Senate Counsel, Research, and Fiscal Analysis

G-17 STATE CAPITOL
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Senate

State of Minnesota

S.F. No. 2941 - Fire Safety Account (delete-everything amendment)

Author: Senator Ann H. Rest

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890)

Date: March 28, 2006

This bill involves a change in what is now a tax on fire insurance premiums. The tax rate is currently one-half of one percent of those premiums. The premium base is commercial fire insurance and the portion of homeowner's insurance premiums attributable to fire coverage. The taxes collected are now deposited in the general fund.

This bill would change the tax on insurers to a surcharge on policyholders of policies that cover fire. Insurers would collect the surcharge when collecting the premium. Changing the tax on insurers to a surcharge on policyholders eliminates the retaliatory insurance premium tax imposed by other states on Minnesota insurance companies, due to our current fire tax. The surcharge would equal 0.75 percent of gross premiums and assessments, less return premiums, on direct business received by a company for homeowner's and commercial fire insurance policies in this state. The bill establishes a fire safety account in the state treasury, to receive the surcharge payments and distribute them for fire safety activities. A fire service advisory committee is established to provide funding recommendations to the Commissioner of Public Safety.

MSG:cs

A-1 adopted.
recommended to pass, as amended,
and be re-referred to Crime Prevention.

Senators Rest, Higgins, Murphy and Day introduced–

S.F. No. 2941: Referred to the Committee on Commerce.

A bill for an act

relating to public safety; establishing the fire safety account from revenues on fire premiums and assessments; abolishing the fire insurance tax; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. **[299F.012] FIRE SAFETY ACCOUNT.**

Subdivision 1. **Insurance policies.** (a) Except as otherwise provided in subdivision 6, each insurer engaged in writing policies of homeowners insurance authorized in section 60A.06, subdivision 1, clause (1)(c), or commercial policies shall collect $5.25 for each homeowner's insurance policy and the following assessment for commercial insurance policies:

(1) for premiums of under $300 per annum, $12.50;

(2) for premiums of $300 to $1,200 per annum, $25; and

(3) for premiums of over $1,200 per annum, $50.

(b) The amount collected under paragraph (a) may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The amount must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this section at least quarterly to the Department of Revenue for deposit in the fire safety account established pursuant to subdivision 2.

Subd. 2. **Fire safety account, annual transfers, allocation.** A special account, to be known as the fire safety account, is created in the state treasury. The account consists of the proceeds under subdivision 1. $250,000 of the revenue in the account each year is appropriated to the Department of Revenue to offset the cost of collecting and transferring

the funds. Revenue in excess of $250,000 is appropriated to the Department of Public Safety and must be used for the activities and programs identified by the commissioner of the Department of Public Safety as essential fire service programs within Minnesota.

Subd. 3. **Authorized programs within department.** From the revenues appropriated under subdivision 2, the commissioner of public safety shall expend funds for the activities and programs identified by the advisory committee established under subdivision 4 and recommended to the commissioner of public safety. These funds are to be used to provide resources needed for identified activities and programs of the Minnesota fire service and to ensure the State Fire Marshal Division responsibilities are fulfilled.

Subd. 4. **Fire service advisory committee.** The Fire Service Advisory Committee shall provide recommendations to the commissioner of public safety on fire service related issues and shall consist of representatives of each of the following organizations: two appointed by the president of the Minnesota State Fire Chiefs Association, two appointed by the president of the Minnesota State Fire Department Association, two appointed by the president of the Minnesota Professional Firefighters, two appointed by the president of the League of Minnesota Cities, one appointed by the president of the Minnesota Association of Townships, one appointed by the president of the Insurance Federation of Minnesota, one appointed jointly by the presidents of the Minnesota Chapter of the International Association of Arson Investigators and the Fire Marshals Association of Minnesota, and the commissioner of public safety or the commissioner's designee. The committee shall provide funding recommendations to the commissioner of public safety from the fire safety fund for the following purposes:

(1) for the Minnesota Board of Firefighter Training and Education;

(2) for programs and staffing for the State Fire Marshal Division; and

(3) for fire-related regional response team programs and any other fire service programs that have the potential for statewide impact.

Subd. 5. **Carryover.** The commissioner of public safety shall report any funds not spent in a fiscal year to the chairs of the committees of the house of representatives and the senate having jurisdiction over public safety finance. Money in the account does not cancel but remains available for expenditures for the programs identified in subdivisions 3 and 4.

Subd. 6. **Exemptions.** (a) This section does not apply to a farmers' mutual fire insurance company or township mutual fire insurance company in Minnesota organized under chapter 67A.

(b) An insurer described in section 297I.05, subdivisions 3 and 4, authorized to transact business in Minnesota shall elect to remit to the Department of Revenue for deposit in the fire safety account either (1) the amount collected under this section or (2)

a tax of one-half of one percent on the gross fire premiums and assessments, less return premiums, on all direct business received by the insurer during the year.

(c) For purposes of this subdivision, "gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise.

Sec. 2. **REPEALER.**

Minnesota Statutes 2004, section 297I.05, subdivision 6, is repealed.

Sec. 3. **EFFECTIVE DATE; APPLICATION.**

Sections 1 and 2 are effective July 1, 2007, and apply to policies written or renewed on or after that date.

297I.05 TAX IMPOSED.

Subd. 6. **Fire insurance tax.** A tax is imposed on every licensed company, including reciprocals or interinsurance exchanges, doing business in this state, except farmers' mutual fire insurance companies and township fire insurance companies. The rate of tax is equal to one-half of one percent of the gross fire premiums and assessments, less return premiums, on all direct business received by the company in this state, or by its agents for it, in cash or otherwise, during the year. "Gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise.

Senator Best moves to amend S.F. No. 2941 as follows: Adopted.

Delete everything after the enacting clause and insert:

"Section 1. **[299F.012] FIRE SAFETY ACCOUNT.**

Subdivision 1. **Insurance policies surcharge.** (a) Except as otherwise provided in subdivision 6, each insurer engaged in writing policies of homeowners insurance authorized in section 60A.06, subdivision 1, clause (1)(c), or commercial fire policies shall collect a surcharge equal to .75 percent of the gross premiums and assessments, less return premiums, on direct business received by the company, or by its agents for it, for homeowner's and commercial fire insurance policies in this state. The definitions under section 297I.01 apply for purposes of this section.

(b) The surcharge amount collected under paragraph (a) may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The surcharge amount must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this section at least quarterly to the Department of Revenue for deposit in the fire safety account established pursuant to subdivision 2.

Subd. 2. **Fire safety account, annual transfers, allocation.** A special account, to be known as the fire safety account, is created in the state treasury. The account consists of the proceeds under subdivision 1. $250,000 of the revenue in the account each year is appropriated to the Department of Revenue to offset the cost of collecting and transferring the funds. Revenue in excess of $250,000 is appropriated to the Department of Public Safety and must be used for the activities and programs identified by the commissioner of the Department of Public Safety as essential fire service programs within Minnesota.

Subd. 3. **Authorized programs within department.** From the revenues appropriated under subdivision 2, the commissioner of public safety shall expend funds for the activities and programs identified by the advisory committee established under subdivision 4 and recommended to the commissioner of public safety. These funds are to be used to provide resources needed for identified activities and programs of the Minnesota fire service and to ensure the State Fire Marshal Division responsibilities are fulfilled.

Subd. 4. **Fire service advisory committee.** The Fire Service Advisory Committee shall provide recommendations to the commissioner of public safety on fire service related issues and shall consist of representatives of each of the following organizations: two appointed by the president of the Minnesota State Fire Chiefs Association, two appointed by the president of the Minnesota State Fire Department Association, two appointed by the president of the Minnesota Professional Firefighters, two appointed by the president of the

League of Minnesota Cities, one appointed by the president of the Minnesota Association of Townships, one appointed by the president of the Insurance Federation of Minnesota, one appointed jointly by the presidents of the Minnesota Chapter of the International Association of Arson Investigators and the Fire Marshals Association of Minnesota, and the commissioner of public safety or the commissioner's designee. The commissioner of public safety must ensure that at least three of the members of the advisory committee work and reside in counties outside of the seven-county metropolitan area. The committee shall provide funding recommendations to the commissioner of public safety from the fire safety fund for the following purposes:

(1) for the Minnesota Board of Firefighter Training and Education;

(2) for programs and staffing for the State Fire Marshal Division; and

(3) for fire-related regional response team programs and any other fire service programs that have the potential for statewide impact.

Subd. 5. **Report; accounting; carryover.** The commissioner of public safety shall, by December 1 of each year, (1) provide an accounting of how the funds in the fire safety account were spent in the preceding fiscal year and (2) report any funds not spent in a fiscal year to the chairs of the committees of the house of representatives and the senate having jurisdiction over public safety finance. Money in the account does not cancel but remains available for expenditures for the programs identified in subdivisions 3 and 4.

Subd. 6. **Exemptions.** (a) This section does not apply to a farmers' mutual fire insurance company or township mutual fire insurance company in Minnesota organized under chapter 67A.

(b) An insurer described in section 297I.05, subdivisions 3 and 4, authorized to transact business in Minnesota shall elect to remit to the Department of Revenue for deposit in the fire safety account either (1) the surcharge amount collected under this section or (2) a tax of one-half of one percent on the gross fire premiums and assessments, less return premiums, on all direct business received by the insurer during the year.

(c) For purposes of this subdivision, "gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise.

Sec. 2. **REPEALER.**

Minnesota Statutes 2004, section 297I.05, subdivision 6, is repealed.

Sec. 3. **EFFECTIVE DATE; APPLICATION.**

Sections 1 and 2 are effective July 1, 2007, and apply to policies written or renewed on or after that date."

3.1 Amend the title accordingly

SENATE COMMERCE COMMITTEE

Date: 3/29/06

ROLL CALL VOTE ON: delete section 1 SF 2941

S.F. _____ **H.F.** _____ **Resolution** _____

Name:	YEA	NAY	PASS	ABSENT
SCHEID		X		
ANDERSON		X		
BELANGER				X
JUNGBAUER				X
KISCADEN		X		
LARSON				
LECLAIR	X			
LOUREY		X		
METZEN		X		
MICHEL		X		
PAPPAS				X
POGEMILLER				X
REITER			abstains	
REST		X		
SAMS		X		
SPARKS		X		

YEAS 1 **NAYES** 9 **MOTION CARRIED** _____ **MOTION FAILED** X

Requested by: Leclair **Supported by:** _____

SENATE COMMERCE COMMITTEE

Date: 3/29/06

ROLL CALL VOTE ON:
SF 2941 as amended

S.F. _____ **H.F.** _____ **Resolution** _____

Name:	YEA	NAY	PASS	ABSENT
SCHEID	X			
ANDERSON	X			
BELANGER				X
JUNGBAUER				X
KISCADEN	X			
LARSON				X
LECLAIR		X		
LOUREY	X			
METZEN	X			
MICHEL	X			
PAPPAS				X
POGEMILLER				X
REITER			abstain	
REST	X			
SAMS	X			
SPARKS	X			

YEAS 9 **NAYES** 1 **MOTION CARRIED** X **MOTION FAILED** ____

Requested by: Metzen **Supported by:** _____

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2941: A bill for an act relating to public safety; establishing the fire safety account from revenues on fire premiums and assessments; abolishing the fire insurance tax; appropriating money; proposing coding for new law in Minnesota Statutes, chapter 299F; repealing Minnesota Statutes 2004, section 297I.05, subdivision 6.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. **[299F.012] FIRE SAFETY ACCOUNT.**

Subdivision 1. **Insurance policies surcharge.** (a) Except as otherwise provided in subdivision 6, each insurer engaged in writing policies of homeowners insurance authorized in section 60A.06, subdivision 1, clause (1)(c), or commercial fire policies shall collect a surcharge equal to .75 percent of the gross premiums and assessments, less return premiums, on direct business received by the company, or by its agents for it, for homeowner's and commercial fire insurance policies in this state. The definitions under section 297I.01 apply for purposes of this section.

(b) The surcharge amount collected under paragraph (a) may not be considered premium for any purpose, including the computation of premium tax or agents' commissions. The surcharge amount must be separately stated on either a billing or policy declaration sent to an insured. Insurers shall remit the revenue derived from this section at least quarterly to the Department of Revenue for deposit in the fire safety account established pursuant to subdivision 2.

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Subd. 6. **Exemptions.** (a) This section does not apply to a farmers' mutual fire insurance company or township mutual fire insurance company in Minnesota organized under chapter 67A.

(b) An insurer described in section 297I.05, subdivisions 3 and 4, authorized to transact business in Minnesota shall elect to remit to the Department of Revenue for deposit in the fire safety account either (1) the surcharge amount collected under this section or (2) a tax of one-half of one percent on the gross fire premiums and assessments, less return premiums, on all direct business received by the insurer during the year.

(c) For purposes of this subdivision, "gross fire premiums and assessments" includes premiums on policies covering fire risks only on automobiles, whether written under floater form or otherwise.

Sec. 2. **REPEALER.**

Minnesota Statutes 2004, section 297I.05, subdivision 6, is repealed.

Sec. 3. **EFFECTIVE DATE; APPLICATION.**

Sections 1 and 2 are effective July 1, 2007, and apply to policies written or renewed on or after that date."

Amend the title accordingly

And when so amended the bill do pass and be re-referred to the Committee on Crime Prevention and Public Safety. Amendments adopted. Report adopted.

Linda Scheid
.....
(Committee Chair)

March 29, 2006 .....
(Date of Committee recommendation)

Senate Counsel, Research, and Fiscal Analysis

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Senate

State of Minnesota

S.F. No. 3079 - Cosmetology Regulation

Author: Senator Linda Higgins

Prepared by: Christopher B. Stang, Senate Counsel (651/296-0539)

Date: March 27, 2006

This bill allows an ex-felon to get a cosmetology license provided all other licensing requirements are met.

CBS:cs

A-1

Senators Higgins, Robling, Senjem and Berglin introduced–

S.F. No. 3079: Referred to the Committee on Commerce.

A bill for an act

relating to occupations and professions; modifying licensing provision for barbers and cosmetologists; amending Minnesota Statutes 2004, section 155A.07, by adding a subdivision.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 155A.07, is amended by adding a subdivision to read:

Subd. 2a. **Prohibition; license denial.** An applicant who is an ex-felon shall not be denied a license if the applicant meets all of the licensing requirements established by the board.

Senator Anderson moves to amend S.F. No. 3079 as follows: Adopted

Page 1, line 8, delete "is an ex-felon" and insert "has a felony record"

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 3079: A bill for an act relating to occupations and professions; modifying licensing provision for barbers and cosmetologists; amending Minnesota Statutes 2004, section 155A.07, by adding a subdivision.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 8, delete "is an ex-felon" and insert "has a felony record"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Linda Scheid
.....
(Committee Chair)

March 29, 2006 .....
(Date of Committee recommendation)

Senate Counsel, Research, and Fiscal Analysis

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Senate
State of Minnesota

S.F. No. 2787 - Insurance Regulatory Bill

Author: Senator Linda Scheid

Prepared by: Christopher B. Stang, Senate Counsel (651/296-0539)

Date: March 27, 2006

Article 1: Mutual Holding Company Changes

Article 1 of the bill provides a process for a specific type of corporate reorganization of a mutual insurance holding company system. Section 4 is the key section of this article. The situation involves a former mutual insurance company that "de-mutualized" several years ago by creating a mutual insurance holding company to own the stock in the former mutual insurance company, which became a for-profit insurance company as part of the reorganization. This article provides a process for that insurance holding company system to "remutualize" by having the (parent) mutual insurance holding company merge with its for-profit subsidiary, with the surviving entity being the subsidiary, which would be "remutualized" in the process, thereby becoming again a mutual insurance company.

Article 2: Interstate Insurance Product Regulation Compact

By enacting this article, Minnesota would join the interstate insurance product regulation compact. The compact goes into effect after being joined by at least 26 states or by states that together comprise 40 percent of insurance premiums paid for insurance products that would be subject to the compact.

The purpose of the compact is to create an interstate commission to determine uniform standards for individual and group annuity contracts, life insurance, disability income insurance, and long-term care insurance. The commission would then approve a product (an insurance policy or annuity contract) for sale in all of the compacting states, if the product meets the uniform standards. A compacting state does have the right to opt-out of a particular uniform standard by legislation or rule. If the opt-out is by rule, the state must follow a procedure to opt-out of that standard. A state

may, when enacting this compact, prospectively opt-out of all uniform standards involving long-term care insurance.

A state may join only by enacting the compact without any changes, except as described above for long-term care insurance. The only other choice a compacting state can make is to state in the legislation how that state's representative on the commission would be determined. This bill designates the commissioner of commerce as Minnesota's representative.

The commission would be funded by filing fees paid by insurance companies when they request approval of a product by the commission. The commission could receive donations from compacting states and other sources to cover its start-up costs.

Article 3: Miscellaneous Insurance Regulatory Changes

Section 1 eliminates a requirement that a notice warning purchasers of surplus lines insurance be printed, typed, or stamped in red ink. This change retains the notice requirement, but permits any color ink.

Section 2 changes the date of an annual registration required for insurance companies that are part of an insurance holding company system.

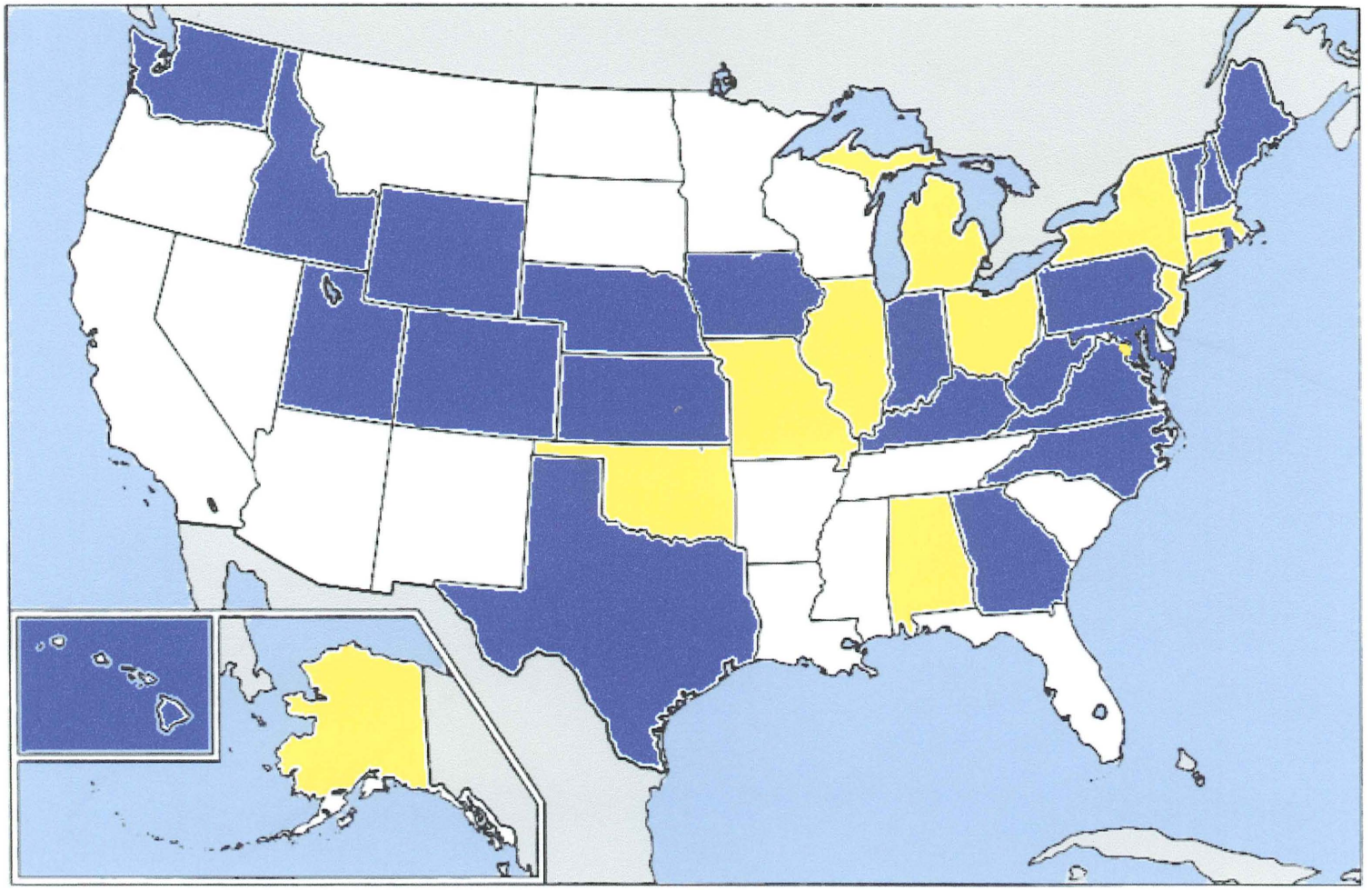
Section 3 permits insurance agents to get continuing education credit for types of courses that are more oriented toward efficient business practices and less toward substantive knowledge of insurance.

Section 4 permits insurance agents to get continuing education credit for courses focused on professional development in all phases of being an insurance agent, rather than being limited to courses on substantive insurance content.

Section 5 permits a fraternal benefit society to reinsure an affiliated entity under circumstances approved by the commissioner, including reinsurance of an affiliate insurance company.

CBS:cs

NAIC IIPRC ADOPTION



BLUE – States that have already adopted the IIPRC
YELLOW – States where the IIPRC is pending

recommended to pass
re-referred to Judiciary.

Senators Scheid, Metzen, Sams, Sparks and Reiter introduced–

S.F. No. 2787: Referred to the Committee on Commerce.

A bill for an act

relating to insurance; modernizing insurance regulation; amending mutual holding company laws; enacting the interstate insurance product regulation compact; making miscellaneous insurance law changes; amending Minnesota Statutes 2004, sections 60A.075, subdivision 1; 60A.077, subdivisions 1, 3, by adding a subdivision; 60A.207; 60D.19, subdivision 1; 60K.56, subdivisions 5, 6; 64B.13; Minnesota Statutes 2005 Supplement, sections 66A.02, subdivisions 2, 3; 66A.07, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 60A.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

ARTICLE 1

MUTUAL HOLDING COMPANY CHANGES

Section 1. Minnesota Statutes 2004, section 60A.075, subdivision 1, is amended to read:

Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this subdivision have the meanings given them.

(b) "Converting mutual insurer" means a Minnesota domestic mutual insurance company seeking to reorganize according to this section.

(c) "Converting mutual holding company" means a Minnesota domestic mutual insurance holding company seeking to reorganize according to this section.

(d) "Converting mutual company" means a converting mutual insurer or a converting mutual holding company seeking to convert according to this section.

(e) "Reorganized company" means a converting mutual insurer or a converting mutual holding company, as the case may be, that has reorganized according to this section.

(f) "Eligible member" means:

(1) for converting mutual insurers, a policyholder whose policy is in force as of the record date. Unless otherwise provided in the plan, a person ~~insured~~ covered under a group policy is not an eligible member, ~~unless~~ except that a person insured under a group life insurance policy is an eligible member if, on the record date:

(i) the person is insured ~~or covered~~ under a group life policy ~~or group annuity contract~~ under which ~~funds are~~ cash value has accumulated and been allocated to the ~~respective covered~~ insured persons; and

~~(ii) the person has the right to direct the application of the funds so allocated;~~

~~(iii)~~ (ii) the group policyholder makes no contribution to the premiums ~~or deposits~~ for the group policy ~~or contract~~; and

~~(iv) the converting mutual company has the names and addresses of the persons covered under the group life policy or group annuity contract;~~

(2) for converting mutual holding companies, a person who is a member of the converting mutual holding company, as defined by the converting mutual holding company's articles of incorporation and bylaws, determined as of the record date.

(g) "Plan of conversion" or "plan" means a plan adopted by a converting mutual company's board of directors under this section.

(h) "Policy" means a policy or contract of insurance, including an annuity contract, issued by a converting mutual insurer or issued by a ~~stock~~ reorganized insurance company subsidiary of a mutual holding company, but excluding individual noncontributory insurance policies for which the premiums are paid by a financial institution, association, employer, or other institutional entity.

(i) "Active participating policy" means an individual policy of a converting mutual company or its subsidiary that: (1) is a participating policy; (2) is among a class of similar policies that have been credited with policy dividends at any time within the 12 months preceding the effective date of the conversion or that will, under the then current dividend scale, be credited with policy dividends if in force on a future policy anniversary; (3) gives rise to membership interests in the converting mutual company; and (4) is in force on the effective date or some other reasonable date identified in the plan.

(j) "Commissioner" means the commissioner of commerce.

(k) "Effective date of a conversion" means the date determined according to subdivision 6.

(l) "Record date" means the date that the converting mutual company's board of directors adopts a plan of conversion, unless another date is specified in the plan of conversion and approved by the commissioner.

(m) "Membership interests" means all rights as members of the converting mutual company, including, but not limited to, the rights to vote and to participate in any distributions of distributable net worth, whether or not incident to the company's liquidation.

(n) "Distributable net worth" means the value of the converting mutual company as of the record date of the conversion, or other date approved by the commissioner, determined as set forth in the plan and approved by the commissioner. The commissioner may approve a valuation method based on any of the following: (1) the surplus as regards policyholders of a converting mutual insurer determined according to statutory accounting principles, which may be adjusted to reflect the current market values of assets and liabilities, together with any other adjustments that are appropriate in the circumstances; (2) the net equity of a converting mutual holding company or a converting mutual insurer determined according to generally accepted accounting principles, which may be adjusted to reflect the current market values of assets and liabilities, together with any other adjustments that are appropriate in the circumstances; (3) the fair market value of the converting mutual company determined by an independent, qualified person; or (4) any other reasonable valuation method.

(o) "Permitted issuer" means: (1) a corporation organized and owned by the converting mutual company or by any other insurance company or insurance holding company for the purpose of purchasing and holding securities representing a majority of voting control of the reorganized company; (2) a stock insurance company owned by the converting mutual company or by any other insurance company or insurance holding company into which the converting mutual company will be merged; or (3) any other corporation approved by the commissioner.

Sec. 2. Minnesota Statutes 2004, section 60A.077, subdivision 1, is amended to read:

Subdivision 1. **Formation.** (a) A domestic mutual insurance company, upon approval of the commissioner, may reorganize by forming an insurance holding company based upon a mutual plan and continuing the corporate existence of the reorganizing insurance company as a stock insurance company. The commissioner, if satisfied that the interests of the policyholders are properly protected and that the plan of reorganization is fair and equitable to the policyholders, may approve the proposed plan of reorganization and may require as a condition of approval the modifications of the proposed plan of reorganization as the commissioner finds necessary for the protection of the policyholders' interests. The commissioner shall retain jurisdiction over the mutual insurance holding

company according to this section and chapter 60D to assure that policyholder and member interests are protected.

(b) All of the initial voting shares of the capital stock of the reorganized insurance company must be issued to the mutual insurance holding company or to an intermediate stock holding company. The membership interests of the policyholders of the reorganized insurance company become membership interests in the mutual insurance holding company. "Membership interests" means those interests described in section 60A.075, subdivision 1, paragraph ~~(h)~~ (m). Policyholders of the reorganized insurance company shall be members of the mutual insurance holding company and their voting rights must be determined in accordance with the articles of incorporation and bylaws of the mutual insurance holding company. Policyholders of any other insurance company subsidiary of a mutual insurance holding company shall not be members of the mutual insurance holding company unless otherwise specified in the articles of incorporation or bylaws of the mutual insurance holding company. For purposes of this paragraph, "other insurance company subsidiary" means an insurance company subsidiary of a mutual insurance holding company that has not reorganized under this chapter or a comparable statute in another jurisdiction. The mutual insurance holding company shall, at all times, directly or through one or more intermediate stock holding companies, control a majority of the voting shares of the capital stock of the reorganized insurance company, taking into account any potential dilution resulting from convertible securities.

(c) A majority of the board of directors of a mutual insurance holding company must be disinterested directors. For purposes of this section, a director is disinterested if (i) the director is not or has not within the past two years been an officer or employee of the mutual insurance holding company or any subsidiary or predecessor corporation, and (ii) the director does not hold, directly or indirectly, a material ownership interest in any subsidiary of the mutual insurance holding company. An ownership interest is material if it represents more than one-half of one percent of the voting securities of the issuer, or a larger percentage as the commissioner may approve.

Sec. 3. Minnesota Statutes 2004, section 60A.077, subdivision 3, is amended to read:

Subd. 3. **Plan of reorganization; approval by commissioner.** (a) A reorganizing or merging insurer or a merging mutual insurance holding company shall, by the affirmative vote of a majority of its board of directors, adopt a plan of reorganization or merger consistent with the requirements of this section and file the plan with the commissioner. At any time before the approval of a plan by the commissioner, the company, by the

affirmative vote of a majority of its directors, may amend or withdraw the plan. The plan must provide for the following:

(1) in the case of a reorganization under subdivision 1, establishing a mutual insurance holding company with at least one stock insurance company subsidiary, or in the case of a reorganization under subdivision 2, a description of the terms and conditions of the proposed merger;

(2) analyzing the benefits and risks attendant to the proposed reorganization, including the rationale for the reorganization and analysis of the comparative benefits and risks of a demutualization under section 60A.075;

(3) protecting the immediate and long-term interests of existing policyholders;

(4) ensuring immediate membership in the mutual insurance holding company of all existing policyholders of the reorganizing domestic insurance company;

(5) describing a plan providing for membership interests of future policyholders;

(6) describing the number of members of the board of directors of the mutual insurance holding company required to be policyholders;

(7) describing the mutual insurance holding company's plan for distributions to members or other uses of accumulated mutual holding company earnings;

(8) describing the nature and content of the annual report and financial statement to be sent or otherwise made available to each member;

(9) describing a plan to send or otherwise make available to members the annual report and financial statement;

(10) a copy of the proposed mutual insurance holding company's articles of incorporation and bylaws specifying all membership rights;

~~(10)~~ (11) the names, addresses, and occupational information of all corporate officers and members of the proposed mutual insurance holding company board of directors;

~~(11)~~ (12) information sufficient to demonstrate that the financial condition of the reorganizing or merging company will not be materially diminished upon reorganization, including information concerning any subsidiaries of the reorganizing or merging insurers that will become subsidiaries of the mutual insurance holding company or an intermediate holding company as part of the reorganization;

~~(12)~~ (13) a copy of the articles of incorporation and bylaws for any proposed insurance company subsidiary or intermediate holding company subsidiary;

~~(13)~~ (14) describing any plans for an initial sale or subscription of stock or other securities of the reorganized insurance company or any intermediate holding company; and

~~(14)~~ (15) any other information requested by the commissioner or required by rule.

(b) The commissioner may approve the plan upon finding that the requirements of this section have been fully met and the plan will protect the immediate and long-term interests of policyholders.

(c) The commissioner may retain, at the reorganizing or merging mutual company's expense, any qualified experts not otherwise a part of the commissioner's staff to assist in reviewing the plan.

(d) The commissioner may, but need not, conduct a public hearing regarding the proposed plan. The hearing must be held within 30 days after submission of a completed plan of reorganization to the commissioner. The commissioner shall give the reorganizing mutual company at least 20 days' notice of the hearing. At the hearing, the reorganizing mutual company, its policyholders, and any other person whose interest may be affected by the proposed reorganization, may present evidence, examine and cross-examine witnesses, and offer oral and written arguments or comments according to the procedure for contested cases under chapter 14. The persons participating may conduct discovery proceedings in the same manner as prescribed for the district courts of this state. All discovery proceedings must be concluded no later than three days before the scheduled commencement of the public hearing.

Sec. 4. Minnesota Statutes 2004, section 60A.077, is amended by adding a subdivision to read:

Subd. 13. **Conversion.** (a) With the approval of the commissioner, a domestic insurance company that previously reorganized under this section into a stock subsidiary of a mutual insurance holding company may convert back into a mutual insurance company. It shall effect the conversion by merging with its parent mutual insurance holding company (a "parent mutual"), but only if the parent mutual owns or controls, directly or indirectly, all of the voting shares of capital stock of the reorganized insurance company. The reorganized subsidiary, as the surviving company, shall continue its corporate existence as a domestic mutual insurance company (a "remutualized company"). A conversion under this subdivision may, but need not, occur in connection with the simultaneous or subsequent merger of the remutualized company with a domestic or foreign mutual insurance company. Section 61A.37 is not applicable to a conversion under this subdivision.

(b) The conversion can be effected by the parent mutual pursuant to a plan of conversion adopted as follows:

(1) The parent mutual shall, by the affirmative vote of a majority of its board of directors, adopt a plan of conversion consistent with the requirements of this subdivision.

(2) The parent mutual, by the affirmative vote of a majority of its board of directors, may amend the plan at any time before approval of the plan by the commissioner and may withdraw the plan at any time before the effective date of the plan.

(3) The duties of the board of directors of the parent mutual, in considering or acting upon a proposed plan of conversion or related transaction, shall be as set forth in section 302A.251 and, to the extent not inconsistent with that section, the parent mutual's articles of incorporation and bylaws.

(c) The parent mutual shall file with the commissioner an application for approval of, and permission to carry out the reorganization according to, the plan of conversion. The application must include the following:

(1) the plan of conversion;

(2) the form of notice of meeting for eligible members to vote on the plan;

(3) the form of any proxies to the solicited from eligible members;

(4) the proposed articles of incorporation and bylaws of the remutualized company;

(5) information required under chapter 60D if the plan results in a change of control of the remutualizing company;

(6) if required by the commissioner, an independent actuarial opinion on matters affecting the structure or fairness of the plan; and

(7) other information or documentation required by the commissioner or required by rule.

(d) The commissioner shall determine, within 30 days of submission of the application, whether the application is complete.

(e) If the plan of conversion proposes a simultaneous merger of the remutualized company with a foreign or domestic mutual insurance company, the commissioner may conduct concurrent proceedings under this subdivision and section 60A.16.

(f) The commissioner may retain, at the parent mutual's expense, qualified experts not otherwise a part of the commissioner's staff, including without limitation, actuaries, accountants, investment bankers, and attorneys, to assist in reviewing the plan and supplemental materials and valuations.

(g) The commissioner may, but need not, conduct a public hearing regarding the proposed plan of conversion. If a hearing is to be held, the commissioner shall designate a date for the public hearing promptly upon determining that the application is complete and that the forms of notice are adequate. The public hearing must be held on one or more days, the first beginning within 90 days after the date on which the commissioner determines the application is complete, unless the parent mutual requests, and the commissioner agrees to, a longer period for the purpose of preparing and distributing the

notices required by this paragraph and by paragraph (i), clause (1). The hearing shall be in the nature of a legislative hearing and shall not constitute or be considered a contested case under chapter 14. The hearing may be conducted by the commissioner or by a person designated by the commissioner, which designee may be an administrative law judge. The parent mutual shall provide its eligible members with at least 45 days' notice of the hearing, the notice to be in the form, and provided in a manner, approved by the commissioner. The purpose of the hearing is to receive comments and information for the purpose of aiding the commissioner in making a decision on the plan of conversion. Persons wishing to make comments and submit information may submit written statements before the public hearing and may appear and be heard at the hearing. The commissioner's order or determination must be issued within 45 days after the closing of the record of the hearing by the commissioner or the hearing officer, as applicable, which record must not be closed until the record includes certification of the vote on the plan of conversion by the eligible members of the parent mutual. The commissioner shall issue a written decision detailing the reasons why the parent mutual company's plan of conversion is approved or disapproved.

(h) The commissioner shall approve the application and permit the conversion according to the plan if the commissioner finds that:

(1) the provisions of this subdivision have been fully met; and

(2) the plan is not unfair or inequitable to the members of the parent mutual.

The commissioner's order approving or disapproving a plan of conversion is a final agency decision subject to appeal according to sections 14.63 to 14.68.

(i)(1) No later than 90 days following the date of the public hearing, if any, or the date the commissioner determines the application is complete if no hearing is held, the parent mutual shall give all eligible members notice of a regular or special meeting of the members called for the purpose of considering the plan and any corporate actions that are a part of, or are reasonably attendant to, the accomplishment of the plan, including without limitation, any proposed merger of the remutualizing company with a domestic or foreign mutual insurance company.

(2) A copy of the plan or a summary of the plan must accompany the notice. The notice must be mailed to each eligible member's last known address, as shown on the parent mutual's records, not less than 45 days before the date of the meeting, unless the commissioner directs a later date for mailing. If the meeting to vote upon the plan is held coincident with the parent mutual's annual meeting of members, only one combined notice of meeting is required. The notice of the meeting of eligible members may be combined with the notice of hearing described in paragraph (g).

(3) If the parent mutual complies substantially and in good faith with the notice requirements of this section, the parent mutual's failure to give any member or members required notice does not impair the validity of an action taken under this section.

(j)(1) The plan must be adopted upon receiving the affirmative vote of a majority of the votes cast by eligible members.

(2) Eligible members may vote in person or by proxy. The form of any proxy must be filed with and approved by the commissioner.

(k)(1) Following approval by the eligible members, the parent mutual shall file a copy of the converting subsidiary's amended or restated articles of incorporation with the commissioner, together with a certified copy of the minutes of the meeting of the members of the parent mutual at which the plan was adopted and a certified copy of the plan. The commissioner shall review and, if appropriate, approve the amended or restated articles. After approval by the commissioner, the parent mutual shall file the articles with the secretary of state as provided by section 60A.07, subdivision 1d, and chapter 302A.

(2) The conversion is effective on the date of filing an amendment or restatement of the articles of incorporation with the secretary of state, or on a later date if the plan so specifies.

(l) Upon the effective date of the conversion in accordance with this subdivision:

(1) The corporate existence of the parent mutual is continued in the converted subsidiary. All the rights, privileges, powers, franchises, and interests of the parent mutual in and to all property and things in action belonging to the parent company are considered transferred to and vested in the converted subsidiary without any deed or transfer. Simultaneously, the converted subsidiary is considered to have assumed all the obligations and liabilities of the parent mutual.

(2) The directors and officers of the parent mutual, unless otherwise specified in the plan of conversion, shall serve as directors and officers of the converted subsidiary until new directors and officers of the converted subsidiary are duly elected according to the articles of incorporation and bylaws of the converted subsidiary.

(3) All policies issued by the converted subsidiary in force on the effective date of the conversion remain in force subject to the terms of those policies, except that the membership interests in the parent mutual shall become membership interests in the converted subsidiary, and member voting rights in the converted subsidiary shall be exclusively governed by the converted subsidiary's articles and bylaws.

(4) Except as otherwise provided in the plan of conversion, the converted subsidiary is no longer subject to the requirements of subdivisions 1 to 12 of this section or to the terms of the original plan of reorganization.

(5) At the effective time of the merger, all of the voting shares of capital stock of the converted subsidiary shall be deemed to be redeemed and canceled.

(6) Any provisions of the original plan of reorganization pertaining to the protection of reasonable policyholder dividend expectations may be continued, modified, or extinguished as provided under the plan of conversion and approved by the commissioner.

(m) No director, officer, agent, employee of the parent mutual or the converting subsidiary, or any other person shall receive a fee, commission, or other valuable consideration, other than the person's usual regular salary and compensation, for in any manner aiding, promoting, or assisting in the conversion except as set forth in the plan approved by the commissioner. This provision does not prohibit the payment of reasonable fees and compensation to attorneys, accountants, investment bankers, and actuaries for services performed in the independent practice of their professions.

(n) All the costs and expenses connected with a plan of conversion must be paid for or reimbursed by the parent mutual or converted subsidiary except where the plan provides otherwise.

(o)(1) An action challenging the validity of or arising out of acts taken or proposed to be taken according to this section must be commenced within 180 days after the effective date of the conversion.

(2) The parent mutual, the converted subsidiary, or any defendant in an action described in clause (1) may petition the court in the action to order a party to give security for the reasonable attorney fees that may be incurred by a party to the action. The amount of security may be increased or decreased in the discretion of the court having jurisdiction if a showing is made that the security provided is or may become inadequate or excessive.

(p) For purposes of this subdivision, the following terms have the meanings given.

(1) "Eligible member" means a person who is a member of the parent mutual, as defined by the parent mutual's articles of incorporation and bylaws, determined as of the record date.

(2) "Membership interests" means all rights as members of the parent mutual, including, but not limited to, the rights to vote.

(3) "Plan of conversion" or "plan" means a plan adopted by a parent mutual's board of directors under this section.

(4) "Record date" means the date that the parent mutual's board of directors adopts a plan of conversion, unless another date is specified in the plan of conversion and approved by the commissioner.

(5) "Converted subsidiary" means a converting subsidiary that has converted into a mutual insurance company under this subdivision.

(6) "Converting subsidiary" means a Minnesota domestic insurance company that previously reorganized under this section that is seeking to convert back into a mutual insurance company in accordance with this subdivision.

Sec. 5. Minnesota Statutes 2005 Supplement, section 66A.02, subdivision 2, is amended to read:

Subd. 2. **Mutual holding companies.** For purposes of sections 66A.01 to 66A.07 and 66A.21, ~~the term~~ unless the context clearly suggests otherwise, "domestic mutual insurance company" is deemed to include domestic mutual insurance holding companies organized under section 60A.077 and ~~the term~~ "member" is deemed to include members of a domestic mutual insurance holding company as specified in section 60A.077, subdivision 1, paragraph (b). For purposes of section 60A.07, subdivisions 1, 1a, ~~1b,~~ 1c, 1d, and 1e, a domestic mutual insurance holding company is deemed to be an insurance corporation.

Sec. 6. Minnesota Statutes 2005 Supplement, section 66A.02, subdivision 3, is amended to read:

Subd. 3. **Terms.** For purposes of applying chapter 302A to domestic mutual insurance companies, members of a domestic mutual insurance company must be treated in the same manner as shareholders of a stock corporation, except as otherwise provided in this chapter. Every member of the mutual insurance company shall be deemed to hold one share of the company for purposes of applying provisions of chapter 302A relating to voting. Mutual insurance companies are not included in the definitions of "closely held corporation," "publicly held corporation," or "issuing public corporation." The term "distribution" does not include dividends paid on participating policies issued by the mutual insurance company or any reorganized insurance company subsidiary in the case of a mutual insurance holding company.

Sec. 7. Minnesota Statutes 2005 Supplement, section 66A.07, subdivision 2, is amended to read:

Subd. 2. **Life insurance companies.** (a) Unless otherwise approved by the commissioner of commerce, a domestic mutual life insurance company member is any person who is listed on the records of the company as the owner of an in-force policy, and each member is entitled to one vote regardless of the number of policies owned by the member or the amounts of coverage provided to the member. For purposes of this section, "policy" means a policy or contract of insurance, including an annuity contract issued by the company, but excluding individual noncontributory insurance policies for which the

premiums are paid by a financial institution, association, employer, or other institutional entity. Except as otherwise provided in the company's certificate or bylaws, a person ~~insured~~ covered under a group policy is not a member by virtue of such coverage, ~~unless~~ except that a person insured under a group life insurance policy is a member if: (1) the person is insured ~~or covered~~ under a group life policy ~~or group annuity contract~~ under which ~~funds are~~ cash value has accumulated and been allocated to the ~~respective covered~~ insured persons; and (2) ~~the person has the right to direct the application of the funds so allocated; (3)~~ the group policyholder makes no contribution to the premiums or deposits for the policy ~~or contract; and (4) the company has the names and addresses of the persons covered under the group life policy or group annuity contract~~.

(b) Every member of a mutual life insurance company must be notified of its annual meetings by a written notice mailed to the member's address, or by an imprint on the front or back of the policy, premium notice, receipt, or certificate of renewal, substantially as follows:

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

For mutual life insurance holding companies, the notice of the annual meeting may be modified to reflect that the policyowner, by virtue of his or her ownership of a policy issued by a subsidiary insurance company reorganized under section 60A.077, is a member of the mutual insurance holding company. Notice given in this manner is deemed to comply with the requirements of section 302A.435.

Sec. 8. **EFFECTIVE DATE.**

Sections 1 to 7 are effective the day following final enactment.

ARTICLE 2

INTERSTATE INSURANCE PRODUCT REGULATION COMPACT

Section 1. **[60A.99] INTERSTATE INSURANCE PRODUCT REGULATION COMPACT.**

Subdivision 1. **Enactment and form.** The Interstate Insurance Product Regulation Compact is enacted into law and entered into with all other states legally joining in it is substantially the following form:

Article I. Purposes

The purposes of this Compact are, through means of joint and cooperative action among the Compacting States:

1. To promote and protect the interest of consumers of individual and group annuity, life insurance, disability income and long-term care insurance products;

2. To develop uniform standards for insurance products covered under the Compact;

3. To establish a central clearinghouse to receive and provide prompt review of insurance products covered under the Compact and, in certain cases, advertisements related thereto, submitted by insurers authorized to do business in one or more Compacting States;

4. To give appropriate regulatory approval to those product filings and advertisements satisfying the applicable uniform standard;

5. To improve coordination of regulatory resources and expertise between state insurance departments regarding the setting of uniform standards and review of insurance products covered under the Compact;

6. To create the Interstate Insurance Product Regulation Commission; and

7. To perform these and such other related functions as may be consistent with the state regulation of the business of insurance.

Article II. Definitions

For purposes of this Compact:

1. "Advertisement" means any material designed to create public interest in a Product, or induce the public to purchase, increase, modify, reinstate, borrow on, surrender, replace or retain a policy, as more specifically defined in the Rules and Operating Procedures of the Commission.

2. "Bylaws" mean those bylaws established by the Commission for its governance, or for directing or controlling the Commission's actions or conduct.

3. "Compacting State" means any State which has enacted this Compact legislation and which has not withdrawn pursuant to Article XIV, Section 1, or been terminated pursuant to Article XIV, Section 2.

4. "Commission" means the "Interstate Insurance Product Regulation Commission" established by this Compact.

5. "Commissioner" means the chief insurance regulatory official of a State including, but not limited to commissioner, superintendent, director or administrator.

6. "Domiciliary State" means the state in which an Insurer is incorporated or organized; or, in the case of an alien Insurer, its state of entry.

7. "Insurer" means any entity licensed by a State to issue contracts of insurance for any of the lines of insurance covered by this Act.

8. "Member" means the person chosen by a Compacting State as its representative to the Commission, or his or her designee.

9. "Noncompacting State" means any State which is not at the time a Compacting State.

10. "Operating Procedures" mean procedures promulgated by the Commission implementing a Rule, Uniform Standard, or a provision of this Compact.

11. "Product" means the form of a policy or contract, including any application, endorsement, or related form which is attached to and made a part of the policy or contract, and any evidence of coverage or certificate, for an individual or group annuity, life insurance, disability income or long-term care insurance product that an Insurer is authorized to issue.

12. "Rule" means a statement of general or particular applicability and future effect promulgated by the Commission, including a Uniform Standard developed pursuant to Article VII of this Compact, designed to implement, interpret, or prescribe law or policy or describing the organization, procedure, or practice requirements of the Commission, which shall have the force and effect of law in the Compacting States.

13. "State" means any state, district, or territory of the United States of America.

14. "Third Party Filer" means an entity that submits a Product filing to the Commission on behalf of an Insurer.

15. "Uniform Standard" means a standard adopted by the Commission for a Product line, pursuant to Article VII of this Compact, and shall include all of the Product requirements in aggregate; provided, that each Uniform Standard shall be construed, whether express or implied, to prohibit the use of any inconsistent, misleading or ambiguous provisions in a Product and the form of the Product made available to the public shall not be unfair, inequitable or against public policy as determined by the Commission.

Article III. Establishment of the Commission and Venue

1. The Compacting States hereby create and establish a joint public agency known as the "Interstate Insurance Product Regulation Commission." Pursuant to Article IV, the Commission will have the power to develop Uniform Standards for Product lines, receive and provide prompt review of Products filed therewith, and give approval to those Product filings satisfying applicable Uniform Standards; provided, it is not intended for the Commission to be the exclusive entity for receipt and review of insurance product filings. Nothing herein shall prohibit any Insurer from filing its product in any State wherein the Insurer is licensed to conduct the business of insurance; and any such filing shall be subject to the laws of the State where filed.

2. The Commission is a body corporate and politic, and an instrumentality of the Compacting States.

3. The Commission is solely responsible for its liabilities except as otherwise specifically provided in this Compact.

4. Venue is proper and judicial proceedings by or against the Commission shall be brought solely and exclusively in a Court of competent jurisdiction where the principal office of the Commission is located.

Article IV. Powers of the Commission

The Commission shall have the following powers:

1. To promulgate Rules, pursuant to Article VII of this Compact, which shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in this Compact;

2. To exercise its rule-making authority and establish reasonable Uniform Standards for Products covered under the Compact, and Advertisement related thereto, which shall have the force and effect of law and shall be binding in the Compacting States, but only for those Products filed with the Commission, provided, that a Compacting State shall have the right to opt out of such Uniform Standard pursuant to Article VII, to the extent and in the manner provided in this Compact, and, provided further, that any Uniform Standard established by the Commission for long-term care insurance products may provide the same or greater protections for consumers as, but shall not provide less than, those protections set forth in the National Association of Insurance Commissioners' Long-Term Care Insurance Model Act and Long-Term Care Insurance Model Regulation, respectively, adopted as of 2001. The Commission shall consider whether any subsequent amendments to the NAIC Long-Term Care Insurance Model Act or Long-Term Care Insurance Model Regulation adopted by the NAIC require amending of the Uniform Standards established by the Commission for long-term care insurance products;

3. To receive and review in an expeditious manner Products filed with the Commission, and rate filings for disability income and long-term care insurance Products, and give approval of those Products and rate filings that satisfy the applicable Uniform Standard, where such approval shall have the force and effect of law and be binding on the Compacting States to the extent and in the manner provided in the Compact;

4. To receive and review in an expeditious manner Advertisement relating to long-term care insurance products for which Uniform Standards have been adopted by the Commission, and give approval to all Advertisement that satisfies the applicable Uniform Standard. For any product covered under this Compact, other than long-term care insurance products, the Commission shall have the authority to require an insurer

to submit all or any part of its Advertisement with respect to that product for review or approval prior to use, if the Commission determines that the nature of the product is such that an Advertisement of the product could have the capacity or tendency to mislead the public. The actions of the Commission as provided in this section shall have the force and effect of law and shall be binding in the Compacting States to the extent and in the manner provided in the Compact;

5. To exercise its rule-making authority and designate Products and Advertisement that may be subject to a self-certification process without the need for prior approval by the Commission;

6. To promulgate Operating Procedures, pursuant to Article VII of this Compact, which shall be binding in the Compacting States to the extent and in the manner provided in this compact;

7. To bring and prosecute legal proceedings or actions in its name as the Commission; provided, that the standing of any state insurance department to sue or be sued under applicable law shall not be affected;

8. To issue subpoenas requiring the attendance and testimony of witnesses and the production of evidence;

9. To establish and maintain offices;

10. To purchase and maintain insurance and bonds;

11. To borrow, accept or contract for services of personnel, including, but not limited to, employees of a Compacting State;

12. To hire employees, professionals or specialists, and elect or appoint officers, and to fix their compensation, define their duties and give them appropriate authority to carry out the purposes of the Compact, and determine their qualifications; and to establish the Commission's personnel policies and programs relating to, among other things, conflicts of interest, rates of compensation and qualifications of personnel;

13. To accept any and all appropriate donations and grants of money, equipment, supplies, materials and services, and to receive, utilize and dispose of the same; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

14. To lease, purchase, accept appropriate gifts or donations of, or otherwise to own, hold, improve or use, any property, real, personal or mixed; provided that at all times the Commission shall strive to avoid any appearance of impropriety;

15. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any property, real, personal or mixed;

16. To remit filing fees to Compacting States as may be set forth in the Bylaws, Rules or Operating Procedures;

17. To enforce compliance by Compacting States with Rules, Uniform Standards, Operating Procedures and Bylaws;

18. To provide for dispute resolution among Compacting States;

19. To advise Compacting States on issues relating to Insurers domiciled or doing business in Noncompacting jurisdictions, consistent with the purposes of this Compact;

20. To provide advice and training to those personnel in state insurance departments responsible for product review, and to be a resource for state insurance departments;

21. To establish a budget and make expenditures;

22. To borrow money;

23. To appoint committees, including advisory committees comprising Members, state insurance regulators, state legislators or their representatives, insurance industry and consumer representatives, and such other interested persons as may be designated in the Bylaws;

24. To provide and receive information from, and to cooperate with law enforcement agencies;

25. To adopt and use a corporate seal; and

26. To perform such other functions as may be necessary or appropriate to achieve the purposes of this Compact consistent with the state regulation of the business of insurance.

Article V. Organization of the Commission

1. Membership, Voting and Bylaws

a. Each Compacting State shall have and be limited to one Member. Each Member shall be qualified to serve in that capacity pursuant to applicable law of the Compacting State. Any Member may be removed or suspended from office as provided by the law of the State from which he or she shall be appointed. Any vacancy occurring in the Commission shall be filled in accordance with the laws of the Compacting State wherein the vacancy exists. Nothing herein shall be construed to affect the manner in which a Compacting State determines the election or appointment and qualification of its own Commissioner.

b. Each Member shall be entitled to one vote and shall have an opportunity to participate in the governance of the Commission in accordance with the Bylaws. Notwithstanding any provision herein to the contrary, no action of the Commission with respect to the promulgation of a Uniform Standard shall be effective unless two-thirds of the Members vote in favor thereof.

c. The Commission shall, by a majority of the Members, prescribe Bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes, and exercise the powers, of the Compact, including, but not limited to:

i. Establishing the fiscal year of the Commission;

ii. Providing reasonable procedures for appointing and electing members, as well as holding meetings, of the Management Committee;

iii. Providing reasonable standards and procedures: (i) for the establishment and meetings of other committees, and (ii) governing any general or specific delegation of any authority or function of the Commission;

iv. Providing reasonable procedures for calling and conducting meetings of the Commission that consist of a majority of Commission members, ensuring reasonable advance notice of each such meeting and providing for the right of citizens to attend each such meeting with enumerated exceptions designed to protect the public's interest, the privacy of individuals, and insurers' proprietary information, including trade secrets. The Commission may meet in camera only after a majority of the entire membership votes to close a meeting en toto or in part. As soon as practicable, the Commission must make public (i) a copy of the vote to close the meeting revealing the vote of each Member with no proxy votes allowed, and (ii) votes taken during such meeting;

v. Establishing the titles, duties and authority and reasonable procedures for the election of the officers of the Commission;

vi. Providing reasonable standards and procedures for the establishment of the personnel policies and programs of the Commission. Notwithstanding any civil service or other similar laws of any Compacting State, the Bylaws shall exclusively govern the personnel policies and programs of the Commission;

vii. Promulgating a code of ethics to address permissible and prohibited activities of commission members and employees; and

viii. Providing a mechanism for winding up the operations of the Commission and the equitable disposition of any surplus funds that may exist after the termination of the Compact after the payment and/or reserving of all of its debts and obligations.

d. The Commission shall publish its bylaws in a convenient form and file a copy thereof and a copy of any amendment thereto, with the appropriate agency or officer in each of the Compacting States.

2. Management Committee, Officers and Personnel

a. A Management Committee comprising no more than 14 members shall be established as follows:

i. One member from each of the six Compacting States with the largest premium volume for individual and group annuities, life, disability income and long-term care insurance products, determined from the records of the NAIC for the prior year;

ii. Four members from those Compacting States with at least two percent of the market based on the premium volume described above, other than the six Compacting States with the largest premium volume, selected on a rotating basis as provided in the Bylaws; and

iii. Four members from those Compacting States with less than two percent of the market, based on the premium volume described above, with one selected from each of the four zone regions of the NAIC as provided in the Bylaws.

b. The Management Committee shall have such authority and duties as may be set forth in the Bylaws, including but not limited to:

i. Managing the affairs of the Commission in a manner consistent with the Bylaws and purposes of the Commission;

ii. Establishing and overseeing an organizational structure within, and appropriate procedures for, the Commission to provide for the creation of Uniform Standards and other Rules, receipt and review of product filings, administrative and technical support functions, review of decisions regarding the disapproval of a product filing, and the review of elections made by a Compacting State to opt out of a Uniform Standard; provided that a Uniform Standard shall not be submitted to the Compacting States for adoption unless approved by two-thirds of the members of the Management Committee;

iii. Overseeing the offices of the Commission; and

iv. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Commission.

c. The Commission shall elect annually officers from the Management Committee, with each having such authority and duties, as may be specified in the Bylaws.

d. The Management Committee may, subject to the approval of the Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation as the Commission may deem appropriate. The executive director shall serve as secretary to the Commission, but shall not be a Member of the Commission. The executive director shall hire and supervise such other staff as may be authorized by the Commission.

3. Legislative and Advisory Committees

a. A legislative committee comprising state legislators or their designees shall be established to monitor the operations of, and make recommendations to, the Commission,

including the Management Committee; provided that the manner of selection and term of any legislative committee member shall be as set forth in the Bylaws. Prior to the adoption by the Commission of any Uniform Standard, revision to the Bylaws, annual budget or other significant matter as may be provided in the Bylaws, the Management Committee shall consult with and report to the legislative committee.

b. The Commission shall establish two advisory committees, one of which shall comprise consumer representatives independent of the insurance industry, and the other comprising insurance industry representatives.

c. The Commission may establish additional advisory committees as its Bylaws may provide for the carrying out of its functions.

4. Corporate Records of the Commission

The Commission shall maintain its corporate books and records in accordance with the Bylaws.

5. Qualified Immunity, Defense, and Indemnification

a. The Members, officers, executive director, employees, and representatives of the Commission shall be immune from suit and liability, either personally or in their official capacity, for any claim for damage to or loss of property or personal injury or other civil liability caused by or arising out of any actual or alleged act, error or omission that occurred, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties or responsibilities; provided, that nothing in this paragraph shall be construed to protect any such person from suit and/or liability for any damage, loss, injury or liability caused by the intentional or willful and wanton misconduct of that person.

b. The Commission shall defend any Member, officer, executive director, employee, or representative of the Commission in any civil action seeking to impose liability arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties, or responsibilities, or that the person against whom the claim is made had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities; provided, that nothing herein shall be construed to prohibit that person from retaining his or her own counsel; and provided further, that the actual or alleged act, error, or omission did not result from that person's intentional or willful and wanton misconduct.

c. The Commission shall indemnify and hold harmless any Member, officer, executive director, employee, or representative of the Commission for the amount of any settlement or judgment obtained against that person arising out of any actual or alleged act, error, or omission that occurred within the scope of Commission employment, duties,

or responsibilities, or that such person had a reasonable basis for believing occurred within the scope of Commission employment, duties, or responsibilities, provided, that the actual or alleged act, error, or omission did not result from the intentional or willful and wanton misconduct of that person.

Article VI. Meetings and Acts of the Commission

1. The Commission shall meet and take such actions as are consistent with the provisions of this Compact and the Bylaws.

2. Each Member of the Commission shall have the right and power to cast a vote to which that Compacting State is entitled and to participate in the business and affairs of the Commission. A Member shall vote in person or by such other means as provided in the Bylaws. The Bylaws may provide for Members' participation in meetings by telephone or other means of communication.

3. The Commission shall meet at least once during each calendar year. Additional meeting shall be held as set forth in the Bylaws.

Article VII. Rules and Operating Procedures: Rulemaking Functions of the Commission and Opting Out of Uniform Standards

1. Rulemaking Authority. The Commission shall promulgate reasonable Rules, including Uniform Standards, and Operating Procedures in order to effectively and efficiently achieve the purposes of this Compact. Notwithstanding the foregoing, in the event the Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this Act, or the powers granted hereunder, then such an action by the Commission shall be invalid and have no force and effect.

2. Rulemaking Procedure. Rules and Operating Procedures shall be made pursuant to a rulemaking process that conforms to the Model State Administrative Procedure Act of 1981 as amended, as may be appropriate to the operations of the Commission. Before the Commission adopts a Uniform Standard, the Commission shall give written notice to the relevant state legislative committee(s) in each Compacting State responsible for insurance issues of its intention to adopt the Uniform Standard. The Commission in adopting a Uniform Standard shall consider fully all submitted materials and issue a concise explanation of its decision.

3. Effective Date and Opt Out of a Uniform Standard. A Uniform Standard shall become effective 90 days after its promulgation by the Commission or such later date as the Commission may determine; provided, however, that a Compacting State may opt out of a Uniform Standard as provided in this Article. "Opt out" shall be defined as any action by a Compacting State to decline to adopt or participate in a promulgated Uniform Standard. All other Rules and Operating Procedures, and amendments thereto,

shall become effective as of the date specified in each Rule, Operating Procedure, or amendment.

4. Opt Out Procedure. A Compacting State may opt out of a Uniform Standard, either by legislation or regulation duly promulgated by the Insurance Department under the Compacting State's Administrative Procedure Act. If a Compacting State elects to opt out of a Uniform Standard by regulation, it must (a) give written notice to the Commission no later than ten business days after the Uniform Standard is promulgated, or at the time the State becomes a Compacting State and (b) find that the Uniform Standard does not provide reasonable protections to the citizens of the State, given the conditions in the State. The Commissioner shall make specific findings of fact and conclusions of law, based on a preponderance of the evidence, detailing the conditions in the State which warrant a departure from the Uniform Standard and determining that the Uniform Standard would not reasonably protect the citizens of the State. The Commissioner must consider and balance the following factors and find that the conditions in the State and needs of the citizens of the State outweigh: (i) the intent of the legislature to participate in, and the benefits of, an interstate agreement to establish national uniform consumer protections for the Products subject to this Act; and (ii) the presumption that a Uniform Standard adopted by the Commission provides reasonable protections to consumers of the relevant Product.

Notwithstanding the foregoing, a Compacting State may, at the time of its enactment of this Compact, prospectively opt out of all Uniform Standards involving long-term care insurance products by expressly providing for such opt out in the enacted Compact, and such an opt out shall not be treated as a material variance in the offer or acceptance of any State to participate in this Compact. Such an opt out shall be effective at the time of enactment of this Compact by the Compacting State and shall apply to all existing Uniform Standards involving long-term care insurance products and those subsequently promulgated.

5. Effect of Opt Out. If a Compacting State elects to opt out of a Uniform Standard, the Uniform Standard shall remain applicable in the Compacting State electing to opt out until such time the opt out legislation is enacted into law or the regulation opting out becomes effective.

Once the opt out of a Uniform Standard by a Compacting State becomes effective as provided under the laws of that State, the Uniform Standard shall have no further force and effect in that State unless and until the legislation or regulation implementing the opt out is repealed or otherwise becomes ineffective under the laws of the State. If a Compacting State opts out of a Uniform Standard after the Uniform Standard has been

made effective in that State, the opt out shall have the same prospective effect as provided under Article XIV for withdrawals.

6. Stay of Uniform Standard. If a Compacting State has formally initiated the process of opting out of a Uniform Standard by regulation, and while the regulatory opt out is pending, the Compacting State may petition the Commission, at least 15 days before the effective date of the Uniform Standard, to stay the effectiveness of the Uniform Standard in that State. The Commission may grant a stay if it determines the regulatory opt out is being pursued in a reasonable manner and there is a likelihood of success. If a stay is granted or extended by the Commission, the stay or extension thereof may postpone the effective date by up to 90 days, unless affirmatively extended by the Commission; provided, a stay may not be permitted to remain in effect for more than one year unless the Compacting State can show extraordinary circumstances which warrant a continuance of the stay, including, but not limited to, the existence of a legal challenge which prevents the Compacting State from opting out. A stay may be terminated by the Commission upon notice that the rulemaking process has been terminated.

7. Not later than 30 days after a Rule or Operating Procedure is promulgated, any person may file a petition for judicial review of the Rule or Operating Procedure; provided, that the filing of such a petition shall not stay or otherwise prevent the Rule or Operating Procedure from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the Commission consistent with applicable law and shall not find the Rule or Operating Procedure to be unlawful if the Rule or Operating Procedure represents a reasonable exercise of the Commission's authority.

Article VIII. Commission Records and Enforcement

1. The Commission shall promulgate Rules establishing conditions and procedures for public inspection and copying of its information and official records, except such information and records involving the privacy of individuals and insurers' trade secrets. The Commission may promulgate additional Rules under which it may make available to federal and state agencies, including law enforcement agencies, records and information otherwise exempt from disclosure, and may enter into agreements with such agencies to receive or exchange information or records subject to nondisclosure and confidentiality provisions.

2. Except as to privileged records, data and information, the laws of any Compacting State pertaining to confidentiality or nondisclosure shall not relieve any Compacting State Commissioner of the duty to disclose any relevant records, data or information to the Commission; provided, that disclosure to the Commission shall not be deemed to

waive or otherwise affect any confidentiality requirement; and further provided, that, except as otherwise expressly provided in this Act, the Commission shall not be subject to the Compacting State's laws pertaining to confidentiality and nondisclosure with respect to records, data and information in its possession. Confidential information of the Commission shall remain confidential after such information is provided to any Commissioner.

3. The Commission shall monitor Compacting States for compliance with duly adopted Bylaws, Rules, including Uniform Standards, and Operating Procedures. The Commission shall notify any noncomplying Compacting State in writing of its noncompliance with Commission Bylaws, Rules or Operating Procedures. If a noncomplying Compacting State fails to remedy its noncompliance within the time specified in the notice of noncompliance, the Compacting State shall be deemed to be in default as set forth in Article XIV.

4. The Commissioner of any State in which an Insurer is authorized to do business, or is conducting the business of insurance, shall continue to exercise his or her authority to oversee the market regulation of the activities of the Insurer in accordance with the provisions of the State's law. The Commissioner's enforcement of compliance with the Compact is governed by the following provisions:

a. With respect to the Commissioner's market regulation of a Product or Advertisement that is approved or certified to the Commission, the content of the Product or Advertisement shall not constitute a violation of the provisions, standards or requirements of the Compact except upon a final order of the Commission, issued at the request of a Commissioner after prior notice to the Insurer and an opportunity for hearing before the Commission.

b. Before a Commissioner may bring an action for violation of any provision, standard or requirement of the Compact relating to the content of an Advertisement not approved or certified to the Commission, the Commission, or an authorized Commission officer or employee, must authorize the action. However, authorization pursuant to this paragraph does not require notice to the Insurer, opportunity for hearing or disclosure of requests for authorization or records of the Commission's action on such requests.

Article IX. Dispute Resolution

The Commission shall attempt, upon the request of a Member, to resolve any disputes or other issues that are subject to this Compact and which may arise between two or more Compacting States, or between Compacting States and Noncompacting States, and the Commission shall promulgate an Operating Procedure providing for resolution of such disputes.

Article X. Product Filing and Approval

1. Insurers and Third Party Filers seeking to have a Product approved by the Commission shall file the Product with, and pay applicable filing fees to, the Commission. Nothing in this Act shall be construed to restrict or otherwise prevent an insurer from filing its Product with the insurance department in any State wherein the insurer is licensed to conduct the business of insurance, and such filing shall be subject to the laws of the States where filed.

2. The Commission shall establish appropriate filing and review processes and procedures pursuant to Commission Rules and Operating Procedures. Notwithstanding any provision herein to the contrary, the Commission shall promulgate Rules to establish conditions and procedures under which the Commission will provide public access to Product filing information. In establishing such Rules, the Commission shall consider the interests of the public in having access to such information, as well as protection of personal medical and financial information and trade secrets, that may be contained in a Product filing or supporting information.

3. Any Product approved by the Commission may be sold or otherwise issued in those Compacting States for which the Insurer is legally authorized to do business.

Article XI. Review of Commission Decisions Regarding Filings

1. Not later than 30 days after the Commission has given notice of a disapproved Product or Advertisement filed with the Commission, the Insurer or Third Party Filer whose filing was disapproved may appeal the determination to a review panel appointed by the Commission. The Commission shall promulgate Rules to establish procedures for appointing such review panels and provide for notice and hearing. An allegation that the Commission, in disapproving a Product or Advertisement filed with the Commission, acted arbitrarily, capriciously, or in a manner that is an abuse of discretion or otherwise not in accordance with the law, is subject to judicial review in accordance with Article III, Section 4.

2. The Commission shall have authority to monitor, review and reconsider Products and Advertisement subsequent to their filing or approval upon a finding that the product does not meet the relevant Uniform Standard. Where appropriate, the Commission may withdraw or modify its approval after proper notice and hearing, subject to the appeal process in Section 1 above.

Article XII. Finance

1. The Commission shall pay or provide for the payment of the reasonable expenses of its establishment and organization. To fund the cost of its initial operations, the Commission may accept contributions and other forms of funding from the National

Association of Insurance Commissioners, Compacting States, and other sources. Contributions and other forms of funding from other sources shall be of such a nature that the independence of the Commission concerning the performance of its duties shall not be compromised.

2. The Commission shall collect a filing fee from each Insurer and Third Party Filer filing a product with the Commission to cover the cost of the operations and activities of the Commission and its staff in a total amount sufficient to cover the Commission's annual budget.

3. The Commission's budget for a fiscal year shall not be approved until it has been subject to notice and comment as set forth in Article VII of this Compact.

4. The Commission shall be exempt from all taxation in and by the Compacting states.

5. The Commission shall not pledge the credit of any Compacting State, except by and with the appropriate legal authority of that Compacting State.

6. The Commission shall keep complete and accurate accounts of all its internal receipts, including grants and donations, and disbursements of all funds under its control. The internal financial accounts of the Commission shall be subject to the accounting procedures established under its Bylaws. The financial accounts and reports including the system of internal controls and procedures of the Commission shall be audited annually by an independent certified public accountant. Upon the determination of the Commission, but no less frequently than every three years, the review of the independent auditor shall include a management and performance audit of the Commission. The Commission shall make an Annual Report to the Governor and legislature of the Compacting States, which shall include a report of the independent audit. The Commission's internal accounts shall not be confidential and such materials may be shared with the Commissioner of any Compacting State upon request provided, however, that any work papers related to any internal or independent audit and any information regarding the privacy of individuals and insurers' proprietary information, including trade secrets, shall remain confidential.

7. No Compacting State shall have any claim to or ownership of any property held by or vested in the Commission or to any Commission funds held pursuant to the provisions of this Compact.

Article XIII. Compacting States, Effective Date and Amendment

1. Any State is eligible to become a Compacting State.

2. The Compact shall become effective and binding upon legislative enactment of the Compact into law by two Compacting States; provided, the Commission shall become effective for purposes of adopting Uniform Standards for, reviewing, and giving

approval or disapproval of, Products filed with the Commission that satisfy applicable Uniform Standards only after 26 States are Compacting States or, alternatively, by States representing greater than 40 percent of the premium volume for life insurance, annuity, disability income and long-term care insurance products, based on records of the NAIC for the prior year. Thereafter, it shall become effective and binding as to any other Compacting State upon enactment of the Compact into law by that State.

3. Amendments to the Compact may be proposed by the Commission for enactment by the Compacting States. No amendment shall become effective and binding upon the Commission and the Compacting States unless and until all Compacting States enact the amendment into law.

Article XIV. Withdrawal, Default and Termination

1. Withdrawal

a. Once effective, the Compact shall continue in force and remain binding upon each and every Compacting State; provided, that a Compacting State may withdraw from the Compact ("Withdrawing State") by enacting a statute specifically repealing the statute which enacted the Compact into law.

b. The effective date of withdrawal is the effective date of the repealing statute. However, the withdrawal shall not apply to any product filings approved or self-certified, or any Advertisement of such products, on the date the repealing statute becomes effective, except by mutual agreement of the Commission and the Withdrawing State unless the approval is rescinded by the Withdrawing State as provided in Paragraph e of this section.

c. The Commissioner of the Withdrawing State shall immediately notify the Management Committee in writing upon the introduction of legislation repealing this Compact in the Withdrawing State.

d. The Commission shall notify the other Compacting States of the introduction of such legislation within ten days after its receipt of notice thereof.

e. The Withdrawing State is responsible for all obligations, duties and liabilities incurred through the effective date of withdrawal, including any obligations, the performance of which extend beyond the effective date of withdrawal, except to the extent those obligations may have been released or relinquished by mutual agreement of the Commission and the Withdrawing State. The Commission's approval of Products and Advertisement prior to the effective date of withdrawal shall continue to be effective and be given full force and effect in the Withdrawing State, unless formally rescinded by the Withdrawing State in the same manner as provided by the laws of the Withdrawing State for the prospective disapproval of products or advertisement previously approved under state law.

f. Reinstatement following withdrawal of any Compacting State shall occur upon the effective date of the Withdrawing State reenacting the Compact.

2. Default

a. If the Commission determines that any Compacting State has at any time defaulted ("Defaulting State") in the performance of any of its obligations or responsibilities under this Compact, the Bylaws or duly promulgated Rules or Operating Procedures, then, after notice and hearing as set forth in the Bylaws, all rights, privileges and benefits conferred by this Compact on the Defaulting State shall be suspended from the effective date of default as fixed by the Commission. The grounds for default include, but are not limited to, failure of a Compacting State to perform its obligations or responsibilities, and any other grounds designated in Commission Rules. The Commission shall immediately notify the Defaulting State in writing of the Defaulting State's suspension pending a cure of the default. The Commission shall stipulate the conditions and the time period within which the Defaulting State must cure its default. If the Defaulting State fails to cure the default within the time period specified by the Commission, the Defaulting State shall be terminated form the Compact and all rights, privileges and benefits conferred by this Compact shall be terminated from the effective date of termination.

b. Product approvals by the Commission or product self-certifications, or any Advertisement in connection with such product, that are in force on the effective date of termination shall remain in force in the Defaulting State in the same manner as if the Defaulting State had withdrawn voluntarily pursuant to Section 1 of this article.

c. Reinstatement following termination of any Compacting State requires a reenactment of the Compact.

3. Dissolution of Compact

a. The Compact dissolves effective upon the date of the withdrawal or default of the Compacting State which reduces membership in the Compact to one Compacting State.

b. Upon the dissolution of this Compact, the Compact becomes null and void and shall be of no further force or effect, and the business and affairs of the Commission shall be wound up and any surplus funds shall be distributed in accordance with the Bylaws.

Article XV. Severability and Construction

1. The provisions of this Compact shall be severable; and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the Compact shall be enforceable.

2. The provisions of this Compact shall be liberally construed to effectuate its purposes.

Article XVI. Binding Effect of Compact and Other Laws

1. Other Laws

a. Nothing herein prevents the enforcement of any other law of a Compacting State, except as provided in Paragraph b of this section.

b. For any Product approved or certified to the Commission, the Rules, Uniform Standards, and any other requirements of the Commission shall constitute the exclusive provisions applicable to the content, approval, and certification of such Products. For Advertisement that is subject to the Commission's authority, any Rule, Uniform Standard, or other requirement of the Commission which governs the content of the Advertisement shall constitute the exclusive provision that a Commissioner may apply to the content of the Advertisement. Notwithstanding the foregoing, no action taken by the Commission shall abrogate or restrict: (i) the access of any person to state courts; (ii) remedies available under state law related to breach of contract, tort, or other laws not specifically directed to the content of the Product; (iii) state law relating to the construction of insurance contracts; or (iv) the authority of the attorney general of the state, including but not limited to maintaining any actions or proceedings, as authorized by law.

c. All insurance products filed with individual States shall be subject to the laws of those States.

2. Binding Effect of this Compact

a. All lawful actions of the Commission, including all Rules and Operating Procedures promulgated by the Commission, are binding upon the Compacting States.

b. All agreements between the Commission and the Compacting States are binding in accordance with their terms.

c. Upon the request of a party to a conflict over the meaning or interpretation of Commission actions, and upon a majority vote of the Compacting States, the Commission may issue advisory opinions regarding the meaning or interpretation in dispute.

d. In the event any provision of this Compact exceeds the constitutional limits imposed on the legislature of any Compacting State, the obligations, duties, powers or jurisdiction sought to be conferred by that provision upon the Commission shall be ineffective as to that Compacting State, and those obligations, duties, powers, or jurisdiction shall remain in the Compacting State and shall be exercised by the agency thereof to which those obligations, duties, powers, or jurisdiction are delegated by law in effect at the time this Compact becomes effective.

Subd. 2. **Commission representative.** The commissioner of commerce is the representative of this state to the commission.

ARTICLE 3

MISCELLANEOUS INSURANCE REGULATORY CHANGES

Section 1. Minnesota Statutes 2004, section 60A.207, is amended to read:

60A.207 POLICIES TO INCLUDE NOTICE.

Each policy, cover note, or instrument evidencing surplus lines insurance from an eligible surplus lines insurer which is delivered to an insured or a representative of an insured shall have printed, typed, or stamped ~~in red ink~~ upon its face in not less than 10 point type, the following notice: "THIS INSURANCE IS ISSUED PURSUANT TO THE MINNESOTA SURPLUS LINES INSURANCE ACT. THE INSURER IS AN ELIGIBLE SURPLUS LINES INSURER BUT IS NOT OTHERWISE LICENSED BY THE STATE OF MINNESOTA. IN CASE OF INSOLVENCY, PAYMENT OF CLAIMS IS NOT GUARANTEED." This notice shall not be covered or concealed in any manner.

Sec. 2. Minnesota Statutes 2004, section 60D.19, subdivision 1, is amended to read:

Subdivision 1. **Registration.** Every insurer that is authorized to do business in this state and that is a member of an insurance holding company system shall register with the commissioner, except a foreign insurer subject to registration requirements and standards adopted by statute or regulation in the jurisdiction of its domicile that are substantially similar to those contained in:

(1) this section;

(2) section 60D.20, subdivisions 1, paragraph (a); 2; and 4; and

(3) either section 60D.20, subdivision 1, paragraph (b), or a provision such as the following: Each registered insurer shall keep current the information required to be disclosed in its registration statement by reporting all material changes or additions within 15 days after the end of the month in which it learns of each such change or addition.

Any insurer that is subject to registration under this section shall register within 15 days after it becomes subject to registration, and annually thereafter by ~~March~~ June 1 of each year for the previous calendar year, unless the commissioner for good cause shown extends the time for registration, and then within such extended time. The commissioner may require any insurer authorized to do business in the state that is a member of a holding company system, and that is not subject to registration under this section, to furnish a copy of the registration statement, the summary specified in subdivision 3 or other information filed by the insurance company with the insurance regulatory authority of domiciliary jurisdiction.

Sec. 3. Minnesota Statutes 2004, section 60K.56, subdivision 5, is amended to read:

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 shall approve any educational program approved by Minnesota Continuing Legal Education relating to the insurance field. 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.

(c) The commissioner may not accredit a course:

(1) that is designed to prepare students for a license examination;

~~(2) in mechanical office or business skills, including typing, speedreading, use of calculators, or other machines or equipment;~~

~~(3)~~ (2) in sales promotion~~, including meetings held in conjunction with the general business of the licensed agent~~; or

~~(4)~~ (3) in motivation, the art of selling, or psychology~~, or time management~~.

Sec. 4. Minnesota Statutes 2004, section 60K.56, subdivision 6, is amended to read:

Subd. 6. **Minimum education requirement.** Each person subject to this section shall complete a minimum of 30 credit hours of courses accredited by the commissioner during each 24-month licensing period. Any person whose initial licensing period extends more than six months shall complete 15 hours of courses accredited by the commissioner during the initial license period. Any person teaching or lecturing at an accredited course qualifies for three times the number of credit hours that would be granted to a person completing the accredited course. No more than one-half of the credit hours per licensing period required under this section may be credited to a person for attending any combination of courses either sponsored by, offered by, or affiliated with an insurance company or its agents; or offered using new delivery technology, including computer, interactive technology, and the Internet. A licensee may obtain up to five hours of the credit hours per licensing period from classes in the area of professional development

including, but not limited to, best practices, ethics, privacy protection, customer/client software applications, agency management, claims settlement, business perpetuation, and disaster planning. Courses sponsored by, offered by, or affiliated with an insurance company or agent may restrict its students to agents of the company or agency.

Sec. 5. Minnesota Statutes 2004, section 64B.13, is amended to read:

64B.13 REINSURANCE.

(a) A domestic society may, by a reinsurance agreement, cede any individual risk or risks in whole or in part to an insurer, other than another fraternal benefit society, having the power to make such reinsurance and authorized to do business in this state, or if not so authorized, one which is approved by the commissioner, but no such society may reinsure substantially all of its insurance in force without the written permission of the commissioner. It may take credit for the reserves on the ceded risks to the extent reinsured, but no credit shall be allowed as an admitted asset or as a deduction from liability to a ceding society for reinsurance made, ceded, renewed, or otherwise becoming effective after August 1, 1985, unless the reinsurance is payable by the assuming insurer on the basis of the liability of the ceding society under the contract or contracts reinsured without diminution because of the insolvency of the ceding society.

(b) Notwithstanding the limitation in paragraph (a), a society may reinsure the risks of another society in a consolidation or merger approved by the commissioner under section 64B.14, or under such other circumstances as approved by the commissioner including reinsurance of an affiliated insurance company.

SENATE COMMERCE COMMITTEE

Date: 3/29/06

ROLL CALL VOTE ON: SF 2787

S.F. 2787 **H.F.** _____ **Resolution** _____

Name:	YEA	NAY	PASS	ABSENT
SCHEID	X			
ANDERSON				
BELANGER				
JUNGBAUER				
KISCADEN	X			
LARSON				
LECLAIR	X			
LOUREY		X		
METZEN	X			
MICHEL				
PAPPAS	X			
POGEMILLER	X			
REITER	X			
REST				
SAMS				
SPARKS	X			

YEAS 8 **NAYES** 1 **MOTION CARRIED** X **MOTION FAILED** ____

Requested by: Leclair **Supported by:** _____

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2787: A bill for an act relating to insurance; modernizing insurance regulation; amending mutual holding company laws; enacting the interstate insurance product regulation compact; making miscellaneous insurance law changes; amending Minnesota Statutes 2004, sections 60A.075, subdivision 1; 60A.077, subdivisions 1, 3, by adding a subdivision; 60A.207; 60D.19, subdivision 1; 60K.56, subdivisions 5, 6; 64B.13; Minnesota Statutes 2005 Supplement, sections 66A.02, subdivisions 2, 3; 66A.07, subdivision 2; proposing coding for new law in Minnesota Statutes, chapter 60A.

Reports the same back with the recommendation that the bill do pass and be re-referred to the Committee on Judiciary. Report adopted.

.....
(Committee Chair)

March 29, 2006 .....
(Date of Committee recommendation)

Senate Counsel, Research, and Fiscal Analysis

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Senate

State of Minnesota

S.F. No. 2293 - Loss Ratios in the Health Insurance Market

Author: Senator Linda Scheid

Prepared by: Christopher B. Stang, Senate Counsel (651/296-0539)

Date: March 27, 2006

This bill permits health insurers to use a policy form and the premiums rates to be used with it in the health insurance market upon filing a "loss ratio guarantee" and supporting documents. The guarantee is the insurer's guarantee that the premium rates, when used with that policy form, will yield a loss ratio of at least 65 percent. A loss ratio is in general terms the percentage of premium dollars paid out in claims to policyholders, usually with certain adjustments.

CBS:cs

A-2 adopted.
recommended to pass.

Senator Scheid introduced--

S.F. No. 2293: Referred to the Committee on Commerce.

A bill for an act

relating to insurance; regulating the filing and use of individual health insurance policy forms; establishing a minimum loss ratio guarantee; amending Minnesota Statutes 2004, sections 62A.02, subdivision 3, by adding a subdivision; 62A.021, subdivision 1.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2004, section 62A.02, subdivision 3, is amended to read:

Subd. 3. [STANDARDS FOR DISAPPROVAL.] The commissioner shall, within 60 days after the filing of any form or rate, disapprove the form or rate:

(1) if the benefits provided are not reasonable in relation to the premium charged;

(2) if it contains a provision or provisions which are unjust, unfair, inequitable, misleading, deceptive or encourage misrepresentation of the health plan form, or otherwise does not comply with this chapter, chapter 62L, or chapter 72A;

(3) if the proposed premium rate is excessive or not adequate; or

(4) the actuarial reasons and data submitted do not justify the rate.

The party proposing a rate has the burden of proving by a preponderance of the evidence that it does not violate this subdivision.

In determining the reasonableness of a rate, the

commissioner shall also review all administrative contracts, service contracts, and other agreements to determine the reasonableness of the cost of the contracts or agreement and effect of the contracts on the rate. If the commissioner determines that a contract or agreement is not reasonable, the commissioner shall disapprove any rate that reflects any unreasonable cost arising out of the contract or agreement. The commissioner may require any information that the commissioner deems necessary to determine the reasonableness of the cost.

For the purposes of this subdivision, the commissioner shall establish by rule a schedule of minimum anticipated loss ratios which shall be based on (i) the type or types of coverage provided, (ii) whether the policy is for group or individual coverage, and (iii) the size of the group for group policies. Except for individual policies of disability or income protection insurance, the minimum anticipated loss ratio shall not be less than 50 percent after the first year that a policy is in force. All applicants for a policy shall be informed in writing at the time of application of the anticipated loss ratio of the policy. "Anticipated loss ratio" means the ratio at the time of filing, at the time of notice of withdrawal under subdivision 4a, or at the time of subsequent rate revision of the present value of all expected future benefits, excluding dividends, to the present value of all expected future premiums. <u>When determining a loss ratio for the purposes of loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management, and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local taxes less other assessments.</u>

If the commissioner notifies a health carrier that has filed any form or rate that it does not comply with this chapter, chapter 62L, or chapter 72A, it shall be unlawful for the health carrier to issue or use the form or rate. In the notice the commissioner shall specify the reasons for disapproval and state that a hearing will be granted within 20

days after request in writing by the health carrier.

The 60-day period within which the commissioner is to approve or disapprove the form or rate does not begin to run until a complete filing of all data and materials required by statute or requested by the commissioner has been submitted.

However, if the supporting data is not filed within 30 days after a request by the commissioner, the rate is not effective and is presumed to be an excessive rate.

Sec. 2. Minnesota Statutes 2004, section 62A.02, is amended by adding a subdivision to read:

Subd. 3a. [INDIVIDUAL POLICY FORMS FILE AND USE; MINIMUM LOSS RATIO GUARANTEE.] (a) Notwithstanding subdivisions 2, 3, 4a, 5a, and 6, premium rates may be used upon filing with the department of an individual policy form if the filing is accompanied by the individual policy form filing and a minimum loss ratio guarantee. Insurers may use the filing procedure specified in this subdivision only if the affected individual policy forms disclose the benefit of a minimum loss ratio guarantee. Insurers may amend individual policy forms to provide for a minimum loss ratio guarantee. If an insurer elects to use the filing procedure in this subdivision for an individual policy form or forms, the insurer shall not use a filing of premium rates that does not provide a minimum loss ratio guarantee for that individual policy form or forms.

(b) The minimum loss ratio must be in writing and must contain at least the following:

(1) an actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subdivision;

(2) a statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

(3) detailed experience information concerning the policy forms;

(4) a step-by-step description of the process used to develop the experience loss ratio, including demonstration with

supporting data;

(5) guarantee of specific lifetime minimum loss ratio that must be greater than or equal to the following, taking into consideration adjustments for duration:

(i) 65 percent for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers;

(ii) 65 percent for policies issued to small groups of two to ten employees or for certificates issued to members of an association that offers coverage to small employers; and

(iii) 70 percent for policies issued to small groups of 11 to 50 employees;

(6) a guarantee that the actual Minnesota loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum loss ratio standards referred to in clause (5), adjusted for duration;

(7) a guarantee that the actual Minnesota lifetime loss ratio shall meet or exceed the minimum loss ratio standards referred to in clause (5); and

(8) if the annual earned premium volume in Minnesota under the particular policy form is less than $2,500,000, the minimum loss ratio guarantee must be based partially on the Minnesota earned premium and other credible factors as specified by the commissioner.

(c) The actual Minnesota minimum loss ratio results for each year at issue must be independently audited at the insurer's expense and the audit must be filed with the commissioner not later than 120 days after the end of the year at issue.

(d) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum loss ratio.

(e) A Minnesota policyholder affected by the guaranteed minimum loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund

must be made to all Minnesota policyholders insured under the applicable policy form during the year at issue if the refund would equal $10 or more per policy. The refund must include statutory interest from July 1 of the year at issue until the date of payment. Payment must be made not later than 180 days after the end of the year at issue.

(f) Premium refunds of less than $10 per insured must be aggregated by the insurer and paid to the Minnesota state treasury.

(g) Subdivisions 2 and 3 do not apply if premium rates are filed with the department and accompanied by a minimum loss ratio guarantee that meets the requirements of this subdivision. Such filings are deemed approved. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created on or after the effective date of this act may be included in establishing premium rates filed with the commissioner under this section. The insurer shall identify any assessment allocated.

(h) The policy form filing of an insurer using the filing procedure with a minimum loss ratio guarantee will disclose to the enrollee, member, or subscriber an explanation of the lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(i) The insurer who elects to use the filing procedure with a minimum loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percentage of premium on an aggregate basis to be refunded, if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than $10.

Sec. 3. Minnesota Statutes 2004, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. [LOSS RATIO STANDARDS.] (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, and except as otherwise authorized by section 62A.02, subdivision 3a, for individual policies or certificates, health care policies or certificates shall not be delivered or issued for

delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are

not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the

issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health

Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Adopted

Senator Schmid moves to amend S.F. No. 2293 as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 62A.02, is amended by adding a subdivision to read:

Subd. 3a. **Individual policy rates file and use; minimum lifetime loss ratio guarantee.** (a) Notwithstanding subdivisions 2, 3, 4a, 5a, and 6, individual premium rates may be used upon filing with the department of an individual policy form if the filing is accompanied by the individual policy form filing and a minimum lifetime loss ratio guarantee. Insurers may use the filing procedure specified in this subdivision only if the affected individual policy forms disclose the benefit of a minimum lifetime loss ratio guarantee. Insurers may amend individual policy forms to provide for a minimum lifetime loss ratio guarantee. If an insurer elects to use the filing procedure in this subdivision for an individual policy rate, the insurer shall not use a filing of premium rates that does not provide a minimum lifetime loss ratio guarantee for that individual policy rate.

(b) The minimum lifetime loss ratio guarantee must be in writing and must contain at least the following:

(1) an actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subdivision;

(2) a statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

(3) detailed experience information concerning the policy forms;

(4) a step-by-step description of the process used to develop the minimum lifetime loss ratio, including demonstration with supporting data;

(5) guarantee of specific minimum lifetime loss ratio that must be greater than or equal to 65 percent for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers, taking into consideration adjustments for duration;

(6) a guarantee that the actual Minnesota loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum lifetime loss ratio standards referred to in clause (5), adjusted for duration;

(7) a guarantee that the actual Minnesota lifetime loss ratio shall meet or exceed the minimum lifetime loss ratio standards referred to in clause (5); and

(8) if the annual earned premium volume in Minnesota under the particular policy form is less than $2,500,000, the minimum lifetime loss ratio guarantee must be based

partially on the Minnesota earned premium and other credible factors as specified by the commissioner.

(c) The actual Minnesota minimum loss ratio results for each year at issue must be independently audited at the insurer's expense, and the audit report must be filed with the commissioner not later than 120 days after the end of the year at issue.

(d) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum lifetime loss ratio. For the purpose of this paragraph, loss ratio and guaranteed minimum lifetime loss ratio are the expected aggregate loss ratio of all approved individual policy forms that provide for a minimum lifetime loss ratio guarantee.

(e) A Minnesota policyholder affected by the guaranteed minimum lifetime loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund must be made to all Minnesota policyholders insured under the applicable policy form during the year at issue if the refund would equal $10 or more per policy. The refund must include statutory interest from July 1 of the year at issue until the date of payment. Payment must be made not later than 180 days after the end of the year at issue.

(f) Premium refunds of less than $10 per insured must be credited to the policyholder's account.

(g) Subdivisions 2 and 3 do not apply if premium rates are filed with the department and accompanied by a minimum lifetime loss ratio guarantee that meets the requirements of this subdivision. Such filings are deemed approved. When determining a loss ratio for the purposes of a minimum lifetime loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management, and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local taxes less other assessments. The insurer shall identify any assessment allocated.

(h) The policy form filing of an insurer using the filing procedure with a minimum lifetime loss ratio guarantee must disclose to the enrollee, member, or subscriber an explanation of the minimum lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(i) The insurer who elects to use the filing procedure with a minimum lifetime loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percentage of premium on an aggregate basis to be refunded, if any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than $10.

Sec. 2. Minnesota Statutes 2004, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. **Loss ratio standards.** (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, and except as otherwise authorized by section 62A.02, subdivision 3a, for individual policies or certificates, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio

standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Sec. 3. Minnesota Statutes 2004, section 62A.65, subdivision 3, is amended to read:

Subd. 3. **Premium rate restrictions.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

(i) An insurer may, as part of a minimum lifetime loss ratio guarantee filing under section 62A.02, subdivision 3a, include a rating practices guarantee as provided in this paragraph. The rating practices guarantee must be in writing and must guarantee that the policy form will be offered, sold, issued, and renewed only with premium rates and premium rating practices that comply with subdivisions 2, 3, 4, and 5. The rating practices guarantee must be accompanied by an actuarial memorandum that demonstrates that the premium rates and premium rating system used in connection with the policy form will satisfy the guarantee. The guarantee must guarantee refunds of any excess premiums to policyholders charged premiums that exceed those permitted under subdivision 2, 3, 4, or 5. An insurer that complies with this paragraph in connection with a policy form is exempt from the requirement of prior approval by the commissioner under paragraphs (c), (f), and (h)."

Delete the title and insert:

"

A bill for an act
relating to insurance; regulating the filing and use of individual health insurance policy forms; establishing a minimum lifetime loss ration guarantee; regulating rates; amending Minnesota Statutes 2004, sections 62A.02, by adding a subdivision; 62A.021, subdivision 1; 62A.65, subdivision 3.

"

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 2293: A bill for an act relating to insurance; regulating the filing and use of individual health insurance policy forms; establishing a minimum loss ratio guarantee; amending Minnesota Statutes 2004, sections 62A.02, subdivision 3, by adding a subdivision; 62A.021, subdivision 1.

Reports the same back with the recommendation that the bill be amended as follows:

Delete everything after the enacting clause and insert:

"Section 1. Minnesota Statutes 2004, section 62A.02, is amended by adding a subdivision to read:

Subd. 3a. **Individual policy rates file and use; minimum lifetime loss ratio guarantee.** (a) Notwithstanding subdivisions 2, 3, 4a, 5a, and 6, individual premium rates may be used upon filing with the department of an individual policy form if the filing is accompanied by the individual policy form filing and a minimum lifetime loss ratio guarantee. Insurers may use the filing procedure specified in this subdivision only if the affected individual policy forms disclose the benefit of a minimum lifetime loss ratio guarantee. Insurers may amend individual policy forms to provide for a minimum lifetime loss ratio guarantee. If an insurer elects to use the filing procedure in this subdivision for an individual policy rate, the insurer shall not use a filing of premium rates that does not provide a minimum lifetime loss ratio guarantee for that individual policy rate.

(b) The minimum lifetime loss ratio guarantee must be in writing and must contain at least the following:

(1) an actuarial memorandum specifying the expected loss ratio that complies with the standards as set forth in this subdivision;

(2) a statement certifying that all rates, fees, dues, and other charges are not excessive, inadequate, or unfairly discriminatory;

(3) detailed experience information concerning the policy forms;

(4) a step-by-step description of the process used to develop the minimum lifetime loss ratio, including demonstration with supporting data;

(5) guarantee of specific minimum lifetime loss ratio that must be greater than or equal to 65 percent for policies issued to individuals or for certificates issued to members of an association that does not offer coverage to small employers, taking into consideration adjustments for duration;

(6) a guarantee that the actual Minnesota loss ratio for the calendar year in which the new rates take effect, and for each year thereafter until new rates are filed, will meet or exceed the minimum lifetime loss ratio standards referred to in clause (5), adjusted for duration;

(7) a guarantee that the actual Minnesota lifetime loss ratio shall meet or exceed the minimum lifetime loss ratio standards referred to in clause (5); and

(8) if the annual earned premium volume in Minnesota under the particular policy form is less than $2,500,000, the minimum lifetime loss ratio guarantee must be based partially on the Minnesota earned premium and other credible factors as specified by the commissioner.

(c) The actual Minnesota minimum loss ratio results for each year at issue must be independently audited at the insurer's expense, and the audit report must be filed with the commissioner not later than 120 days after the end of the year at issue.

(d) The insurer shall refund premiums in the amount necessary to bring the actual loss ratio up to the guaranteed minimum lifetime loss ratio. For the purpose of this paragraph, loss ratio and guaranteed minimum lifetime loss ratio are the expected aggregate loss ratio of all approved individual policy forms that provide for a minimum lifetime loss ratio guarantee.

(e) A Minnesota policyholder affected by the guaranteed minimum lifetime loss ratio shall receive a portion of the premium refund relative to the premium paid by the policyholder. The refund must be made to all Minnesota policyholders insured under the applicable policy form during the year at issue if the refund would equal $10 or more per policy. The refund must include statutory interest from July 1 of the year at issue until the date of payment. Payment must be made not later than 180 days after the end of the year at issue.

(f) Premium refunds of less than $10 per insured must be credited to the policyholder's account.

(g) Subdivisions 2 and 3 do not apply if premium rates are filed with the department and accompanied by a minimum lifetime loss ratio guarantee that meets the requirements of this subdivision. Such filings are deemed approved. When determining a loss ratio for the purposes of a minimum lifetime loss ratio guarantee, the insurer shall divide the total of the claims incurred, plus preferred provider organization expenses, case management, and utilization review expenses, plus reinsurance premiums less reinsurance recoveries by the premiums earned less state and local taxes less other assessments. The insurer shall identify any assessment allocated.

(h) The policy form filing of an insurer using the filing procedure with a minimum lifetime loss ratio guarantee must disclose to the enrollee, member, or subscriber an explanation of the minimum lifetime loss ratio guarantee, and the actual loss ratio, and any adjustments for duration.

(i) The insurer who elects to use the filing procedure with a minimum lifetime loss ratio guarantee shall notify all policyholders of the refund calculation, the result of the refund calculation, the percentage of premium on an aggregate basis to be refunded, if

any, any amount of the refund attributed to the payment of interests, and an explanation of amounts less than $10.

Sec. 2. Minnesota Statutes 2004, section 62A.021, subdivision 1, is amended to read:

Subdivision 1. **Loss ratio standards.** (a) Notwithstanding section 62A.02, subdivision 3, relating to loss ratios, and except as otherwise authorized by section 62A.02, subdivision 3a, for individual policies or certificates, health care policies or certificates shall not be delivered or issued for delivery to an individual or to a small employer as defined in section 62L.02, unless the policies or certificates can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to Minnesota policyholders and certificate holders in the form of aggregate benefits not including anticipated refunds or credits, provided under the policies or certificates, (1) at least 75 percent of the aggregate amount of premiums earned in the case of policies issued in the small employer market, as defined in section 62L.02, subdivision 27, calculated on an aggregate basis; and (2) at least 65 percent of the aggregate amount of premiums earned in the case of each policy form or certificate form issued in the individual market; calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a health maintenance organization on a service rather than reimbursement basis and earned premiums for the period and according to accepted actuarial principles and practices. Assessments by the reinsurance association created in chapter 62L and all types of taxes, surcharges, or assessments created by Laws 1992, chapter 549, or created on or after April 23, 1992, are included in the calculation of incurred claims experience or incurred health care expenses. The applicable percentage for policies and certificates issued in the small employer market, as defined in section 62L.02, increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until an 82 percent loss ratio is reached on July 1, 2000. The applicable percentage for policy forms and certificate forms issued in the individual market increases by one percentage point on July 1 of each year, beginning on July 1, 1994, until a 72 percent loss ratio is reached on July 1, 2000. A health carrier that enters a market after July 1, 1993, does not start at the beginning of the phase-in schedule and must instead comply with the loss ratio requirements applicable to other health carriers in that market for each time period. Premiums earned and claims incurred in markets other than the small employer and individual markets are not relevant for purposes of this section.

(b) All filings of rates and rating schedules shall demonstrate that actual expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions shall also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates

are computed to provide coverage can be expected to meet the appropriate loss ratio standards, and aggregate loss ratio from inception of the policy form or certificate form shall equal or exceed the appropriate loss ratio standards.

(c) A health carrier that issues health care policies and certificates to individuals or to small employers, as defined in section 62L.02, in this state shall file annually its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy form or certificate form duration for approval by the commissioner according to the filing requirements and procedures prescribed by the commissioner. The supporting documentation shall also demonstrate in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration shall exclude active life reserves. If the data submitted does not confirm that the health carrier has satisfied the loss ratio requirements of this section, the commissioner shall notify the health carrier in writing of the deficiency. The health carrier shall have 30 days from the date of the commissioner's notice to file amended rates that comply with this section. If the health carrier fails to file amended rates within the prescribed time, the commissioner shall order that the health carrier's filed rates for the nonconforming policy form or certificate form be reduced to an amount that would have resulted in a loss ratio that complied with this section had it been in effect for the reporting period of the supplement. The health carrier's failure to file amended rates within the specified time or the issuance of the commissioner's order amending the rates does not preclude the health carrier from filing an amendment of its rates at a later time. The commissioner shall annually make the submitted data available to the public at a cost not to exceed the cost of copying. The data must be compiled in a form useful for consumers who wish to compare premium charges and loss ratios.

(d) Each sale of a policy or certificate that does not comply with the loss ratio requirements of this section is an unfair or deceptive act or practice in the business of insurance and is subject to the penalties in sections 72A.17 to 72A.32.

(e)(1) For purposes of this section, health care policies issued as a result of solicitations of individuals through the mail or mass media advertising, including both print and broadcast advertising, shall be treated as individual policies.

(2) For purposes of this section, (i) "health care policy" or "health care certificate" is a health plan as defined in section 62A.011; and (ii) "health carrier" has the meaning given in section 62A.011 and includes all health carriers delivering or issuing for delivery health care policies or certificates in this state or offering these policies or certificates to residents of this state.

(f) The loss ratio phase-in as described in paragraph (a) does not apply to individual policies and small employer policies issued by a health plan company that is assessed less than three percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. These policies must meet a 68 percent loss ratio for individual policies, a 71 percent loss ratio for small employer policies with fewer than ten employees, and a 75 percent loss ratio for all other small employer policies.

(g) Notwithstanding paragraphs (a) and (f), the loss ratio shall be 60 percent for a health plan as defined in section 62A.011, offered by an insurance company licensed under chapter 60A that is assessed less than ten percent of the total annual amount assessed by the Minnesota Comprehensive Health Association. For purposes of the percentage calculation of the association's assessments, an insurance company's assessments include those of its affiliates.

(h) The commissioners of commerce and health shall each annually issue a public report listing, by health plan company, the actual loss ratios experienced in the individual and small employer markets in this state by the health plan companies that the commissioners respectively regulate. The commissioners shall coordinate release of these reports so as to release them as a joint report or as separate reports issued the same day. The report or reports shall be released no later than June 1 for loss ratios experienced for the preceding calendar year. Health plan companies shall provide to the commissioners any information requested by the commissioners for purposes of this paragraph.

Sec. 3. Minnesota Statutes 2004, section 62A.65, subdivision 3, is amended to read:

Subd. 3. **Premium rate restrictions.** No individual health plan may be offered, sold, issued, or renewed to a Minnesota resident unless the premium rate charged is determined in accordance with the following requirements:

(a) Premium rates must be no more than 25 percent above and no more than 25 percent below the index rate charged to individuals for the same or similar coverage, adjusted pro rata for rating periods of less than one year. The premium variations permitted by this paragraph must be based only upon health status, claims experience, and occupation. For purposes of this paragraph, health status includes refraining from tobacco use or other actuarially valid lifestyle factors associated with good health, provided that the lifestyle factor and its effect upon premium rates have been determined by the commissioner to be actuarially valid and have been approved by the commissioner. Variations permitted under this paragraph must not be based upon age or applied differently at different ages. This paragraph does not prohibit use of a constant percentage adjustment for factors permitted to be used under this paragraph.

(b) Premium rates may vary based upon the ages of covered persons only as provided in this paragraph. In addition to the variation permitted under paragraph (a), each health carrier may use an additional premium variation based upon age of up to plus or minus 50 percent of the index rate.

(c) A health carrier may request approval by the commissioner to establish no more than three geographic regions and to establish separate index rates for each region, provided that the index rates do not vary between any two regions by more than 20 percent. Health carriers that do not do business in the Minneapolis/St. Paul metropolitan area may request approval for no more than two geographic regions, and clauses (2) and (3) do not apply to approval of requests made by those health carriers. The commissioner may grant approval if the following conditions are met:

(1) the geographic regions must be applied uniformly by the health carrier;

(2) one geographic region must be based on the Minneapolis/St. Paul metropolitan area;

(3) for each geographic region that is rural, the index rate for that region must not exceed the index rate for the Minneapolis/St. Paul metropolitan area; and

(4) the health carrier provides actuarial justification acceptable to the commissioner for the proposed geographic variations in index rates, establishing that the variations are based upon differences in the cost to the health carrier of providing coverage.

(d) Health carriers may use rate cells and must file with the commissioner the rate cells they use. Rate cells must be based upon the number of adults or children covered under the policy and may reflect the availability of Medicare coverage. The rates for different rate cells must not in any way reflect generalized differences in expected costs between principal insureds and their spouses.

(e) In developing its index rates and premiums for a health plan, a health carrier shall take into account only the following factors:

(1) actuarially valid differences in rating factors permitted under paragraphs (a) and (b); and

(2) actuarially valid geographic variations if approved by the commissioner as provided in paragraph (c).

(f) All premium variations must be justified in initial rate filings and upon request of the commissioner in rate revision filings. All rate variations are subject to approval by the commissioner.

(g) The loss ratio must comply with the section 62A.021 requirements for individual health plans.

(h) The rates must not be approved, unless the commissioner has determined that the rates are reasonable. In determining reasonableness, the commissioner shall consider the growth rates applied under section 62J.04, subdivision 1, paragraph (b), to the calendar year or years that the proposed premium rate would be in effect, actuarially valid changes in risks associated with the enrollee populations, and actuarially valid changes as a result of statutory changes in Laws 1992, chapter 549.

(i) An insurer may, as part of a minimum lifetime loss ratio guarantee filing under section 62A.02, subdivision 3a, include a rating practices guarantee as provided in this paragraph. The rating practices guarantee must be in writing and must guarantee that the policy form will be offered, sold, issued, and renewed only with premium rates and premium rating practices that comply with subdivisions 2, 3, 4, and 5. The rating practices guarantee must be accompanied by an actuarial memorandum that demonstrates that the premium rates and premium rating system used in connection with the policy form will satisfy the guarantee. The guarantee must guarantee refunds of any excess premiums to policyholders charged premiums that exceed those permitted under subdivision 2, 3, 4, or 5. An insurer that complies with this paragraph in connection with a policy form is exempt from the requirement of prior approval by the commissioner under paragraphs (c), (f), and (h)."

Amend the title accordingly

And when so amended the bill do pass. Amendments adopted. Report adopted.

.....
(Committee Chair)

March 29, 2006 .....
(Date of Committee recommendation)

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State of Minnesota

S.F. No. 3551 - Real Estate Appraisers

Author: Senator James P. Metzen

Prepared by: Matthew S. Grosser, Senate Research (651/296-1890) MG

Date: March 28, 2006

The bill modifies training and education requirements for real estate appraisers.

Section 1 specifies that prior to January 1, 2009, the education, experience, and examination criteria in effect January 1, 2003, must be met, and that after January 1, 2009, the January 1, 2008, criteria must be met.

Section 2 permits a trainee appraiser to appraise residential and agricultural property when a net income capitalization analysis is not required by the uniform standards of professional appraisal practices.

Section 3 permits a licensed appraiser to appraise noncomplex residential and agricultural property valued at less than $1,000,000, and complex residential and agricultural property valued at less than $250,000.

Section 4 establishes the January 1, 2008, training and education requirements for trainee and licensed real property appraisers.

Section 5 establishes the January 1, 2008, training and education requirements for a certified residential real property appraiser.

Section 6 establishes the January 1, 2008, training and education requirements for a certified general real property appraiser.

Section 7 establishes the uniform standard professional appraiser practice course requirements for all levels of appraiser licenses.

Section 8 requires appraisers to maintain a record of qualifying education courses, experience, and other licensing requirements.

Section 9 clarifies that the experience requirement must be obtained in a period of no fewer than 12 months prior to January 30, 1989, and must be USPAP compliant

MSG:dv

amend as follows:
page 1, line 17 delete "on" and insert "after"

Senator Metzen introduced–

S.F. No. 3551: Referred to the Committee on Commerce.

A bill for an act

relating to real estate appraisers; regulating trainees; modifying appraiser education, experience, and examination requirements; amending Minnesota Statutes 2004, section 82B.11, subdivisions 2, 3; Minnesota Statutes 2005 Supplement, sections 82B.095; 82B.13, subdivisions 1, 4, 5, by adding subdivisions; 82B.14.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2005 Supplement, section 82B.095, is amended to read:

82B.095 APPRAISER QUALIFICATION COMPONENTS.

Subdivision 1. **Components before January 1, 2009.** The three components required for a real property appraiser license are education, experience, and examination. Applicants for a class of license must document that they have met at least the component criteria that were in effect at the time they completed that component, provided that at a minimum, the January 1, 2003, criteria has been met.

Subd. 2. **Components on or after January 1, 2009.** On or after January 1, 2009, an applicant for a class of license must document that the applicant has met the education, experience, and examination components in effect ~~on~~ after January 1, 2008.

Sec. 2. Minnesota Statutes 2004, section 82B.11, subdivision 2, is amended to read:

Subd. 2. ~~**Registered**~~ **Trainee real property appraiser.** When a net income capitalization analysis is not required by the uniform standards of professional appraisal practice, a ~~registered~~ trainee real property appraiser may appraise residential real property or agricultural property.

Sec. 3. Minnesota Statutes 2004, section 82B.11, subdivision 3, is amended to read:

Subd. 3. **Licensed residential real property appraiser.** A licensed residential real property appraiser may appraise noncomplex residential property or agricultural property having a transaction value less than $1,000,000 and complex residential or agricultural property having a transaction value less than $250,000.

Sec. 4. Minnesota Statutes 2005 Supplement, section 82B.13, subdivision 1, is amended to read:

Subdivision 1. ~~**Registered**~~ **Trainee real property appraiser or licensed real property appraiser.** As a prerequisite for licensing as a ~~registered~~ trainee real property appraiser or licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 90 classroom hours of prelicense courses. The courses must consist of 75 hours of general real estate appraisal principles and the 15-hour national USPAP course.

(a) After January 1, 2008, a trainee real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 75 hours of prelicense courses approved by the commissioner.

(b) After January 1, 2008, a licensed real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 150 hours of prelicense courses approved by the commissioner.

Sec. 5. Minnesota Statutes 2005 Supplement, section 82B.13, subdivision 4, is amended to read:

Subd. 4. **Certified residential real property appraiser.** As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 120 classroom hours of prelicense courses, with particular emphasis on the appraisal of one to four unit residential properties. Fifteen of the 120 hours must include successful completion of the 15-hour national USPAP course.

After January 1, 2008, a certified residential real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed:

(1) 200 hours of prelicense courses approved by the commissioner; and

(2) an associate degree from an accredited college or university. In lieu of the required degree the applicant may present satisfactory documentation of completion of 21 semester credit hours from an accredited college or university covering the following subject matter courses: English composition; principles of economics (micro or macro);

finance; algebra, geometry, or higher mathematics; statistics; introduction to computer word processing/spreadsheets; and business or real estate law. If an applicant has completed education requirements before January 1, 2008, no college degree is required.

Sec. 6. Minnesota Statutes 2005 Supplement, section 82B.13, subdivision 5, is amended to read:

Subd. 5. **Certified general real property appraiser.** As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has successfully completed at least 180 classroom hours of prelicense courses, with particular emphasis on the appraisal of nonresidential properties. Fifteen of the 180 hours must include successful completion of the 15-hour national USPAP course.

After January 1, 2008, a certified general real property appraiser applicant must present evidence satisfactory to the commissioner that the person has successfully completed:

(1) 300 hours of prelicense courses approved by the commissioner; and

(2) a bachelor's degree from an accredited college or university. In lieu of the required degree the applicant may present satisfactory documentation of completion of 30 semester credit hours from an accredited college or university covering the following subject matters courses: English composition; micro economics; macro economics; finance; algebra, geometry, or higher mathematics; statistics; introduction to computer word processing/spreadsheets; business or real estate law; and two elective courses in accounting, geography, ag-economics, business management, or real estate. If an applicant has complete education requirements before January 1, 2008, no college degree is required.

Sec. 7. Minnesota Statutes 2005 Supplement, section 82B.13, is amended by adding a subdivision to read:

Subd. 6. **All appraiser license levels.** The required course hours for all appraiser license levels include completion of the 15-hour national USPAP course and specific core curriculum courses and hours in accordance with the real property appraiser qualification criteria as defined by the Appraisal Qualifications Board:

	Trainee
Basic appraisal principles	30 hours
Basic appraisal procedures	30 hours
The 15-hour national USPAP course or its equivalent	15 hours

Trainee level total education requirements		75 hours
	Licensed	
Basic appraisal principles		30 hours
Basic appraisal procedures		30 hours
The 15-hour national USPAP course or its equivalent		15 hours
Residential market analysis and highest and best use		15 hours
Residential appraiser site valuation and cost approach		15 hours
Residential sales comparison and income approaches		30 hours
Residential report writing and case studies		15 hours
Licensed level total education requirements		150 hours
	Certified residential	
Basic appraisal principles		30 hours
Basic appraisal procedures		30 hours
The 15-hour national USPAP course or its equivalent		15 hours
Residential market analysis and highest and best use		15 hours
Residential appraiser site valuation and cost approach		15 hours
Residential sales comparison and income approaches		30 hours
Residential report writing and case studies		15 hours
Statistics, modeling, and finance		15 hours
Advanced residential applications and case studies		15 hours
Appraisal subject matter electives		20 hours
(May include hours over minimum shown above in other modules)		
Certified residential level total education requirements		200 hours
	Certified general	
Basic appraisal principles		30 hours
Basic appraisal procedures		30 hours
The 15-hour national USPAP course or its equivalent		15 hours
General appraiser market analysis and highest and best use		30 hours

Statistics, modeling, and finance		15 hours
General appraiser sales comparison approach		30 hours
General appraiser site valuation and cost approach		30 hours
General appraiser income approach		60 hours
General appraiser report writing and case studies		30 hours
Appraisal subject matter electives		30 hours
(May include hours over minimum shown above in other modules)		
Certified general level total education requirements		300 hours

Sec. 8. Minnesota Statutes 2005 Supplement, section 82B.13, is amended by adding a subdivision to read:

Subd. 7. **Student tracking manual.** It is the responsibility of students to record the qualifying education they have completed in a student tracking manual broken down by required core curriculum modules and subtopics, and to maintain an orderly record of education, experience, and other requirements.

Sec. 9. Minnesota Statutes 2005 Supplement, section 82B.14, is amended to read:

82B.14 EXPERIENCE REQUIREMENT.

(a) As a prerequisite for licensing as a licensed real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,000 hours of experience in real property appraisal obtained in no fewer than 12 months.

As a prerequisite for licensing as a certified residential real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 2,500 hours of experience in real property appraisal obtained in no fewer than 24 months.

As a prerequisite for licensing as a certified general real property appraiser, an applicant must present evidence satisfactory to the commissioner that the person has obtained 3,000 hours of experience in real property appraisal obtained in no fewer than 30 months. At least 50 percent, or 1,500 hours, must be in nonresidential appraisal work.

(b) Each applicant for license under section 82B.11, subdivision 3, 4, or 5, shall give under oath a detailed listing of the real estate appraisal reports or file memoranda for which experience is claimed by the applicant. Upon request, the applicant shall make available to the commissioner for examination, a sample of appraisal reports that the applicant has prepared in the course of appraisal practice.

(c) Applicants may not receive credit for experience accumulated while unlicensed, if the experience is based on activities which required a license under this section.

(d) Experience for all classifications must be obtained after January 30, 1989, and must be USPAP compliant.

Senator Scheid from the Committee on Commerce, to which was referred

S.F. No. 3551: A bill for an act relating to real estate appraisers; regulating trainees; modifying appraiser education, experience, and examination requirements; amending Minnesota Statutes 2004, section 82B.11, subdivisions 2, 3; Minnesota Statutes 2005 Supplement, sections 82B.095; 82B.13, subdivisions 1, 4, 5, by adding subdivisions; 82B.14.

Reports the same back with the recommendation that the bill be amended as follows:

Page 1, line 17, delete "on" and insert "after"

And when so amended the bill do pass. Amendments adopted. Report adopted.

Linda Scheid
.....
(Committee Chair)

March 29, 2006 .....
(Date of Committee recommendation)