority under sections 60K.30 to 60K.56. The license itself does not create any authority, actual, apparent, or inherent, in the holder to represent or commit an insurance carrier.

**History:** 2001 c 117 art 1 s 3; 2002 c 379 art 1 s 20

### **60K.33 CRIMINAL PENALTY.**

A person who acts or assumes to act as an insurance producer without a license issued under this chapter is guilty of a gross misdemeanor.

**History:** 2001 c 117 art 1 s 4

### **60K.34 EXCEPTIONS TO LICENSING.**

Subdivision 1. **License not required.** Nothing in sections 60K.30 to 60K.56 requires an insurer to obtain an insurance producer license. In this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

Subd. 2. **Specific exceptions.** A license as an insurance producer is not required of the following:

- (1) a fraternal benefit society representative exempted pursuant to section 60K.35;
- (2) an officer, director, or employee of an insurer or of an insurance producer if the officer, director, or employee does not receive any commission on policies written or sold to insure risks residing, located, or to be performed in this state and:
  - (i) the officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, or negotiation of insurance;
  - (ii) the officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or
  - (iii) the officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation, or negotiation of insurance;
- (3) a person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass-marketed property and casualty insurance; where no commission is paid to the person for the service;

(4) an employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(5) employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation, or negotiation of insurance;

(6) a person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, if the person does not sell, solicit, or negotiate insurance that would insure risks residing, located, or to be performed in this state;

(7) a person who is not a resident of this state who sells, solicits, or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, if the person is otherwise licensed as an insurance producer to sell, solicit, or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;

(8) a salaried full-time employee who counsels or advises the employee's employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer if the employee does not sell or solicit insurance or receive a commission; or

(9) rental vehicle companies and their employees in connection with the offer of rental vehicle personal accident insurance under section 72A.125.

**History:** 2001 c 117 art 1 s 5; 2002 c 379 art 1 s 21

#### **60K.35 FRATERNAL BENEFIT SOCIETY REPRESENTATIVES.**

Representatives of fraternal benefit societies who solicit and negotiate insurance contracts are considered to be insurance producers and are subject to the licensing requirements of this chapter, provided that no insurance producer's license is required of:

(1) any officer, employee, or secretary of a fraternal benefit society or of any subordinate lodge or branch who devotes substantially all of that person's time to activities other than the solicitation or negotiation of insurance contracts and who receives no commission or other compensation directly dependent upon the number or amount of contracts solicited or negotiated; or

(2) any agent or representative of a fraternal benefit society who devotes, or intends to devote, less than 50 percent of that person's time to the solicitation and procurement of insurance contracts for that society. Any person who in the preceding calendar year has solicited and procured life insurance in excess of \$50,000 face amount, or, in the case of any other kinds of insurance that the society may write, on the persons of more than 25 individuals, and who has received or will receive a commission or other compensation in the total amount of \$1,000 or

more, is presumed to be devoting, or intending to devote, 50 percent of that person's time to the solicitation or procurement of insurance contracts for that society.

**History:** 2001 c 117 art 1 s 6

### **60K.36 EXAMINATIONS.**

Subdivision 1. **Requirement.** A resident individual applying for an insurance producer license shall pass a written examination unless exempt under subdivision 2 or section 60K.40. The examination must test the knowledge of the individual concerning the lines of authority for which the application is made, the duties and responsibilities of an insurance producer, and the insurance laws and rules of this state. Examinations required by this section must be approved by the commissioner.

Subd. 2. **Examination not required.** A resident individual applying for a limited lines credit insurance, title insurance, travel insurance, or bail bonds license is not required to take a written examination.

Subd. 3. **Administration.** The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations.

Subd. 4. **Course of study.** The examination must be given only after the applicant has completed a program of studies, through classroom study, verifiable self-study, or a combination of both, which must not include a course sponsored by, offered by, or affiliated with an insurance company or its producers; except that this limitation does not preclude a bona fide professional association of insurance producers, not acting on behalf of an insurer, from offering courses. The course of study must consist of 20 hours per major line of authority in which the producer seeks to be licensed. The program of studies or study course must have been approved by the commissioner in order to qualify under this subdivision. If the applicant has been previously licensed for the particular line of insurance in the state of Minnesota, the requirement of a program of studies or a study course must be waived. A certification of compliance by the organization offering the course must accompany the applicant's license application.

Subd. 4a. **Exemptions.** A prelicensing program of studies does not apply to:

(1) an applicant for the limited lines farm property liability line of authority or the variable life and variable annuity line of authority;

(2) an applicant who has received a two-year Minnesota vocational school degree in insurance;

(3) an applicant who has received a four-year college degree in business with an insurance emphasis;

(4) an applicant for the life line of authority who holds any of the following professional designations or successor designations: Certified Employee Benefit Specialist (CEBS), Chartered Financial Consultant (ChFC), Certified Insurance Counselor (CIC), Certified Financial Planner (CFP), Chartered Life Underwriter (CLU), Fellow of the Life Management Institute (FLMI), or Life Underwriter Training Council Fellow (LUTCF);

(5) an applicant for the health line of authority who holds any of the following professional designations or successor designations: Registered Health Underwriter (RHU), Certified Employee Benefit Specialist (CEBS), Registered Employee Benefits Counselor (REBC), or Health Insurance Associate (HIA); or

(6) an applicant for the Property, Casualty, or Personal Lines P & C lines of authority who provides satisfactory evidence of currently holding any of the following professional designations or successor designations: Accredited Advisor in Insurance (AAI), Associate in Risk Management (ARM), Certified Insurance Counselor (CIC), or Chartered Property and Casualty Underwriter (CPCU).

Subd. 5. **Failure to appear or pass.** An individual who fails to appear for the examination as scheduled or fails to pass the examination shall reapply for an examination and remit all required fees and forms before being rescheduled for another examination.

Subd. 6. **Results; validity.** Examination results are valid for three years from the date of the examination.

**History:** 2001 c 117 art 1 s 7; 2005 c 100 s 3; 2009 c 63 s 26,27,78; 2010 c 347 art 6 s 1; 2012 c 157 s 1

### **60K.361 INSURANCE EDUCATION.**

(a) Prelicense education must consist of 20 hours of education per line of authority.

(b) The course must include an introduction to insurance and insurance-related concepts covering all of the major lines of authority except variable life and variable annuities. The course must consist of the following:

- (1) rules, regulations, and law;
- (2) basic fundamentals of insurance;
- (3) property:
  - (i) types of policies;
  - (ii) policy provisions;
  - (iii) perils, exclusions, deductibles, and liability; and
  - (iv) evaluating needs;
- (4) casualty:
  - (i) types of policies;
  - (ii) policy provisions;
  - (iii) perils, exclusions, deductibles, and liability; and
  - (iv) evaluating needs;
- (5) life:
  - (i) types of policies;
  - (ii) policy provisions; and
  - (iii) group insurance; and
- (6) accident and health:
  - (i) types of policies;
  - (ii) policy provisions; and
  - (iii) group insurance.

(c) Courses that cover a specific major line of authority must include the following:

- (1) life:

- (i) types of life insurance policies; and
- (ii) Minnesota laws, rules, and regulations pertinent to life insurance;
- (2) accident and health:
  - (i) types of health insurance policies; and
  - (ii) Minnesota laws, rules, and regulations pertinent to accident and health insurance;
- (3) property:
  - (i) personal lines;
  - (ii) commercial lines; and
  - (iii) Minnesota laws, rules, and regulations pertinent to property insurance.
- (4) casualty:
  - (i) personal lines;
  - (ii) commercial lines; and
  - (iii) Minnesota laws, rules, and regulations pertinent to casualty insurance; and
- (5) personal lines:
  - (i) types of property/casualty personal lines insurance policies; and
  - (ii) Minnesota laws, rules, and regulations pertinent to property/casualty personal lines insurance.

**History:** 2009 c 63 s 28,78; 2010 c 384 s 13

#### **60K.365 PRODUCER TRAINING REQUIREMENTS FOR LONG-TERM CARE INSURANCE PRODUCTS.**

(a) An individual may not sell, solicit, or negotiate long-term care insurance unless the individual is licensed as an insurance producer for accident and health or sickness insurance or life insurance and has completed an initial training course and ongoing training every 24 months thereafter. The training must meet the requirements of paragraph (b).

(b) The initial training course required by this section must be no less than eight hours, and the ongoing training courses required by this section must be no less than four hours every 24 months. The courses must be approved by the commissioner and may be approved as continuing education courses under section 60K.56. The courses must consist of topics related to long-term care insurance, long-term care services, and qualified state long-term care insurance partnership programs, including, but not limited to:

- (1) state and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid/Minnesota medical assistance;
- (2) available long-term care services and providers;
- (3) changes or improvements in long-term care services or providers;
- (4) alternatives to the purchase of private long-term care insurance;
- (5) the effect of inflation on benefits and the importance of inflation protection; and
- (6) consumer suitability standards and guidelines.

The training required by this section must not include training that is insurer or company product specific or that includes any sales or marketing information, materials, or training, other than those required by state or federal law.

(c) Insurers shall obtain verification that a producer has received the training required by this section before a producer is permitted to sell, solicit, or negotiate the insurer's long-term care insurance products. Insurers shall maintain records verifying that the producer has received the training contained in this section and make that verification available to the commissioner upon request.

(d) The satisfaction of these initial training requirements in any state shall be deemed to satisfy the initial training requirements of this section.

(e) Nonresident producers selling partnership policies shall be expected to demonstrate knowledge about unique aspects of the Minnesota medical assistance system. An insurer offering partnership products in Minnesota shall maintain records verifying that its nonresident producers have attained the required training and make that verification available to the commissioner upon request.

**History:** 2007 c 57 art 3 s 32

#### **60K.366 PRODUCER TRAINING REQUIREMENTS FOR FLOOD INSURANCE PRODUCTS.**

An individual may not sell, solicit, or negotiate flood insurance through the National Flood Insurance Program (NFIP) unless the individual is licensed as an insurance producer for one or more lines of authority under section 60K.38, subdivision 1, paragraph (b), clauses (3), (4), and (6), and has in addition to the training otherwise required by this chapter satisfied the minimum training and education requirements established by the Federal Emergency Management Agency (FEMA) for all insurance producers who sell insurance through the NFIP and published at 70 Federal Register 52, 117.

Upon request of the commissioner, an issuer must demonstrate to the commissioner that its appointed producers who sell flood insurance through the NFIP have complied with the minimum training and education requirements established by FEMA.

**History:** 2013 c 135 art 1 s 1

#### **60K.37 APPLICATION FOR LICENSE.**

Subdivision 1. **Resident insurance producer.** A person is a resident of this state if that person resides in this state or the principal place of business of that person is maintained in this state. Application for a license claiming residency in this state constitutes an election of residency in this state. A license issued upon an application claiming residency in this state is void if the licensee, while holding a resident license in this state, obtains a resident license in, or claims to be a resident of, any other state or jurisdiction or if the licensee ceases to be a resident of this state.

Subd. 2. **Individuals.** A person applying for a resident insurance producer license shall make application to the commissioner on the Uniform Application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the individual:

(1) is at least 18 years of age;

(2) has not committed any act that is a ground for denial, suspension, or revocation set forth in section 60K.43;

(3) has completed, where required by the commissioner, a prelicensing course of study for the lines of authority for which the person has applied;

(4) has paid the fees set forth in section 60K.55; and

(5) has successfully passed the examinations for the lines of authority for which the person has applied.

**Subd. 2a. Criminal history record check; fingerprints.** (a) An individual applying for a resident insurance producer license must:

(1) consent to a criminal history record check;

(2) submit a fingerprint card in a form acceptable to the commissioner; and

(3) pay the fee required to perform criminal history record checks with the Minnesota Bureau of Criminal Apprehension and the Federal Bureau of Investigation.

(b) The commissioner may contract for the collection and transmission of fingerprints required under this chapter and may order the fee for collecting and transmitting fingerprints to be payable directly to the contractor by the applicant. The commissioner may agree to a reasonable fingerprinting fee to be charged by the contractor.

(c) The commissioner must treat and maintain an applicant's fingerprints and any criminal history record information obtained under this chapter as confidential and must apply security measures consistent with the standards specified by the Criminal Justice Information Services Division of the Federal Bureau of Investigation for the electronic storage of fingerprints and necessary identifying information. The commissioner must limit the use of records solely to the purposes authorized in this chapter. The fingerprints and any criminal history record information must not be subject to subpoena, other than one issued in a criminal action or investigation.

(d) The commissioner may receive criminal history record information from another government agency in lieu of the Minnesota Bureau of Criminal Apprehension.

**Subd. 3. Businesses.** (a) A business entity acting as an insurance producer is required to obtain an insurance producer license. Application must be made using the Uniform Business Entity Application. Before approving the application, the commissioner shall find that:

(1) the business entity has paid the fees set forth in section 60K.55; and

(2) the business entity has designated an individual licensed producer responsible for the business entity's compliance with the insurance laws and rules of this state.

(b) A business entity insurance producer license does not grant authority to any individual officer, director, partner, member, or employee to act as an insurance producer.

**Subd. 4. Service of process.** Application for a license under this chapter constitutes appointment of the commissioner as the person's agent for service of process under section 45.028.

**Subd. 5. Additional documentation.** The commissioner may require any documents reasonably necessary to verify the information contained in an application.

**Subd. 6. Limited line credit insurance instruction.** An insurer that sells, solicits, or negotiates any form of limited line credit insurance shall provide to each individual whose duties will include selling, soliciting, or negotiating limited line credit insurance a program of instruction that may be approved by the commissioner.

Subd. 7. **Variable life and variable annuity.** A resident individual applying for a variable life and variable annuity license shall demonstrate that the applicant holds a current license as a life insurance producer.

**History:** 2001 c 117 art 1 s 8; 2005 c 100 s 4; 2009 c 63 s 29,78

### **60K.38 LICENSE.**

Subdivision 1. **Issuance.** (a) Unless denied a license under section 60K.43, a person who has met the requirements of sections 60K.36 and 60K.37 must be issued an insurance producer license. An insurance producer may receive qualification for a license in one or more of the lines of authority in paragraphs (b) and (c).

(b) An individual insurance producer may receive qualification for a license in one or more of the following major lines:

(1) life insurance: coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(2) accident and health or sickness insurance: coverage for sickness, bodily injury, or accidental death, and may include benefits for disability income;

(3) property insurance: coverage for the direct or consequential loss or damage to property of every kind;

(4) casualty insurance: coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(5) variable life and variable annuity products insurance: coverage provided under variable life insurance contracts and variable annuities; and

(6) personal lines: property and casualty insurance coverage sold to individuals and families for primarily noncommercial purposes.

(c) An individual insurance producer may receive qualification for a license in one or more of the following limited lines:

(1) limited line credit insurance;

(2) farm property and liability insurance;

(3) title insurance;

(4) travel insurance; and

(5) bail bonds.

Subd. 2. **Period of effectiveness.** An insurance producer license remains in effect unless revoked or suspended as long as the fee set forth in section 60K.55 is paid, continuing education requirements for resident individual producers are met, and all additional documentation required by the commissioner is provided by the renewal date.

Subd. 3. **Lapsed license.** An individual insurance producer who allows the license to lapse may, within 12 months from the due date of the renewal fee, reinstate the license without the necessity of passing a written examination. However, a penalty in the amount of twice the unpaid renewal fee must be paid by the individual for any renewal fee received after the due date.

Subd. 4. **Waivers.** A licensed insurance producer who is unable to comply with license renewal procedures due to military service or some other extenuating circumstance, such as a

long-term medical disability, may request a waiver of those procedures. The producer may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

Subd. 5. **Contents.** The license must contain the licensee's name, address, producer license number, and the date of issuance, the lines of authority, the expiration date, and any other information the commissioner considers necessary.

Subd. 6. **Name or address changes.** Licensees shall inform the commissioner, by any means acceptable to the commissioner, of a change of name or address within ten days of the change.

Subd. 7. **Administrative assistance to commissioner.** In order to assist in the performance of the commissioner's duties, the commissioner may contract with nongovernmental entities, including the National Association of Insurance Commissioners (NAIC) or any affiliates or subsidiaries that the NAIC oversees, to perform any ministerial functions, including the collection of fees, related to producer licensing that the commissioner and the nongovernmental entity consider appropriate.

**History:** 2001 c 117 art 1 s 9; 2005 c 100 s 5; 2010 c 347 art 6 s 2; 2012 c 157 s 2

#### **60K.381 SALE OF PORTABLE ELECTRONICS INSURANCE.**

Subdivision 1. **Definitions.** For purposes of this section, the following terms have the following meanings:

- (a) "Customer" means a person who purchases portable electronics or services.
- (b) "Covered customer" means a customer who elects coverage under a portable electronics insurance policy issued to a vendor of portable electronics.
- (c) "Portable electronics" means electronic devices that are portable in nature, their accessories, and services related to the use of the device.
- (d)(1) "Portable electronics insurance" means insurance providing coverage for the repair or replacement of portable electronics, which may cover portable electronics against any one or more of the following causes of loss: loss, theft, mechanical failure, malfunction, damage, or other applicable perils.
- (2) "Portable electronics insurance" does not include:
  - (i) a service contract governed by chapter 59B;
  - (ii) a policy of insurance covering a seller's or a manufacturer's obligations under a warranty; or
  - (iii) a homeowner's, renter's, private passenger automobile, commercial multiperil, or similar policy that covers loss or theft of portable electronics.
- (e) "Portable electronics transaction" means:
  - (1) the sale or lease of portable electronics by a vendor to a customer; or
  - (2) the sale of a service related to the use of portable electronics by a vendor to a customer.
- (f) "Supervising entity" means a business entity that is a licensed insurer or insurance producer that is appointed by an insurer to supervise the administration of a portable electronics insurance program.

(g) "Vendor" means a business entity in the business of engaging in portable electronics transactions, directly or indirectly.

**Subd. 2. Licensure of vendors.** (a) A vendor is required to hold a limited lines license issued under this section to sell or offer coverage under a policy of portable electronics insurance in connection with, and incidental to, a portable electronics transaction with a customer.

(b) A limited lines license issued under this section shall authorize any employee or authorized representative of the vendor to sell or offer coverage under a policy of portable electronics insurance to a customer in connection with, and incidental to, a portable electronics transaction at each location at which the vendor engages in portable electronics transactions. The application for such a limited lines license shall:

(1) provide the name, residence address, and other information required by the commissioner for an employee or officer of the vendor that is designated by the applicant as the person responsible for the vendor's compliance with the requirements of this chapter. However, if the vendor derives more than 50 percent of its revenue from the sale of portable electronics insurance, the information noted above must be provided for all officers, directors, and shareholders of record having beneficial ownership of ten percent or more of any class of securities of the vendor registered under the federal securities law; and

(2) contain a statement by the applicant indicating whether it intends to offer portable electronics from more than ten locations in this state. For purposes of this section, a vendor offering coverage to customers through a Web site is deemed to be offering portable electronics insurance coverage from more than ten locations.

(c) A vendor, or the supervising entity that is appointed to oversee the vendor's portable electronics insurance program, shall maintain a registry of locations which are authorized to sell or solicit portable electronics insurance coverage in this state. Upon request by the commissioner and within ten days' notice to the vendor or supervising entity, the registry must be made available for inspection by the commissioner.

(d) Notwithstanding any other provision of law, a license issued pursuant to this section shall authorize the licensee and its employees or authorized representatives to engage only in those activities that are expressly permitted in this section.

**Subd. 3. Requirements for sale of portable electronics insurance.** (a) At every location where portable electronics insurance is offered to customers, brochures or other written materials must be made available to a prospective customer which:

(1) disclose that portable electronics insurance may provide a duplication of coverage already provided by a customer's homeowner's insurance policy, renter's insurance policy, or other source of coverage;

(2) state that the enrollment by the customer in a portable electronics insurance program is not required in order to purchase or lease portable electronics or services;

(3) summarize the material terms of the insurance coverage, including:

(i) the identity of the insurer;

(ii) the identity of the supervising entity;

(iii) the amount of any applicable deductible and how it is to be paid;

(iv) benefits of the coverage;

(v) the terms for terminating or modifying coverage as set forth in the policy of portable electronics insurance; and

(vi) any material exclusions, conditions, or other limitations of coverage including whether portable electronics may be repaired or replaced with similar make and model reconditioned or nonoriginal manufacturer parts or equipment;

(4) describe the process for filing a claim, including a description of any requirements:

(i) to return portable electronics and the maximum fee applicable in the event the customer fails to comply with any equipment return requirements; and

(ii) any proof of loss requirements; and

(5) state that the customer may cancel enrollment for coverage under a portable electronics insurance policy at any time and any unearned premium will be refunded or credited on a pro rata basis to the customer paying the premium.

(b) Portable electronics insurance may be offered on a month-to-month or other periodic basis as a group or master commercial inland marine policy issued to a vendor of portable electronics under which individual customers may elect to enroll for coverage.

(c) Notwithstanding any other provision of Minnesota law regarding the termination or modification of coverage under a policy of insurance, the terms for the termination or modification of coverage under a policy of portable electronics insurance issued in compliance with this chapter shall be as set forth in the policy.

(d) Eligibility and underwriting standards for customers electing to enroll in coverage shall be established for each portable electronics insurance program.

**Subd. 4. Authority of vendors of portable electronics.** (a) The employees and authorized representatives of vendors may sell or offer portable electronics insurance to customers and shall not be subject to licensure as an insurance producer under this chapter provided that:

(1) the vendor obtains a limited lines license to authorize its employees or authorized representatives to sell or offer portable electronics insurance pursuant to this section;

(2) the insurer issuing the portable electronics insurance either directly supervises or appoints a supervising entity to supervise the administration of the program including development of a training program for employees and authorized representatives of the vendors. The training required by this subdivision shall comply with the following:

(i) the training shall be delivered to all employees and authorized representatives of the vendors who sell or offer portable electronics insurance;

(ii) the training may be provided in electronic form. However, if conducted in an electronic form, the supervising entity shall implement a supplemental education program regarding the portable electronics insurance product that is conducted by licensed employees of the supervising entity; and

(iii) each employee and authorized representative shall receive basic instruction about the portable electronics insurance offered to customers and the disclosures required under subdivision 3; and

(3) no employee or authorized representative of a vendor of portable electronics shall advertise, represent, or otherwise hold himself or herself out as a nonlimited lines licensed insurance producer.

(b) The charges for portable electronics insurance coverage may be billed and collected by the vendor of portable electronics. Any charge to the covered customer for coverage that is not included in the cost associated with the purchase or lease of portable electronics or services shall be separately itemized from the charges for the purchase or lease of portable electronics or services. Vendors billing and collecting such charges shall not be required to maintain such funds in a segregated account provided that the vendor is authorized by the insurer to hold such funds in an alternative manner and remits such amounts to the supervising entity within 60 days of receipt. All funds received by a vendor from a customer for the sale of portable electronics insurance shall be considered funds held by the vendor in a fiduciary capacity for the benefit of the insurer. Vendors may receive compensation for billing and collection services.

(c)(1) Whenever notice or correspondence with respect to a policy of portable electronics insurance is required pursuant to the policy or is otherwise required by law, the notice or correspondence may be sent either by mail or by electronic means in accordance with chapter 325L. If the notice or correspondence is mailed, it must be sent to the vendor at the vendor's mailing address specified for this purpose and to affected covered customers at their last known mailing addresses on file with the insurer. If the notice or correspondence is sent by electronic means, it must be sent to the vendor at the vendor's electronic mail address specified for such purpose and to affected covered customers at their last known electronic mail addresses as provided to the insurer or vendor, as the case may be.

(2) Notice or correspondence required by a policy of portable electronics insurance or otherwise required by law may be sent on behalf of an insurer or vendor, as the case may be, by the supervising entity appointed by the insurer.

**History:** 2010 c 347 art 6 s 3; 2012 c 259 s 1

### **60K.383 TRAVEL INSURANCE.**

Subdivision 1. **Definitions.** (a) As used in this section, the terms in paragraphs (b) to (d) have the meanings given.

(b) "Travel insurance" means insurance coverage for personal risks incident to planned travel, including, but not limited to:

- (1) interruption or cancellation of trip or event;
- (2) loss of baggage or personal effects;
- (3) damages to accommodations or rental vehicles; or
- (4) sickness, accident, disability, or death occurring during travel.

Travel insurance does not include major medical plans, which provide comprehensive medical protection for travelers with trips lasting six months or longer, including those working overseas as an expatriate or military personnel being deployed.

(c) "Travel insurance producer" means an insurer designee, such as a managing general underwriter, managing general agent, or licensed limited lines producer of travel insurance.

(d) "Travel retailer" means a business entity that offers and disseminates travel insurance on behalf of and under the direction of a travel insurance producer.

Subd. 2. **Travel retailer license.** A travel retailer may offer and disseminate travel insurance on behalf of and under a travel insurance producer business entity license only if the travel insurance producer holds a business entity license, and:

(1) the licensed business entity is clearly identified as the licensed producer on marketing materials and fulfillment packages distributed by travel retailers to customers; identification shall include the entity's name and contact information;

(2) the licensed business entity keeps a register of each travel retailer that offers travel insurance on the licensed business entity's behalf. The register must include the name and contact information of the travel retailer and an officer or person who directs or controls the travel retailer's operations, and the travel retailer's federal Employer Identification Number. The licensed business entity shall also certify that the travel retailer registered complies with United States Code, title 18, section 1033. The licensed business entity shall submit the register within 30 days upon request by the commissioner;

(3) the licensed business entity has designated one of its employees as a licensed individual producer, a "designated responsible producer" or "DRP," responsible for the business entity's compliance with Minnesota insurance laws and rules;

(4) the DRP, president, secretary, treasurer, and any other officer or person who directs or controls the licensed business entity's insurance operations comply with the fingerprinting requirements applicable to insurance producers in the resident state of the business entity;

(5) the licensed business entity has paid all applicable insurance producer licensing fees as set forth in Minnesota state law; and

(6) the licensed business entity requires each employee of the travel retailer whose duties include offering and disseminating travel insurance to receive a program of instruction or training, which may be subject to review by the commissioner.

**Subd. 3. Offer and dissemination of travel insurance; compensation.** A travel retailer whose activities, and those of its employees, are limited to offering and disseminating travel insurance on behalf of and under the direction of a licensed business entity meeting the conditions stated in this section, is authorized to do so and receive related compensation, upon registration by the licensed business entity. For purposes of this section, "offering and disseminating" means providing general information, including a description of the coverage and price, as well as processing the application, collecting premiums, and performing other nonlicensable activities permitted by the state.

**Subd. 4. Insurer designee.** As the insurer designee, the travel insurance producer is responsible for the acts of the travel retailer.

**History:** 2012 c 157 s 3

### **60K.39 NONRESIDENT LICENSING.**

**Subdivision 1. Issuance.** Unless denied a license under section 60K.43, a nonresident person shall receive a nonresident producer license if:

(1) the person is currently licensed as a resident and in good standing in the person's home state;

(2) the person has submitted the proper request for licensure and has paid the fees required by section 60K.55;

(3) the person has submitted or transmitted to the commissioner the application for licensure that the person submitted to the person's home state, or in lieu of the same, a completed Uniform Application; and

(4) the person's home state awards nonresident producer licenses to residents of this state on the same basis.

Subd. 2. **Verification of licensing status.** The commissioner may verify the producer's licensing status through the producer database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries.

Subd. 3. **Change of address.** A nonresident producer who moves from one state to another state shall file a change of address and provide certification from the new resident state within ten days of the change of legal residence. No fee or license application is required.

Subd. 4. **Termination; resident license.** A nonresident producer license terminates automatically when the person's resident license is terminated for any reason.

Subd. 5. **Surplus lines producers.** (a) Notwithstanding any other provision of sections 60K.30 to 60K.56, a person licensed as a surplus lines producer in the person's home state shall receive a nonresident surplus lines producer license under subdivision 1. Except as to subdivision 1, nothing in this section otherwise amends or supersedes any provision of sections 60A.195 to 60A.209.

(b) No surplus lines agent or broker licensed under sections 60A.195 to 60A.209 may do business in this state unless the agent or broker has complied with the requirements set forth in section 60A.198, subdivision 3, paragraphs (b) to (d).

Subd. 6. **Limited lines producer.** Notwithstanding any other provision of sections 60K.30 to 60K.56, a person licensed as a limited line credit insurance or other type of limited lines producer in the person's home state shall receive a nonresident limited lines producer license, under subdivision 1, granting the same scope of authority as granted under the license issued by the producer's home state. For the purposes of this subdivision, limited line insurance is any authority granted by the home state that restricts the authority of the license to less than the total authority prescribed in the associated major lines pursuant to section 60K.38, subdivision 1, clauses (1) to (6).

**History:** 2001 c 117 art 1 s 10; 2002 c 379 art 1 s 22,23; 2003 c 2 art 1 s 6; 2005 c 100 s 6

## **60K.40 INDIVIDUALS LICENSED IN ANOTHER STATE; EXEMPTION FROM EXAMINATION.**

Subdivision 1. **Availability.** An individual who applies for an insurance producer license in this state who was previously licensed for the same lines of authority in another state is not required to complete any prelicensing education or examination. This exemption is only available if the person is currently licensed in that state or if the application is received within 90 days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's Producer Database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the producer is or was licensed in good standing for the line of authority requested.

Subd. 2. **Required application.** If a person licensed as an insurance producer in another state who moves to this state makes application within 90 days of establishing legal residence to become a resident licensee under section 60K.37, no prelicensing education or examination is required of that person to obtain any line of authority previously held in the prior state.

**History:** 2001 c 117 art 1 s 11

**60K.41 ASSUMED NAMES.**

An insurance producer doing business under any name other than the producer's legal name shall provide the commissioner with documentation that the assumed name has been properly filed with the secretary of state before using the assumed name.

**History:** 2001 c 117 art 1 s 12

**60K.42 TEMPORARY LICENSING.**

Subdivision 1. **Commissioner's authority to grant.** The commissioner may issue a temporary insurance producer license for a period not to exceed 180 days without requiring an examination if the commissioner considers the temporary license necessary for the servicing of an insurance business in the following cases:

(1) to the surviving spouse or court-appointed personal representative of a licensed insurance producer who dies or becomes mentally or physically disabled to allow adequate time for the sale of the insurance business owned by the producer or for the recovery or return of the producer to the business or to provide for the training and licensing of new personnel to operate the producer's business;

(2) to a member or employee of a business entity licensed as an insurance producer, upon the death or disability of an individual designated in the business entity application or the license;

(3) to the designee of a licensed insurance producer entering active service in the armed forces of the United States of America; or

(4) in any other circumstance where the commissioner considers that the public interest will best be served by the issuance of this license.

Subd. 2. **Limitations.** The commissioner may by order limit the authority of any temporary licensee in any way considered necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed producer or insurer and who assumes responsibility for all acts of the temporary licensee and may impose other similar requirements designed to protect insureds and the public. The commissioner may by order revoke a temporary license if the interests of insureds or the public are endangered. A temporary license may not continue after the owner or the personal representative disposes of the business.

**History:** 2001 c 117 art 1 s 13

**60K.43 LICENSE DENIAL, NONRENEWAL, OR REVOCATION.**

Subdivision 1. **Causes.** The commissioner may, by order, restrict, censure, suspend, revoke, or refuse to issue or renew an insurance producer's license or may levy a civil penalty under section 45.027 or any combination of actions, for any one or more of the following causes:

(1) providing incorrect, misleading, incomplete, or materially untrue information in the licensing application;

(2) violating any insurance laws, including chapter 45 or chapters 60A to 72A, or violating any regulation, subpoena, or order of the commissioner or of another state's insurance commissioner;

(3) obtaining or attempting to obtain a license through misrepresentation or fraud;

(4) improperly withholding, misappropriating, or converting any money or properties received in the course of doing insurance business;

(5) misrepresenting the terms of an actual or proposed insurance contract or application for insurance;

(6) having pled guilty, with or without explicitly admitting guilt, pled nolo contendere, or been convicted of a felony, gross misdemeanor, or misdemeanor involving moral turpitude, including, but not limited to, assault or similar conduct;

(7) having admitted or been found to have committed any insurance unfair trade practice or fraud;

(8) using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness, or financial irresponsibility whether or not involving the business of insurance in this state or elsewhere;

(9) having an insurance producer license, or its equivalent, denied, suspended, or revoked, or having been the subject of a fine or any other discipline in any other state, province, district, or territory;

(10) forging another's name to an application for insurance or to any document, whether or not related to an insurance transaction;

(11) improperly using notes or any other reference material to complete an examination for an insurance license;

(12) knowingly accepting insurance business from an individual who is not licensed;

(13) failing to comply with an administrative or court order imposing a child support obligation;

(14) failing to pay state income tax or comply with any administrative or court order directing payment of state income tax;

(15) being permanently or temporarily enjoined by any court of competent jurisdiction from engaging in or continuing any conduct or practice involving any aspect of the insurance business;

(16) making any communication to a potential buyer that gives the impression that the producer is acting on behalf of a government agency; or

(17) while performing residential mortgage activity regulated under chapter 58, violating any notification, disclosure, or record-keeping requirement, or any standard of conduct imposed by chapter 58.

Subd. 2. **Hearing rights.** (a) If the commissioner determines that the producer is in violation of this section, the commissioner may issue an order requiring a licensee to show cause why any or all of the following should not occur:

(1) the revocation or suspension of the license;

(2) the censuring of the licensee; or

(3) the imposition of a civil penalty.

The order must be calculated to give reasonable notice of the time and place for hearing on the matter and must state the reasons for the entry of the order. The commissioner may, by order, summarily suspend a license pending final determination of any order to show cause. If a license is suspended pending final determination of an order to show cause, a hearing on the merits must be held within 30 days of the issuance of the order of suspension. All hearings must be conducted in accordance with the provisions of chapter 14. After the hearing, the commissioner shall enter an order disposing of the matter as the facts require. If the licensee fails to appear at

a hearing after having been duly notified of it, the licensee shall be considered in default, and the proceeding may be determined against the licensee upon consideration of the order to show cause, the allegations of which may be considered to be true.

(b) In the event that the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner within 30 days for a hearing to determine the reasonableness of the commissioner's action. The hearing must be held within 30 days and must be held pursuant to the contested case provisions of chapter 14. If no hearing is requested within 30 days of service of the notice of nonrenewal or denial, the nonrenewal or denial becomes final.

Subd. 3. **Actions against business entity.** The license of a business entity may be suspended, revoked, or refused if the commissioner finds, after hearing, that an individual licensee's violation was known or should have been known by one or more of the partners, officers, or managers acting on behalf of the partnership or corporation and the violation was not reported to the commissioner in a timely manner.

Subd. 4. **Fine.** In addition to or in lieu of any applicable denial, suspension, or revocation of a license, a person may, after hearing, be subject to a civil fine according to section 45.027, subdivision 6.

Subd. 5. **Other authority of the commissioner.** If a license lapses, is surrendered, withdrawn, terminated, or otherwise becomes ineffective, the commissioner may institute a proceeding under this subdivision within two years after the license was last effective and enter a revocation or suspension order as of the last date on which the license was in effect, or impose a civil penalty as provided for in section 45.027, subdivision 6.

Subd. 6. **Conditions for relicensure.** A revocation of a license prohibits the licensee from making a new application for a license for at least two years from the effective date of the revocation. Further, the commissioner shall, as a condition of reapplication, require the applicant to obtain a performance bond issued by an insurer authorized to transact business in this state in the amount of \$20,000 or a greater amount the commissioner considers appropriate for the protection of citizens of this state in the event the commissioner grants the application. The bond must be filed with the commissioner, with the state of Minnesota as obligee, conditioned for the prompt payment to any aggrieved person entitled to payment of any amounts received by the licensee or to protect any aggrieved person from loss resulting from fraudulent, deceptive, dishonest, or other prohibited practices arising out of any transaction when the licensee was licensed or performed acts for which a license is required under this chapter. The bond remains operative for as long as that licensee is licensed. The bond required by this subdivision must provide coverage for all matters arising during the period of licensure.

**History:** 2001 c 117 art 1 s 14

#### **60K.44 TAX CLEARANCE CERTIFICATE.**

Subdivision 1. **Requirement for issuance or renewal of license.** In addition to the provisions of section 60K.43, the commissioner may not issue or renew a license if the commissioner of revenue notifies the commissioner and the licensee or applicant for a license that the licensee or applicant owes the state delinquent taxes in the amount of \$500 or more. The commissioner may issue or renew the license only if:

- (1) the commissioner of revenue issues a tax clearance certificate; and
- (2) the commissioner of revenue or the licensee or applicant forwards a copy of the clearance certificate to the commissioner.

The commissioner of revenue may issue a clearance certificate only if the licensee or applicant does not owe the state any uncontested delinquent taxes.

Subd. 2. **Definitions.** For purposes of this section, the following terms have the meanings given them:

(1) "taxes" are all taxes payable to the commissioner of revenue, including penalties and interest due on those taxes; and

(2) "delinquent taxes" do not include a tax liability if (i) an administrative or court action that contests the amount or validity of the liability has been filed or served, (ii) the appeal period to contest the tax liability has not expired, or (iii) the licensee or applicant has entered into a payment agreement to pay the liability and is current with the payments.

Subd. 3. **Contested case hearing.** In lieu of the notice and hearing requirements of section 60K.43, when a licensee or applicant is required to obtain a clearance certificate under this section, a contested case hearing must be held if the licensee or applicant requests a hearing in writing to the commissioner of revenue within 30 days of the date of the notice provided in subdivision 1. The hearing must be held within 45 days of the date the commissioner of revenue refers the case to the Office of Administrative Hearings. Notwithstanding any law to the contrary, the licensee or applicant must be served with 20 days' notice in writing specifying the time and place of the hearing and the allegations against the licensee or applicant. The notice may be served personally or by mail.

Subd. 4. **Identification required.** The commissioner shall require all licensees or applicants to provide their Social Security number and Minnesota business identification number on all license applications. Upon request of the commissioner of revenue, the commissioner must provide to the commissioner of revenue a list of all licensees and applicants, including the name and address, Social Security number, and business identification number. The commissioner of revenue may request a list of the licensees and applicants no more than once each calendar year.

**History:** 2001 c 117 art 1 s 15

#### **60K.45 SURRENDER OF LICENSE.**

The commissioner shall promptly notify the licensee and all appointing insurers, where applicable, of any suspension, revocation, or termination of the licensee's producer license by the commissioner. Upon receipt of the notice of suspension or revocation of a license, the licensee shall immediately deliver it to the commissioner.

**History:** 2001 c 117 art 1 s 16

#### **60K.46 REQUIRED AND PROHIBITED ACTS.**

Subdivision 1. **Personal solicitation of insurance sales.** (a) For the purpose of this section, "personal solicitation" means any contact by a producer, or any person acting on behalf of a producer, made for the purpose of selling or attempting to sell insurance, when either the producer or the person acting for the producer contacts the buyer in person, by telephone, or by electronic means, except:

(1) an attempted sale in which the buyer personally knows the identity of the producer, the name of the general agency, if any, which the producer represents, and the fact that the producer is an insurance producer;

(2) an attempted sale in which the prospective purchaser of insurance initiated the contact; or

(3) a personal contact which takes place at the producer's place of business.

(b) Before a personal solicitation, the producer or person acting for a producer shall, at the time of initial personal contact with the potential buyer, clearly and expressly disclose in writing:

(1) the name of the person making the contact;

(2) the name of the producer, general agency, or insurer that the person represents; and

(3) the fact that the producer, agency, or insurer is in the business of selling insurance.

If the initial personal contact is made by telephone, the disclosures required by this subdivision need not be made in writing.

Subd. 2. **Fees for services.** No person shall charge a fee for any services rendered in connection with the solicitation, negotiation, or servicing of any insurance contract unless:

(1) before rendering the services, a written statement is provided disclosing:

(i) the services for which fees are charged;

(ii) the amount of the fees;

(iii) that the fees are charged in addition to premiums; and

(iv) that premiums include a commission; and

(2) all fees charged are reasonable in relation to the services rendered.

Subd. 3. **Commissions or compensation.** A duly licensed producer may pay commissions or assign or direct that commissions be paid to a partnership of which the producer is a member, employee, or agent, or to a corporation of which the producer is an officer, employee, or agent.

Subd. 4. **Suitability of insurance.** In recommending the purchase of any life, endowment, individual accident and sickness, long-term care, annuity, life-endowment, or Medicare supplement insurance to a customer, a producer must have reasonable grounds for believing that the recommendation is suitable for the customer and must make reasonable inquiries to determine suitability. The suitability of a recommended purchase of insurance will be determined by reference to the totality of the particular customer's circumstances, including, but not limited to, the customer's income, the customer's need for insurance, and the values, benefits, and costs of the customer's existing insurance program, if any, when compared to the values, benefits, and costs of the recommended policy or policies. This subdivision does not apply to limited lines insurance under section 60K.38, subdivision 1, paragraph (c).

Subd. 5. **Premiums.** All premiums or other money received by a producer from an insured or applicant for insurance must be promptly deposited directly in a business checking, savings, or other similar account maintained by the producer or agency, unless the money is forwarded directly to the designated insurer.

Subd. 6. **Privacy of insured.** Except as otherwise provided by law, no insurance producer may disclose or cause to be disclosed to any other person the identity of a person insured through the producer without the consent of the insured.

Subd. 7. **Altering existing policies; written binders required.** An insurance producer having express authority to bind coverage, who orally agrees on behalf of an insurer to provide insurance coverage, or to alter an existing insurance agreement, shall execute and forward a memorandum or binder containing the terms of the oral agreement to the insured within five business days from the time the oral agreement is entered, unless the insurer forwards the information. The memorandum of coverage or binder may be forwarded by mail, facsimile, or electronically. The memorandum of coverage or binder must be forwarded by mail, unless the insured authorizes facsimile or electronic transmission of it. A memorandum of coverage or binder must be provided by the insurer to the policyholder upon request.

Subd. 8. **Certificates of insurance.** An insurance producer shall not issue a certificate of insurance, or other evidence of insurance coverage that either affirmatively or negatively amends, extends, or alters the coverage as provided by the policy, or provides notice of cancellation to a third party that exceeds the statutory notice requirement to a policyholder.

**History:** 2001 c 117 art 1 s 17; 2005 c 74 s 8; 2009 c 178 art 1 s 19

#### **60K.47 LIABILITY FOR PLACING INSURANCE IN UNAUTHORIZED COMPANY.**

Any person, whether or not licensed as an insurance producer, who participates in any manner in the sale of any insurance policy or certificate, or any other contract providing benefits, for or on behalf of any company that is required to be, but that is not authorized to engage in the business of insurance in this state, other than pursuant to sections 60A.195 to 60A.209, is personally liable for all premiums, whether earned or unearned, paid by the insured, and the premiums may be recovered by the insured. In addition, that person is personally liable for any loss the insured has sustained or may sustain if the loss is one resulting from a risk or hazard covered in the issued policy, certificate, or contract, or which would have been covered if the policy, certificate, or contract had been issued to the purchaser of the insurance.

**History:** 2001 c 117 art 1 s 18

#### **60K.48 COMMISSIONS.**

Subdivision 1. **Payment prohibited.** An insurance company or insurance producer shall not pay a commission, service fee, brokerage, or other valuable consideration to a person for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under sections 60K.30 to 60K.56 and is not so licensed.

Subd. 2. **Acceptance prohibited.** A person shall not accept a commission, service fee, brokerage, or other valuable consideration for selling, soliciting, or negotiating insurance in this state if that person is required to be licensed under sections 60K.30 to 60K.56 and is not so licensed.

Subd. 3. **Exceptions.** (a) Renewal or other deferred commissions may be paid to a person for selling, soliciting, or negotiating insurance in this state if the person was required to be licensed under sections 60K.30 to 60K.56 at the time of the sale, solicitation, or negotiation and was so licensed at that time.

(b) An insurer or insurance producer may pay or assign commissions, service fees, brokerages, or other valuable consideration to an insurance agency or to persons who do not sell, solicit, or negotiate insurance in this state, unless the payment would constitute an illegal rebate or otherwise violate section 72A.20, subdivision 10. A duly licensed producer may pay commissions

or assign or direct that commissions be paid to a partnership of which the producer is a member, employee, or agent, or to a corporation of which the agent is an officer, employee, or agent.

**History:** 2001 c 117 art 1 s 19; 2002 c 379 art 1 s 24

#### **60K.49 APPOINTMENTS.**

Subdivision 1. **Agent of insurer.** A person performing acts requiring a producer license under this chapter is at all times the agent of the insurer and not the insured.

Subd. 2. **Requirements.** Except as described in subdivision 3, a licensed insurance producer shall not engage in the business of insurance with an insurer unless the producer either:

(1) has been appointed by that insurer; or

(2) has the permission of the insurer to transact business on its behalf and obtains an appointment from the insurer within 15 days after the first application is submitted to the insurer.

Subd. 3. **Exception.** A licensed insurance producer may, in response to the needs of a customer, procure insurance in a class of insurance for which the producer is licensed from an insurer by which the producer is not appointed, if the transaction is consummated through an appointed agent of the insurer.

Subd. 4. **Procedure.** To appoint a producer as its agent, the appointing insurer shall file, in a format approved by the commissioner, a notice of appointment within 15 days from the date the agency contract is executed or the first insurance application is submitted. An insurer may also elect to appoint a producer to all or some insurers within the insurer's holding company system or group by the filing of a single appointment request. No insurer shall appoint a producer until the producer obtains a license under this chapter.

Subd. 5. **Eligibility.** Upon receipt of the notice of appointment, the commissioner shall verify within a reasonable time not to exceed 30 days that the insurance producer is eligible for appointment. If the insurance producer is determined to be ineligible for appointment, the commissioner shall notify the insurer within five days of its determination.

Subd. 6. **Fees.** An insurer shall pay an appointment fee, in the amount and method of payment set forth in section 60A.14, subdivision 1, for each insurance producer appointed by the insurer.

Subd. 7. **Period of effectiveness.** Appointments shall remain in force until voluntarily terminated by the insurer or the producer, or until the license of the producer has been terminated for any reason. An insurer may terminate the appointment at any time by notifying the commissioner and the producer under section 60K.51. If the insurer does not specify an effective date, the termination is effective on the date the notice is received by the commissioner. Within 30 days after the insurer gives notice to the commissioner, the insurer shall furnish the producer with a current statement of the producer's commission account.

**History:** 2001 c 117 art 1 s 20

#### **60K.50 LIMITATION ON APPOINTMENTS.**

No insurer or representative of an insurer shall knowingly appoint a producer who is known to the insurer or representative to have engaged in any of the activities in section 60K.43 or to be otherwise unqualified or unfit. Upon discovery by the insurer or a representative of the insurer that an appointed producer has engaged in any of the activities in section 60K.43 or is otherwise unqualified or unfit, the insurer shall immediately terminate the appointment and notify

the commissioner as set forth in section 60K.51. No insurer shall employ a producer whose license has been revoked.

**History:** 2001 c 117 art 1 s 21

### **60K.51 NOTIFICATION TO COMMISSIONER OF TERMINATION.**

Subdivision 1. **Termination for cause.** An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a producer shall notify the commissioner within 30 days following the effective date of the termination, using a format acceptable to the commissioner, if the reason for termination is one of the reasons set forth in section 60K.43 or the insurer has knowledge that the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in section 60K.43. Upon the written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the producer.

Subd. 2. **Termination without cause.** An insurer or authorized representative of the insurer that terminates the appointment, employment, or contract with a producer for any reason not set forth in section 60K.43 shall notify the commissioner within 30 days following the effective date of the termination, using a format acceptable to the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

Subd. 3. **Ongoing notification requirement.** The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a format acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner under subdivision 1 had the insurer then known of its existence.

Subd. 4. **Copy of notification to be provided to producer.** (a) Within 15 days after making the notification required by subdivisions 1 to 3, the insurer shall mail a copy of the notification to the producer at the producer's last known address. If the producer is terminated for cause for any of the reasons listed in section 60K.43, the insurer shall provide a copy of the notification to the producer at the producer's last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(b) Within 30 days after the producer has received the original or additional notification, the producer may file written comments concerning the substance of the notification with the commissioner. The producer shall, by the same means, simultaneously send a copy of the comments to the reporting insurer. The comments become a part of the commissioner's file and must accompany every copy of a report distributed or disclosed for any reason about the producer as permitted under subdivision 6.

Subd. 5. **Immunities.** (a) In the absence of actual malice, an insurer, the authorized representative of the insurer, a producer, the commissioner, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners or regulatory or law enforcement agencies is not subject to civil liability, and no civil cause of action arises against these entities or their respective agents or employees, as a result of any statement or information required by or provided pursuant to this section or any information relating to any statement that may be requested in writing by the commissioner, from an insurer or producer. The immunity granted in this subdivision extends to a statement by a

terminating insurer or producer to an insurer or producer limited solely and exclusively to whether a termination for cause under subdivision 1 was reported to the commissioner, provided that the propriety of any termination for cause under subdivision 1 is certified in writing by an officer or authorized representative of the insurer or producer terminating the relationship.

(b) In any action brought against a person that may have immunity under paragraph (a) for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that paragraph (a) does not apply because the person making the statement or providing the information did so with actual malice.

(c) Paragraph (a) or (b) does not abrogate or modify any existing statutory or common law privileges or immunities.

**Subd. 6. Classification of investigative data.** Any documents, materials, or other information in the control or possession of the Department of Commerce that is furnished by an insurer, producer, or an employee or agent of an insurer or producer acting on behalf of the insurer or producer, or obtained by the commissioner in an investigation pursuant to this section is classified as confidential data pursuant to section 13.41, subdivision 4, or private data pursuant to section 13.41, subdivision 2.

**History:** 2001 c 117 art 1 s 22; 2002 c 379 art 1 s 25

#### **60K.52 USE AND SHARING OF LICENSING AND INVESTIGATIVE DATA.**

Subdivision 1. **Commissioner's authority.** In order to assist in the performance of the commissioner's duties under sections 60K.30 to 60K.56, the commissioner:

(1) may share licensing data or any active or inactive investigative data with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates or subsidiaries, and with state, federal, and international law enforcement authorities if the recipient agrees to maintain the data in a manner consistent with its data classification;

(2) may receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(3) may enter into agreements governing sharing and use of information consistent with this subdivision.

No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information occurs as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in this subdivision.

Nothing in sections 60K.30 to 60K.56 prohibits the commissioner from releasing information concerning final, adjudicated actions, including for-cause terminations, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries of the National Association of Insurance Commissioners.

Subd. 2. **Penalties for failing to report.** An insurer, the authorized representative of the insurer, or a producer that fails to report as required under this section or that is found to have reported with actual malice by a court of competent jurisdiction may, after notice and hearing, have its license or certificate of authority suspended or revoked and may be fined in accordance with section 45.027.

**History:** 2001 c 117 art 1 s 23; 2002 c 379 art 1 s 26

### **60K.53 RECIPROCITY.**

Subdivision 1. **Nonresident license waiver.** The commissioner shall waive any requirements for a nonresident license applicant with a valid license from the applicant's home state, except the requirements imposed by section 60K.39, if the applicant's home state awards nonresident licenses to residents of this state on the same basis.

Subd. 2. **Continuing education requirements.** A nonresident producer's satisfaction of that person's home state's continuing education requirements for licensed insurance producers constitutes satisfaction of this state's continuing education requirements if the nonresident producer's home state recognizes the satisfaction of its continuing education requirements imposed upon producers from this state on the same basis.

**History:** 2001 c 117 art 1 s 24

### **60K.54 REPORTING OF ACTIONS.**

Subdivision 1. **Administrative actions.** A producer shall report to the commissioner any administrative action taken against the producer in another jurisdiction or by another governmental agency in this state within 30 days of the final disposition of the matter. This report must include a copy of the order, consent to order, or other relevant legal documents.

Subd. 2. **Criminal prosecutions.** Within 30 days of the initial pretrial hearing date, a producer shall report to the commissioner any criminal prosecution of the producer taken in any jurisdiction. The report must include a copy of the initial complaint filed, the order resulting from the hearing, and any other relevant legal documents. In addition, a producer shall report to the commissioner within ten days any conviction, guilty plea, or plea of nolo contendere to any felony or gross misdemeanor.

**History:** 2001 c 117 art 1 s 25

### **60K.55 FEES.**

Subdivision 1. **Renewal fees.** Each producer licensed under this chapter shall pay a renewal fee as prescribed by subdivision 2.

Subd. 2. **Licensing fees.** (a) In addition to fees provided for examinations and the technology surcharge required under paragraph (d), each insurance producer licensed under this chapter shall pay to the commissioner a fee of:

(1) \$50 for an initial life, accident and health, property, or casualty license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(2) \$50 for an initial variable life and variable annuity license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(3) \$50 for an initial personal lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(4) \$50 for an initial limited lines license issued to an individual insurance producer, and a fee of \$50 for each renewal;

(5) \$200 for an initial license issued to a business entity, and a fee of \$200 for each renewal;

(6) \$500 for an initial surplus lines license, and a fee of \$500 for each renewal;

(7) \$100 per location for the initial and renewal of a portable electronics insurance limited lines license issued to a vendor, as defined in section 60K.381, subdivision 1, paragraph (g), engaged in portable electronics transactions at ten or fewer locations in this state as set forth in its application and any subsequent notice under section 60K.381, subdivision 2, paragraph (b); and

(8) \$6,500 for the initial and renewal of a portable electronics insurance limited lines license issued to a vendor, as defined in section 60K.381, subdivision 1, paragraph (g), engaged in portable electronics transactions at more than ten locations in this state as set forth in its application and any subsequent notice under section 60K.381, subdivision 2, paragraph (b).

(b) Initial licenses issued to a business entity under this chapter and section 60K.381 are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Initial licenses issued to an individual insurance producer under this chapter before August 1, 2010, are valid for a period not to exceed 24 months and expire on October 31 of the renewal year assigned by the commissioner. Each individual license initially issued or renewed on or after August 1, 2010, expires on the last day of the birth month of the producer in the year that will result in the term of the license being at least 12 months, but no more than 24 months. Beginning with the first license expiration on the last day of the birth month of an individual producer as set forth in this paragraph, all such licenses must after this date expire biennially on the last day of the birth month of the individual producer that is two years subsequent to the preceding expiration date. Each renewal insurance producer license is valid for a period of 24 months.

(c) All fees are nonreturnable, except that an overpayment of any fee may be refunded upon proper application.

(d) In addition to the fees required under paragraph (a), individual insurance producers shall pay, for each initial license and renewal, a technology surcharge of up to \$40 under section 45.24, unless the commissioner has adjusted the surcharge as permitted under that section.

**History:** 2001 c 117 art 1 s 26; 1Sp2005 c 1 art 4 s 5; 2007 c 57 art 3 s 33; 2009 c 63 s 30,78; 2010 c 347 art 6 s 4

## **60K.56 CONTINUING INSURANCE EDUCATION.**

Subdivision 1. **Definition.** For the purposes of this section, "course" means a course, program of instruction, or seminar of continuing insurance education. A "professional designation examination" means a written, proctored, and graded examination the passage of which leads to a bona fide insurance or financial planning professional designation used by insurance producers.

Subd. 2. **Applicability.** This section applies to all natural persons licensed by this state to sell lines of insurance for which licensing examinations are required.

Subd. 3. **Exemptions.** This section does not apply to persons soliciting or selling solely on behalf of companies organized and operating according to chapter 67A.

Subd. 4. **Powers of the commissioner.** (a) The commissioner shall make the final determination as to accreditation and assignment of credit hours for courses.

(b) The commissioner shall adopt procedures for reporting compliance with the minimum education requirement.

(c) The commissioner may adopt rules according to chapter 14 to carry out the purposes of this section.

**Subd. 5. Criteria for course accreditation.** (a) The commissioner may accredit a course only to the extent it is designed to impart substantive and procedural knowledge of the insurance field. The burden of demonstrating that the course satisfies this requirement is on the individual or organization seeking accreditation. The commissioner is authorized to establish a procedure for renewal of course accreditation.

(b) The commissioner shall approve or disapprove professional designation examinations that are recommended for approval by the advisory task force. In order for an insurance producer to receive full continuing education credit for a professional designation examination, the producer must pass the examination. A producer may not receive credit for classroom instruction preparing for the professional designation examination and also receive continuing education credit for passing the professional designation examination.

**Subd. 6. Minimum education requirement.** Each person subject to this section shall complete a minimum of 24 credit hours of courses accredited by the commissioner during each licensing period. No more than one-half of the credit hours per licensing period required under this section may be credited to a person for attending courses either sponsored by, offered by, or affiliated with an insurance company or its agents. For the purposes of this subdivision, a course provided by a bona fide insurance trade association is not considered to be sponsored by, offered by, or affiliated with an insurance company or its agents regardless of the location of the course offering. A licensee must obtain three hours of the credit hours per licensing period from a class or classes in the area of ethics. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency. Courses not sponsored by an insurance company must be open to all unless an exception listed in section 45.30 applies.

**Subd. 7. Waiver of requirements.** The commissioner may grant a waiver or an extension of time up to 90 days to complete the minimum education requirement to an individual upon a showing of good cause. It is the licensed person's responsibility to request a waiver or extension on a form prescribed by the commissioner. As of the day the licensed person properly files a request for a waiver or extension, the license remains in effect until the commissioner notifies the licensed person of the commissioner's decision. The commissioner may approve a waiver or extension subject to any reasonable conditions. The person's license remains in effect during the compliance period determined by the commissioner. If the licensed person fails to comply with any reasonable conditions imposed by the commissioner, the commissioner shall terminate the license. If the request for a waiver or extension is denied by the commissioner, the licensed person shall have 30 days within which to satisfy the minimum education requirement involved in the request for a waiver or extension. If the minimum education requirement is not satisfied within the compliance period, the commissioner shall terminate the person's license.

**Subd. 8. Reporting.** (a) After completing the minimum education requirement, each person subject to this section shall file or cause to be filed a compliance report in accordance with the procedures adopted by the commissioner. A producer must not claim credit for continuing education not actually completed at the date of filing the report.

(b) An institution offering an accredited course shall comply with the procedure for reporting compliance adopted by the commissioner.

Subd. 9. **Enforcement.** If a person subject to this section fails to complete the minimum education or reporting requirement or to pay the prescribed fees for any licensing period, no license may be renewed or continued in force for that person for any class of insurance beginning the day after the renewal was due and that person may not act as an insurance producer until the person has demonstrated to the satisfaction of the commissioner that all requirements of this section have been complied with or that a waiver or extension has been obtained.

**History:** 2001 c 117 art 1 s 27; 2002 c 330 s 4-6; 2006 c 204 s 7,8; 2009 c 63 s 31,78; 2010 c 275 art 1 s 5; 2011 c 108 s 31