

Gender Revision of 1986

Volume 2

Revising  
Minnesota Statutes  
Chapters 59A – 114B

1 Subd. 3. The information required by subdivision 1 shall  
 2 only be required in the initial insurance premium finance  
 3 agreement entered into if said agreement is open end. An  
 4 insurance premium finance agreement is open end if it provides  
 5 that additional or subsequent insurance premiums may be financed  
 6 and added to the initial insurance premium finance agreement  
 7 from time to time.

8 Additional or subsequent premiums may be added to an open  
 9 end insurance premium finance agreement from time to time,  
 10 provided that:

11 (a) The additional or subsequent insurance premium to be  
 12 added results from additional premiums required under policies  
 13 presently being financed under the open end insurance premium  
 14 finance agreement or from a renewal of a policy or from other  
 15 policies owned or purchased by the insured.

16 (b) The insurance premium finance company receives written  
 17 notice or advice from an insurer authorized to do business in  
 18 this state or from an insurance agent licensed in this state  
 19 acknowledging that the premium on an existing financed policy  
 20 has been increased or that a policy has been renewed or that  
 21 additional policies have or will be issued to the insured. The  
 22 notice or advice shall contain the amount of the additional  
 23 premium, the down payment collected by the insurer or agent, if  
 24 any, and the amount of premium to be added to the open end  
 25 insurance premium finance agreement.

26 (c) If the additional premiums to be added to the open end  
 27 insurance premium finance agreement result from additional  
 28 premiums required on policies presently financed under the  
 29 agreement which are to be financed beyond the scheduled maturity  
 30 of the original financing, the renewal of a policy or from an  
 31 additional policy owned or purchased by the insured, the  
 32 insurance premium finance company shall mail a notice to the  
 33 insured at the address shown in the policy. Said notice shall  
 34 contain:

35 (1) The information required by subdivision 1,  
 36 notwithstanding that the notice is not signed by, nor on behalf  
 37 of the insured;

38 (2) A conspicuous statement to the insured stating that he  
 39 the insured may tender the premiums in full or disaffirm the  
 40 financing of the premium on the renewal or additional policies  
 41 by mailing to the insurance premium finance company notice  
 42 of ~~his~~ intention to do so within ten days after the insurance  
 43 premium finance company mails to the insured the notice required  
 44 by this subdivision;

45 (3) A conspicuous statement to the insured that the  
 46 insurance premium finance company may, in event of default in  
 47 payment of the additional premium, or any installment thereof,  
 48 cause the insured's insurance contract or contracts to be  
 49 cancelled as provided in section 59A.11.

50 (d) At the time the notice of additional premium to be  
 51 added to the open end insurance premium finance agreement is  
 52 mailed to the insured as provided in clause (c), an employee of  
 53 the insurance premium finance company shall prepare and sign a  
 54 certificate or affidavit of mailing setting forth the following:

55 (1) The name of the employee who mailed the notice of the  
 56 additional premium to be financed.

57 (2) That the employee mailing the notice is over 18 years  
 58 of age.

59 (3) The date and place of the deposit of the notice in the  
 60 mail.

61 (4) The name and address of the person to whom the notice  
 62 was mailed as shown on the envelope containing the notice.

63 (5) That the envelope containing the notice was sealed and  
 64 deposited in the mail with the proper postage thereon.

65 A certificate or affidavit of mailing, prepared and signed  
 66 as prescribed in this subdivision shall raise rebuttable  
 67 presumption that the notice was mailed to the insured at the  
 68 address shown in the certificate or affidavit of mailing.

69 (e) The insurance premium finance company may make a  
 70 finance charge in accordance with section 59A.09 for additional  
 71 premiums financed and added to an open end insurance premium  
 72 finance agreement; however, only one flat rate service fee may  
 73 be made or charged for each insurance premium finance agreement  
 74 entered into and no additional flat service fee may be made or  
 75 charged for adding additional or subsequent premiums to an open  
 76 end insurance premium finance agreement for which a flat service

\*  
 \*  
 \*



1 fee was previously made or charged.  
 2 Subd. 4. The premium finance company or the insurance  
 3 agent shall deliver to the insured, or mail to him the insured \*  
 4 at his the address shown in the agreement, a completed copy of \*  
 5 that agreement.

059A#09S

6 59A.09 MAXIMUM FINANCE CHARGE.  
 7 No change for subd 1 to 4  
 8 Subd. 5. Notwithstanding the provisions of any premium  
 9 finance agreement, any insured may prepay the obligation in full \*  
 10 at any time. In such event he the insured shall receive a \*  
 11 refund credit. The amount of such refund credit shall represent  
 12 at least as great a proportion of the finance charge as the sum  
 13 of the periodic balances after the month in which prepayment is  
 14 made bears to the sum of all periodic balances under the \*  
 15 schedule of installments in the agreement. Where the amount of  
 16 the refund is less than \$1, no refund need be made. If, in  
 17 addition to the finance charge, an additional flat service fee  
 18 was imposed, the flat service fee need not be refunded nor taken  
 19 into consideration in computing the refund credit.  
 20 No change for subd 6

059A#11S

21 59A.11 CANCELLATION OF INSURANCE CONTRACT UPON DEFAULT.  
 22 No change for subd 1 to 2  
 23 Subd. 3. Pursuant to the power of attorney or other  
 24 authority referred to above, the insurance premium finance  
 25 company may cancel on behalf of the insured by mailing to the  
 26 insurer written notice stating when thereafter the cancellation  
 27 shall be effective, and the insurance contract shall be  
 28 cancelled as if such notice of cancellation had been submitted  
 29 by the insured himself personally, but without requiring the \*  
 30 return of the insurance contract. In the event that the insurer  
 31 or its agent does not provide the insurance premium finance  
 32 company with a specific mailing address for the purposes of  
 33 receipt of the above notice, then mailing by the insurance  
 34 premium finance company to the insurer at the address which is  
 35 on file and of record with the commissioner of commerce pursuant  
 36 to the provisions of chapters 60A and 72A shall be considered  
 37 sufficient notice under this section. The insurance premium  
 38 finance company shall also mail a notice of cancellation to the  
 39 insured at his the insured's last known address and to the \*  
 40 insurance agent or insurance broker indicated on the premium  
 41 finance agreement.  
 42 No change for subd 4

060A#02S

43 60A.02 DEFINITIONS.  
 44 No change for subd 1  
 45 Subd. 2. COMMISSIONER. "Commissioner" means the  
 46 commissioner of commerce of the state of Minnesota and, in his \*  
 47 the commissioner's absence or disability, his a deputy or other \*  
 48 person duly designated to act in his the commissioner's place. \*  
 49 No change for subd 3 to 12

50 Subd. 13. LOSS PAYMENTS AND LOSS EXPENSE PAYMENTS.  
 51 The terms "loss payments" and "loss expense payments" include  
 52 all payments to claimants, including payments for medical and  
 53 surgical attendance, legal expense, salaries and expenses of  
 54 investigators, adjusters, and field men representatives, rents, \*  
 55 stationery, telegraph and telephone charges, postage, salaries  
 56 and expenses of office employees, home office expenses, and all  
 57 other payments made on account of claims, whether such payments  
 58 shall be allocated to specific claims or unallocated.  
 59 No change for subd 14 to 18

060A#03S

60 60A.03 COMMISSIONER OF COMMERCE.  
 61 Subdivision 1. COMMISSIONER; APPOINTMENT. The  
 62 commissioner of commerce shall be appointed by the governor  
 63 under the provisions of section 15.06 ~~and shall devote his~~ \*  
 64 entire-time. All of the commissioner's time shall be devoted to \*  
 65 the duties of his the office. \*  
 66 Subd. 2. POWERS OF COMMISSIONER. (1) ENFORCEMENT.  
 67 The commissioner shall have and exercise the power to enforce  
 68 all the laws of this state relating to insurance, and ~~it shall~~ \*  
 69 ~~be his duty to~~ enforce all the provisions of the laws of this \*  
 70 state relating to insurance.  
 71 (2) DEPARTMENT OF COMMERCE. The commissioner shall  
 72 have and possess all the rights and powers and perform all the



1 duties heretofore vested by law in the commissioner of commerce,  
 2 except that applications for registrations of securities and  
 3 brokers' licenses under sections 80A.01 to 80A.31, and all  
 4 matters pertaining to such registrations and licenses,  
 5 application for the organization and establishment of new  
 6 financial institutions under sections 46.041, 46.043, and  
 7 46.044, applications by insuring companies for licenses to carry  
 8 on business within the state, and all matters pertaining to such  
 9 licenses, and applications for the consolidation of insuring  
 10 companies transacting business within the state, shall be  
 11 determined by the commissioner in the manner provided by the  
 12 laws defining the powers and duties of the commissioner of  
 13 commerce, and the state securities commission, respectively, or,  
 14 in the absence of any law prescribing the procedure, by such  
 15 reasonable procedure as the commission, as defined in chapter  
 16 45, may prescribe.

17 Subd. 3. COMMISSIONER MAY APPOINT. (1) OFFICIAL  
 18 STAFF. The commissioner may appoint a deputy or assistant  
 19 commissioner of commerce to assist ~~him~~ in his the commissioner's \*  
 20 duties, an actuary, a chief examiner, a statistician, and such  
 21 assistants to these employees and such stenographic and clerical  
 22 help as may be required for the proper conduct of the department  
 23 of commerce.

24 (2) DUTIES OF DEPARTMENTAL OFFICIALS. In the absence  
 25 or disability of the commissioner ~~his~~, the commissioner's duties \*  
 26 shall be performed by the deputy or assistant commissioner of  
 27 commerce. The actuary of the department shall, under the  
 28 direction of the commissioner, make such valuation of life  
 29 insurance policies as shall be necessary, from time to time, to  
 30 the proper supervision of life insurance companies transacting  
 31 business in this state, and shall perform such other actuarial  
 32 duties, including the visitation and examination of insurance  
 33 companies, as the commissioner may prescribe. The chief and  
 34 assistant examiners shall, under the direction of the  
 35 commissioner, devote their principal time to necessary or  
 36 required examinations of insurance companies, and perform such  
 37 other duties as the commissioner may prescribe. Other salaried  
 38 employees of the department of commerce shall be under the  
 39 direction of the commissioner and perform such duties, in  
 40 connection with the department of commerce, as the commissioner  
 41 may prescribe.

42 (3) CONSULTING ACTUARY, APPOINTMENT AND COMPENSATION.  
 43 The commissioner may, when ~~he~~ the commissioner shall deem it \*  
 44 necessary, appoint any experienced and competent professional  
 45 insurance actuary to personally make or conduct, or assist in  
 46 making or conducting, an examination of any insurance company  
 47 admitted, or applying for admission, to do business in this  
 48 state, on condition that the commissioner shall have previously  
 49 filed with the secretary of state a written declaration  
 50 designating such person, by name and address, as a consulting  
 51 actuary of the department of commerce. In this case, the  
 52 commissioner shall fix a reasonable compensation for the actuary  
 53 on a per diem basis for the actual time employed in making or  
 54 conducting, or assisting to make or conduct, the examination,  
 55 which compensation, together with the amount of the necessary  
 56 expenses actually incurred by the actuary, including expenses of  
 57 any necessary appraisal or clerical assistance, shall be charged  
 58 to the company and paid by it to the actuary.

59 (4) APPRAISER, APPOINTMENT AND COMPENSATION. The  
 60 commissioner, when ~~he shall deem~~ deeming it necessary, \*  
 61 appoint any qualified person to make an appraisal of any or all  
 62 of the assets of any such company. Such person shall be  
 63 paid ~~for his services~~ such reasonable fees for the appraisal as \*  
 64 may be approved by the commissioner and ~~he~~ shall also be paid \*  
 65 ~~his~~ necessary expenses actually incurred in connection with ~~his~~ \*  
 66 the services. Such compensation and expenses shall be paid by \*  
 67 the company.

68 Subd. 4. Repealed, 1969 c 7 s 2  
 69 No change for subd 5

70 Subd. 6. EXAMINATION REVOLVING FUND. (1)  
 71 REVOLVING FUND CREATED. There is hereby created the  
 72 department of commerce examination revolving fund for the  
 73 purpose of carrying on the examination of foreign and domestic  
 74 insurance companies.

75 (2) MONEYS IN REVOLVING FUND. Such fund shall  
 76 consist of the \$7,500 appropriated therefor and the moneys



1 transferred to it as herein provided, which are reappropriated  
2 to the commissioner of commerce for the purpose of this  
3 subdivision.

4 (3) FUND TO BE KEPT IN STATE TREASURY. Such fund  
5 shall be kept in the state treasury and shall be paid out in the  
6 manner prescribed by law for moneys therein.

7 (4) PURPOSES FOR WHICH FUND MAY BE EXPENDED. Such  
8 fund shall be used for the payment of per diem salaries and  
9 expenses of special examiners and appraisers, and the expenses  
10 of the commissioner of commerce, deputy commissioner of  
11 commerce, chief examiner, actuary other than a consulting  
12 actuary appointed under subdivision 3(3) hereof, regular  
13 salaried examiners and other employees of the department of  
14 commerce when participating in examinations. Expenses include  
15 meals, lodging, laundry, transportation, and mileage. The  
16 salary of regular employees of the division of insurance shall  
17 not be paid out of this fund.

18 (5) COLLECTIONS TO BE DEPOSITED IN FUND. All moneys  
19 collected by the division of insurance from insurance companies  
20 for fees and expenses of examinations, shall be deposited in the  
21 insurance division examination revolving fund.

22 (6) PAYMENTS FROM SUCH FUND. Upon authorization by  
23 the commissioner of commerce, the moneys due each examiner or  
24 employee engaged in an examination shall be paid ~~to him~~ from the \*  
25 insurance division examination revolving fund in the manner  
26 prescribed by law.

27 (7) EXCESS OVER \$7,500 CANCELED INTO GENERAL FUND.  
28 The balance in such fund on June 30 of each year in excess of  
29 \$7,500 shall be forthwith canceled into the general fund.

30 Subd. 7. Repealed, 1969 c 707 s 1; 1969 c 1129 art 4 s  
31 11

32 No change for subd 8

060A#031S

33 60A.031 EXAMINATIONS.

34 Subdivision 1. POWER TO EXAMINE. (1) INSURERS AND  
35 OTHER LICENSEES. At any time and for any reason related to  
36 the enforcement of the insurance laws, the commissioner may  
37 examine the affairs and conditions of any foreign or domestic  
38 insurance company, including reciprocals and fraternal,  
39 licensee or applicant for a license under the insurance laws, or  
40 any other person or organization of persons doing or in the  
41 process of organizing to do any insurance business in this  
42 state, and of any licensed advisory organization serving any of  
43 the foregoing in this state.

44 (2) WHO MAY BE EXAMINED. The commissioner in making  
45 any examination of an insurance company as authorized by this  
46 section may, if in ~~his~~ the commissioner's discretion, he \*  
47 has there is cause to believe he the commissioner is unable to \*  
48 obtain relevant information from such insurance company, examine  
49 any person, association, or corporation:

50 (a) transacting, having transacted, or being organized to  
51 transact the business of insurance in this state;

52 (b) engaged in or proposing to be engaged in the  
53 organization, promotion, or solicitation of shares or capital  
54 contributions to or aiding in the formation of a domestic  
55 insurance company;

56 (c) holding shares of capital stock of an insurance company  
57 for the purpose of controlling the management thereof as voting  
58 trustee or otherwise;

59 (d) having a contract, written or oral, pertaining to the  
60 management or control of an insurance company as general agent,  
61 managing agent, attorney-in-fact, or otherwise;

62 (e) which has substantial control directly or indirectly  
63 over an insurance company whether by ownership of its stock or  
64 otherwise, or owning stock in any domestic insurance company,  
65 which stock constitutes a substantial proportion of either the  
66 stock of the domestic insurance company or of the assets of the  
67 owner thereof;

68 (f) which is a subsidiary or affiliate of an insurance  
69 company;

70 (g) which is a licensed agent or solicitor or has made  
71 application for the licenses;

72 (h) engaged in the business of adjusting losses or  
73 financing premiums.

74 Nothing contained in this clause (2) shall authorize the  
75 commissioner to examine any person, association, or corporation



1 which is subject to regular examination by another division of  
2 the commerce department of this state. The commissioner shall  
3 notify the other division when an examination is deemed  
4 advisable.

5 Subd. 2. Repealed, 1981 c 211 s 42

6 No change for subd 2a to 8

060A#032S

7 60A.032 COMMISSIONER'S ORDERS, REPORT.

8 When, upon receipt of an examination report, the  
9 commissioner forwards to the company an order based on the  
10 report, ~~he~~ the commissioner shall immediately report the fact to \*  
11 the governor and the attorney general. Within 20 days after  
12 submission of the report the commissioner shall submit to the  
13 governor and attorney general a supplementary report if the  
14 company has not complied with ~~his~~ the order. \*

060A#05S

15 60A.05 SUSPENSION OF AUTHORITY.

16 Subdivision 1. COMPANIES. If the commissioner  
17 believes, upon examination or other evidence, that a foreign or  
18 domestic insurance company is in an unsound condition or, if a  
19 life insurance company, that its actual funds are less than its  
20 liabilities, or that it is insolvent; or if a foreign or  
21 domestic insurance company has failed to comply with the law, or  
22 if it, its officers, or agents, refuse to submit to examination,  
23 or to perform any legal obligation in relation thereto, and ~~he~~  
24 the commissioner believes protection of the interests of \*  
25 policyholders, claimants, or the general public requires summary \*  
26 action, ~~he~~ the commissioner may revoke or suspend all \*  
27 certificates of authority granted to it or its agents. ~~He~~ The \*  
28 commissioner shall cause notification of ~~his~~ the action to be \*  
29 published in a newspaper authorized to publish annual statements  
30 of insurance companies, and no new business shall thereafter be  
31 done by it, or its agents, in this state while the default or  
32 disability continues, nor until its authority to do business is  
33 restored by the commissioner. The revocation or suspension is  
34 effective ten days after notice to the company unless the ground  
35 for revocation or suspension relates only to the financial  
36 condition or soundness of the company or to a deficiency in its  
37 assets, in which case revocation and suspension is effective  
38 upon notice to the company. The notice shall specify the  
39 particulars of the supposed violation. The district court of  
40 any county, upon petition of the company, shall summarily hear  
41 and determine the question whether the ground for revocation or  
42 suspension exists. The court shall make any proper order or  
43 decree and enforce it by any appropriate process. If the order  
44 or decree is adverse to the petitioning company, an appeal may  
45 be taken as in other civil cases. In the case of appeal, the  
46 commissioner may issue ~~his~~ an order revoking the right of the \*  
47 petitioning company to do business in this state until the final  
48 determination of the question. Neither this section nor any  
49 proceedings under it shall affect any criminal prosecutions or  
50 proceeding for the enforcement of any fine, penalty, or  
51 forfeiture.

52 No change for subd 2

060A#051S

53 60A.051 SUSPENSION OF CERTIFICATE OF AUTHORITY;  
54 COMPANIES.

55 Subdivision 1. GROUNDS. The commissioner of  
56 commerce may deny an application for a certificate of authority,  
57 or, after a hearing, may suspend or revoke the certificate of  
58 authority of an authorized insurer, or deny the renewal thereof,  
59 if ~~he~~ the commissioner finds that: \*

60 (a) the board of directors or the principal management of  
61 such company is incompetent or untrustworthy or so lacking in  
62 insurance company managerial experience as to make its operation  
63 hazardous to its policyholders, its stockholders, or to the  
64 insurance buying public, or

65 (b) such company is controlled directly or indirectly  
66 through ownership, management, reinsurance transactions or other  
67 business relations by any person or persons whose business  
68 operations are or have been marked by manipulation of any  
69 assets, reinsurance, or accounts as to create a hazard to the  
70 company's policyholders, stockholders, or to the insurance  
71 buying public.

72 No change for subd 2 to 5

060A#06S



## 1 60A.06 KINDS OF INSURANCE WHICH MAY BE WRITTEN.

## 2 Subdivision 1. STATUTORY LINES. Insurance

3 corporations may be authorized to transact in any state or  
4 territory in the United States, in the Dominion of Canada, and  
5 in foreign countries, when specified in their charters or  
6 certificates of incorporation, either as originally granted or  
7 as thereafter amended, any of the following kinds of business,  
8 upon the stock plan, or upon the mutual plan when the formation  
9 of such mutual companies is otherwise authorized by law; and  
10 business trusts as authorized by law of this state shall only be  
11 authorized to transact in this state the following kind of  
12 business hereinafter specified in clause (7) hereof when  
13 specified in their "declaration of trust":

14 (1) To insure against loss or damage to property on land  
15 and against loss of rents and rental values, leaseholds of  
16 buildings, use and occupancy and direct or consequential loss or  
17 damage caused by fire, smoke or smudge, water or other fluid or  
18 substance, lightning, windstorm, tornado, cyclone, earthquake,  
19 collapse and slippage, rain, hail, frost, snow, freeze, change  
20 of temperature, weather or climatic conditions, excess or  
21 deficiency of moisture, floods, the rising of waters, oceans,  
22 lakes, rivers or their tributaries, bombardment, invasion,  
23 insurrection, riot, civil war or commotion, military or usurped  
24 power, electrical power interruption or electrical breakdown  
25 from any cause, railroad equipment, motor vehicles or aircraft,  
26 accidental injury to sprinklers, pumps, conduits or containers  
27 or other apparatus erected for extinguishing fires, explosion,  
28 whether fire ensues or not, except explosions on risks specified  
29 in clause (3); provided, however, that there may be insured  
30 hereunder the following: (a) explosion of any kind originating  
31 outside the insured building or outside of the building  
32 containing the property insured, (b) explosion of pressure  
33 vessels which do not contain steam or which are not operated  
34 with steam coils or steam jackets; and (c) risks under home  
35 owners multiple peril policies;

36 (2) (a) To insure vessels, freight, goods, wares,  
37 merchandise, specie, bullion, jewels, profits, commissions, bank  
38 notes, bills of exchange, and other evidences of debt, bottomry  
39 and respondentia interest, and every insurance appertaining to  
40 or connected with risks of transportation and navigation on and  
41 under water, on land or in the air;

42 (b) To insure all personal property floater risks;

43 (3) To insure against any loss from either direct or  
44 indirect damage to any property or interest of the assured or of  
45 another, resulting from the explosion of or injury to (a) any  
46 boiler, heater or other fired pressure vessel; (b) any unfired  
47 pressure vessel; (c) pipes or containers connected with any of  
48 said boilers or vessels; (d) any engine, turbine, compressor,  
49 pump or wheel; (e) any apparatus generating, transmitting or  
50 using electricity; (f) any other machinery or apparatus  
51 connected with or operated by any of the previously named  
52 boilers, vessels or machines; and including the incidental power  
53 to make inspections of and to issue certificates of inspection  
54 upon, any such boilers, apparatus, and machinery, whether  
55 insured or otherwise;

56 (4) To make contracts of life and endowment insurance, to  
57 grant, purchase, or dispose of annuities or endowments of any  
58 kind; and, in such contracts, or in contracts supplemental  
59 thereto to provide for additional benefits in event of death of  
60 the insured by accidental means, total permanent disability of  
61 the insured, or specific dismemberment or disablement suffered  
62 by the insured;

63 (5) (a) To insure against loss or damage by the sickness,  
64 bodily injury or death by accident of the assured or ~~his~~ \*  
65 dependents;

66 (b) To insure against the legal liability, whether imposed \*  
67 by common law or by statute or assumed by contract, of ~~any~~ \*  
68 ~~employer employers~~ for the death or disablement of, or injury \*  
69 to, his-or-its-employee employees; \*

70 (6) To guarantee the fidelity of persons in fiduciary  
71 positions, public or private, or to act as surety on official  
72 and other bonds, and for the performance of official or other  
73 obligations;

74 (7) To insure owners and others interested in real estate  
75 against loss or damage, by reason of defective titles,  
76 encumbrances, or otherwise;



1 (8) To insure against loss or damage by breakage of glass,  
2 located or in transit;

3 (9) (a) To insure against loss by burglary, theft, or  
4 forgery;

5 (b) To insure against loss of or damage to moneys, coins,  
6 bullion, securities, notes, drafts, acceptance or any other  
7 valuable paper or document, resulting from any cause, except  
8 while in the custody or possession of and being transported by  
9 any carrier for hire or in the mail;

10 (c) To insure individuals by means of an all risk type of  
11 policy commonly known as the "Personal Property Floater" against  
12 any kind and all kinds of loss of or damage to, or loss of use  
13 of, any personal property other than merchandise;

14 (d) To insure against loss or damage by water or other  
15 fluid or substance;

16 (10) To insure against loss from death of domestic animals  
17 and to furnish veterinary service;

18 (11) To guarantee merchants and those engaged in business,  
19 and giving credit, from loss by reason of giving credit to those  
20 dealing with ~~him~~ them; this shall be known as credit insurance;

21 (12) To insure against loss or damage to automobiles or  
22 other vehicles or aircraft and their contents, by collision,  
23 fire, burglary, or theft, and other perils of operation, and  
24 against liability for damage to persons, or property of others,  
25 by collision with such vehicles or aircraft, and to insure  
26 against any loss or hazard incident to the ownership, operation,  
27 or use of motor or other vehicles or aircraft;

28 (13) To insure against liability for loss or damage to the  
29 property or person of another caused by the insured or by those  
30 for whom the insured is responsible, including insurance of  
31 medical, hospital, surgical, funeral or other related expense of  
32 the insured or other person injured, irrespective of legal  
33 liability of the insured, when issued with or supplemental to  
34 policies of liability insurance;

35 (14) To insure against loss of or damage to any property of  
36 the insured, resulting from the ownership, maintenance or use of  
37 elevators, except loss or damage by fire;

38 (15) To insure against attorneys fees, court costs, witness  
39 fees and incidental expenses incurred in connection with the use  
40 of the professional services of attorneys at law.

41 No change for subd 2

060A#07S

42 60A.07 AUTHORIZATION AND REQUIREMENTS.

43 No change for subd 1 to 5d

44 Subd. 5e. MINIMUM REQUIREMENTS; DEFICIENCY.

45 Whenever the commissioner finds that the capital or surplus of a  
46 stock company, or the surplus of a mutual company, is less than  
47 the minimum requirements prescribed by this section, he the  
48 commissioner shall determine the amount of the deficiency and  
49 issue an order in writing requiring the insurance company to  
50 restore the deficiency within such reasonable period as he the  
51 commissioner shall designate. The commissioner may, by order  
52 served upon the insurance company, prohibit the insurance  
53 company from issuing any new policies while the deficiency  
54 exists. If at the expiration of the designated period the  
55 insurance company has not restored the deficiency and filed  
56 proof satisfactory to the commissioner, he the commissioner  
57 shall proceed against the insurance company as provided in  
58 chapter 60B; provided, however, that if the surplus of a mutual  
59 company operating on the nonassessable basis declines below the  
60 minimum requirement prescribed by this section for such a  
61 company, and if its surplus is equal to or greater than the  
62 minimum requirement for a mutual company operating on the  
63 assessable basis, it may continue to write on the assessable  
64 basis by issuing only assessable policies.

65 Subd. 6. REDUCTION OF CAPITAL STOCK. When the  
66 capital of any domestic stock company is impaired, it may, upon  
67 a vote of the majority of the stock, reduce the same to not less  
68 than the legal minimum. In this case no part of its assets  
69 shall be distributed to the stockholders. Any such company  
70 whose capital is not impaired may, by a two-thirds vote of its  
71 stock and with the consent of the commissioner, reduce the same  
72 to not less than the legal minimum capital and surplus required  
73 for such a company. In either case, within ten days after the  
74 meeting at which the reduction was made, the company shall  
75 submit to the commissioner a certified statement of the



1 proceedings thereof, including the amount of the reduction and  
2 its assets and liabilities, verified by its president,  
3 secretary, and a majority of its directors. The commissioner  
4 shall examine the facts and, if they conform to law and ~~he~~ the  
5 commissioner is of opinion that injury to the public will not  
6 result, ~~he~~ the commissioner shall endorse ~~his~~ approval upon the  
7 statement. Upon filing the same with the secretary of state and  
8 paying a filing fee of \$5, and duly amending its certificate of  
9 incorporation in conformity therewith, it may transact business  
10 upon the reduced capital as though the same were its original  
11 capital, and the commissioner shall issue a license to that  
12 effect. The company may thereafter, by a majority vote of its  
13 directors, require the return of every original stock  
14 certificate in exchange for a new certificate for such number of  
15 shares as each stockholder is entitled to, in the proportion  
16 that the reduced capital bears to the original.

17 No change for subd 7

18 Subd. 8. SPECIAL PROVISIONS AS TO MUTUAL COMPANIES.

19 (1) AMENDMENT OF ARTICLES OR CERTIFICATE OF INCORPORATION.

20 The certificate of incorporation or articles of association of  
21 any domestic insurance company without capital stock, now or  
22 hereafter organized and existing under the laws of this state,  
23 may be amended in respect to any matter which an original  
24 certificate of incorporation or articles of association of a  
25 corporation of the same kind might lawfully have contained by  
26 the adoption of a resolution specifying the proposed amendment,  
27 at a regular meeting of the members thereof or at a special  
28 meeting called for that expressly stated purpose, by the  
29 affirmative vote of a majority of the members present, in person  
30 or by proxy, at the meeting, and by causing the resolution to be  
31 embraced in a certificate duly executed by its president and  
32 secretary or other presiding and recording officers, under its  
33 corporate seal, and approved, filed, recorded, and published in  
34 the manner prescribed by law for the execution, approval,  
35 filing, recording, and publishing of a like original certificate  
36 of incorporation or articles of association.

37 (2) RENEWAL OF CORPORATE EXISTENCE. Any domestic  
38 insurance company or corporation having no capital stock,  
39 heretofore or hereafter organized and existing under the laws of  
40 this state, whose period of duration has expired or is about to  
41 expire, may, on or before the date of the expiration, or within  
42 six months after the date of expiration, renew its corporate  
43 existence from the date of such expiration for any period  
44 permitted by the laws of this state, by the adoption of a  
45 resolution to that effect by the affirmative vote of  
46 three-fourths of the members present, in person or by proxy, at  
47 a regular meeting of the members, or at any special meeting  
48 called for that expressly stated purpose, and by causing the  
49 resolution to be embraced in a certificate duly executed by its  
50 president and secretary or other presiding and recording  
51 officers, under its corporate seal, and approved, filed,  
52 recorded, and published in the manner prescribed by law for the  
53 execution, approval, filing, recording, and publishing of an  
54 original certificate of incorporation or articles of association.

55 (3) BYLAWS. The bylaws of any domestic insurance  
56 corporation without capital stock, in cases where the bylaws  
57 must be adopted or approved by the members thereof, may be  
58 adopted, altered, or amended at a regular meeting of the members  
59 thereof, or at a special meeting called for that expressly  
60 stated purpose, by the affirmative vote of a majority of the  
61 members present, in person or by proxy, at the meeting.

62 (4) CONVERSION OF A DOMESTIC MUTUAL INTO A STOCK  
63 INSURANCE CORPORATION. A domestic mutual corporation may be  
64 converted into a stock insurance corporation as follows:

65 (a) ACTION BY BOARD OF DIRECTORS. The board of  
66 directors shall adopt a plan of conversion.

67 (b) PLAN OF CONVERSION. (i) The plan of conversion  
68 shall provide that, upon consummation of the conversion, each  
69 policyholder at the date of the passage of the resolution by the  
70 board of directors shall be entitled to such shares of stock of  
71 the new company as ~~his~~ the policyholder's equitable share of the  
72 surplus of the company will purchase. This equitable share  
73 shall be determined by independent certified auditors or  
74 consulting actuaries and shall be subject to approval by the  
75 commissioner. If a policyholder's equitable share of the  
76 surplus of the company produces a fractional share, the

\*  
\*  
\*

\*



1 policyholder shall be given the option of either receiving the  
 2 value of the fractional share in cash or of purchasing the  
 3 fractional part of a share that will entitle ~~him~~ the  
 4 policyholder to a full share. \*

5 (ii) No shares of the corporation being organized shall be  
 6 issued or subscribed for, formally or informally, directly or  
 7 indirectly during the conversion except as authorized under  
 8 subparagraph (i).

9 (iii) The corporation shall not pay compensation or  
 10 remuneration of any kind to any person in connection with the  
 11 proposed conversion, except at reasonable rate for printing  
 12 costs, and for legal and other professional fees for services  
 13 actually rendered.

14 (iv) The plan of conversion shall include a copy of the  
 15 proposed articles of incorporation which shall comply with the  
 16 requirements of chapter 300. Except as otherwise specifically  
 17 provided, the corporation resulting from conversion under this  
 18 section shall be deemed to have been organized as of the date of  
 19 issuance of the initial certificate of authority to the mutual  
 20 corporation being converted.

21 (c) APPROVAL BY POLICYHOLDERS. Within 30 days after  
 22 its adoption by the board of directors, the plan of conversion  
 23 shall be submitted to the policyholders for approval by the  
 24 affirmative vote of a majority of the policyholders entitled to  
 25 vote, in the manner prescribed by subparagraph (1). Every  
 26 policyholder as of the date of the adoption under subparagraph  
 27 (a) shall be entitled to one vote for each policy held ~~by him~~. \*

28 Only such policyholders shall be entitled to vote.  
 29 (d) APPROVAL BY THE COMMISSIONER. (i) Within 30 days  
 30 after its adoption by the policyholders, the plan of conversion  
 31 shall be submitted to the commissioner with an application for  
 32 ~~his~~ approval. \*

33 (ii) The commissioner shall not approve if the value of  
 34 single shares is set at a figure that substantially burdens  
 35 policyholders who wish to purchase a fractional share under  
 36 subparagraph (b)(i).

37 (iii) If the commissioner finds that the plan of conversion  
 38 has been duly approved by the policyholders, that the conversion  
 39 would not violate any law and would not be contrary to the  
 40 interests of the policyholders, ~~he~~ the commissioner shall  
 41 approve the plan of conversion and shall issue a new certificate  
 42 of authority to the corporation. \*

43 (e) CONVERSION. After filing an amendment of the  
 44 articles of incorporation as provided by chapter 300, the  
 45 corporation shall become a stock corporation and shall no longer  
 46 be a mutual corporation, and the board of directors shall  
 47 execute the plan of conversion.

48 (f) SECURITIES REGULATION. The filing with the  
 49 commissioner of commerce of a certified copy of the plan of  
 50 conversion as adopted by the policyholders and approved by the  
 51 commissioner shall constitute registration under chapter 80A, of  
 52 the securities authorized to be issued to policyholders  
 53 thereunder.

54 No change for subd 9 to 11

060A#076S

55 60A.076 MANAGEMENT OF INSURER; APPROVAL BY COMMISSIONER.

56 Subdivision 1. No insurer qualified to transact business  
 57 in this state shall make any contract whereby any person or  
 58 persons is granted or is to enjoy in fact the management of the  
 59 insurer to the substantial exclusion of its board of directors,  
 60 or to have the controlling or pre-emptive right to produce  
 61 substantially all insurance business for the insurer, unless  
 62 such contract is filed with the commissioner for ~~his~~ approval. \*

63 The contract shall be deemed approved 30 days after filing  
 64 unless disapproved by the commissioner within such 30 day  
 65 period, subject to such reasonable extension of time as the  
 66 commissioner may require by notice given within such 30 days.  
 67 The commissioner shall not unreasonably withhold ~~his~~ approval. \*

68 Any disapproval shall be delivered to the insurer in writing,  
 69 stating the grounds therefor.

70 Subd. 2. The commissioner shall disapprove any such  
 71 contract if ~~he~~ the commissioner finds that \*

72 (a) it subjects the insurer to excessive charges

73 considering the financial condition of the company; or

74 (b) the contract extends for an unreasonable period of  
 75 time; or



1 (c) the contract does not contain fair and adequate  
 2 standards of performance by the persons granted management  
 3 powers; or  
 4 (d) the persons empowered under the contract to manage the  
 5 company lack the ability, experience or integrity to manage the  
 6 company for the proper interests of its policyholders, or its  
 7 creditors, or the public;  
 8 (e) the contract contains provisions which impair the  
 9 proper interests of the insurer's stockholders, policyholders,  
 10 members, creditors, or the public.

060A#08S

11 60A.08 CONTRACTS OF INSURANCE.

12 No change for subd 1 to 6

13 Subd. 7. UNSATISFIED JUDGMENT. When a judgment has  
 14 been rendered by any court in this state against any company  
 15 holding the commissioner's certificate, and an execution issued  
 16 thereon has been returned unsatisfied, in whole or in part, and  
 17 a certified transcript of the docket entry and the clerk's  
 18 certificate of those facts is filed with the commissioner, ~~he~~ \*  
 19 the commissioner shall forthwith revoke its certificate and give \*  
 20 one week's published notice thereof. No new certificate shall  
 21 issue until such judgment has been fully satisfied and proof  
 22 thereof filed with ~~him~~ the commissioner, and the expenses and \*  
 23 fees incurred are paid. During this revocation neither the  
 24 company, nor any of its officers or agents, shall issue any new  
 25 policy, take any risk, or transact any business, except such as  
 26 is absolutely necessary in closing up its affairs in this state.

27 No change for subd 8

28 Subd. 9. MISREPRESENTATION BY APPLICANT. No oral or  
 29 written misrepresentation made by the assured, or in ~~his~~ the \*  
 30 assured's behalf, in the negotiation of insurance, shall be \*  
 31 deemed material, or defeat or avoid the policy, or prevent its  
 32 attaching, unless made with intent to deceive and defraud, or  
 33 unless the matter misrepresented increases the risk of loss.

34 This subdivision shall not apply to life insurance or  
 35 accident and health insurance.

36 No change for subd 10 to 11

060A#082S

37 60A.082 GROUP INSURANCE; BENEFITS CONTINUED, IF INSURER  
 38 CHANGED.

39 A person covered under group life, group accidental death  
 40 and dismemberment, group disability income or group medical  
 41 expense insurance, shall not be denied benefits to which ~~he~~ the \*  
 42 person is otherwise entitled solely because of a change in the \*  
 43 insurance company writing the coverage or in the group contract  
 44 applicable to the person. In the case of one or more carriers  
 45 replacing or remaining in place after one or more plans have  
 46 been discontinued, each carrier shall accept any person who was  
 47 covered under the discontinued plan or plans without denial of  
 48 benefits to which other persons in the group covered by that  
 49 carrier are entitled. "Insurance Company" shall include a  
 50 service plan corporation under chapter 62C or 62D.

51 The commissioner shall promulgate rules to carry out this  
 52 section. Nothing in this section shall preclude an employer,  
 53 union or association from reducing the level of benefits under  
 54 any group insurance policy or plan.

060A#09S

55 60A.09 LIMITS OF RISK; REINSURANCE.

56 No change for subd 1

57 Subd. 2. REINSURANCE TO BE REPORTED BY COMPANIES OTHER  
 58 THAN LIFE. If any company, other than life, shall, directly  
 59 or indirectly, effect the reinsurance of any risk taken by it,  
 60 or any part thereof, it shall make a sworn report thereof to the  
 61 commissioner, at the time of filing its annual statement, or at  
 62 such other time as ~~he~~ the commissioner may request. \*

63 No change for subd 3 to 5

64 Subd. 6. BULK REINSURANCE, REGULATION. (1) No bulk  
 65 reinsurance agreement entered into by an insurance company,  
 66 other than life insurance companies, having a capital and  
 67 surplus or surplus of five million dollars or less, shall be  
 68 used to reduce the liabilities or expense of the reinsured  
 69 company until and unless the agreement has been filed with and  
 70 approved by the commissioner. The commissioner will be deemed  
 71 to have approved any agreement filed ~~with-him~~ unless ~~he~~ the \*  
 72 commissioner notifies the insurance company of ~~his~~ disapproval \*  
 73 within 30 days or requests a reasonable extension of time within



1 such 30 days.

2 (2) No filing shall be made pursuant to the foregoing  
3 clause (1) unless the reinsurance agreement be certified under  
4 oath by responsible officers of the reinsurer and the reinsured  
5 to contain the entire agreement between the parties to the  
6 reinsurance agreement.

7 Misrepresentations contained in the reinsurance agreement  
8 or in any information supplied to the commissioner relative  
9 thereto shall be subject to the penalties for perjury.

10 (3) It shall be unlawful for any reinsurance agreement to  
11 contain any provisions which have the effect of nullifying the  
12 liability which the reinsurer purports to assume.

13 (4) For the purposes of this subdivision, "bulk  
14 reinsurance" shall mean any quota share, surplus aid or  
15 portfolio reinsurance agreement which, of itself or in  
16 combination with other similar agreements, assumes 20 percent or  
17 more of the liability of the reinsured company.

18 (5) Every company effecting any bulk reinsurance in  
19 violation of the foregoing provisions, and every person  
20 effecting or negotiating the same, shall severally be guilty of  
21 a misdemeanor.

22 (6) Reinsurance agreements filed hereunder shall not be  
23 matters of public record, but this shall not be construed to  
24 limit the disclosure of reinsurance agreements in examination  
25 reports.

26 No change for subd 7

060A#10S

27 60A.10 DEPOSITS.

28 No change for subd 1

29 Subd. 2. LIKE REQUIREMENT FOR FOREIGN COMPANIES. Any  
30 insurance company of any other state of the United States may  
31 file with the commissioner a certificate of the insurance  
32 commissioner of the other state that, as such officer, ~~he holds~~ \*  
33 ~~in-trust~~ there is held in trust by the certifying commissioner \*  
34 and on deposit for the benefit of all the policyholders of the  
35 company a deposit of an amount not less than that required by  
36 subdivision 1 in par value of such securities as are required or \*  
37 permitted to be deposited ~~with-him~~ by the laws of that state, \*  
38 these securities to be of the character in which insurance \*  
39 companies are authorized to invest under the laws of ~~his~~ that \*  
40 state, stating the items of the securities so held, and that ~~he~~ \*  
41 the commissioner is satisfied that these securities are worth \*  
42 the value so certified. No deposit shall be required in this  
43 state while the deposit, so certified, remains.

44 No change for subd 2a

45 Subd. 3. DEPOSITS IN COMPLIANCE WITH OTHER LAWS OR OF  
46 FOREIGN COMPANIES. The commissioner shall receive and hold in  
47 official trust deposits made by any domestic company in  
48 compliance with the laws of any other state, to enable it to do  
49 business in that state, and in like manner hold deposits made by  
50 a foreign company under any law of this state. The company  
51 making the deposit shall be entitled to the income thereof and,  
52 from time to time, with ~~his~~ the commissioner's consent, when not \*  
53 inconsistent with the law under which it was made, may exchange,  
54 in whole or in part, the securities composing the deposit for \*  
55 other approved securities of equal value. Upon application by a \*  
56 domestic company, ~~he~~ the commissioner may return the whole or \*  
57 any portion of the securities so deposited by it, if satisfied \*  
58 that they are subject to no liability. Upon like \*  
59 application, ~~he~~ the commissioner may return to a foreign company \*  
60 any deposit made by it when it appears that the company has \*  
61 ceased to do business in this state or the United States, and ~~he~~ \*  
62 the commissioner is satisfied that it is not subject to any \*  
63 liability in this state, or upon the order of any court of  
64 competent jurisdiction. A foreign company which has made a  
65 deposit, its trustees, receiver, resident manager, or any  
66 creditor or policyholder thereof, may, at any time, institute in  
67 the district court of Ramsey county an action against the state  
68 and other proper parties to enforce and terminate the trust  
69 created by the deposit. The commissioner shall immediately  
70 notify the governor of the action, and furnish the necessary  
71 information to answer in behalf of the state, and shall carry  
72 out such order and decree as the court shall make therein.

73 No change for subd 4

74 Subd. 6. RULES. The commissioner of commerce shall  
75 have the power to make such rules as may be necessary for the



1 execution of the functions vested in ~~him~~ the commissioner by  
2 this section. \*

060A#11S

3 60A.11 INVESTMENTS FOR DOMESTIC COMPANIES.

4 No change for subd 1

5 Subd. 7. INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND  
6 PROHIBITIONS. No officer, director, or member of any  
7 committee passing on investments shall borrow any of such funds,  
8 or become, directly or indirectly, liable as a surety or  
9 endorser for or on account of loans thereof to others, or  
10 receive ~~to his own~~ for personal use any fee, brokerage, \*  
11 commission, gift, or other consideration for, or on account of,  
12 any loan made by or on behalf of the company.

13 Subd. 8. Repealed, 1981 c 211 s 42

14 No change for subd 9

15 Subd. 10. DEFINITIONS. The following terms have the  
16 meaning assigned in this subdivision for purposes of this  
17 section and section 60A.111:

18 (a) "Admitted assets," for purposes of computing percentage  
19 limitations on particular types of investments, means the assets  
20 as shown by the company's annual statement, required by section  
21 60A.13, as of the December 31 immediately preceding the date the  
22 company acquires the investment;

23 (b) "Clearing corporation" means The Depository Trust  
24 Company or any other clearing agency registered with the federal  
25 securities and exchange commission pursuant to the Federal  
26 Securities Exchange Act of 1934, section 17A, Euro-clear  
27 Clearance System Limited and CEDEL S.A., and, with the approval  
28 of the commissioner, any other clearing corporation as defined  
29 in section 336.8-102;

30 (c) "Control" has the meaning assigned to that term in, and  
31 must be determined in accordance with, section 60D.01,  
32 subdivision 4;

33 (d) "Custodian bank" means a bank or trust company or a  
34 branch of a bank or trust company that is acting as custodian  
35 and is supervised and examined by state or federal authority  
36 having supervision over the bank or trust company or with  
37 respect to a company's foreign investments only by the  
38 regulatory authority having supervision over banks or trust  
39 companies in the jurisdiction in which the bank, trust company,  
40 or branch is located, and specifically includes Euro-clear  
41 Clearance System Limited and CEDEL S.A., acting as custodians;

42 (e) "Issuer" means the corporation, business trust,  
43 governmental unit, partnership, association, individual or other  
44 entity which issues or on behalf of which is issued any form of  
45 obligation;

46 (f) "Member bank" means a national bank, state bank or  
47 trust company which is a member of the Federal Reserve System;

48 (g) "National securities exchange" means an exchange  
49 registered under section 6 of the Securities Exchange Act of  
50 1934 or an exchange regulated under the laws of the Dominion of  
51 Canada;

52 (h) "Obligations" include bonds, notes, debentures,  
53 transportation equipment certificates, repurchase agreements,  
54 bank certificates of deposit, time deposits, bankers'  
55 acceptances, and other obligations for the payment of money not  
56 in default as to payments of principal and interest on the date  
57 of investment, whether constituting general obligations of the  
58 issuer or payable only out of certain revenues or certain funds  
59 pledged or otherwise dedicated for payment. Leases are  
60 considered obligations if the lease is assigned for the benefit  
61 of the company and is non-terminable by the lessee or lessees  
62 thereunder upon foreclosure of any lien upon the leased  
63 property, and rental payments are sufficient to amortize the  
64 investment over the primary lease term;

65 (i) "Qualified assets" means the sum of (1) all investments  
66 qualified in accordance with this section other than investments  
67 in affiliates and subsidiaries, (2) investments in obligations  
68 of affiliates as defined in section 60D.01, subdivision 2  
69 secured by real or personal property sufficient to qualify the  
70 investment under subdivision 19 or 23, (3) qualified investments  
71 in subsidiaries, as defined in section 60D.01, subdivision 9, on  
72 a consolidated basis with the insurance company without  
73 allowance for goodwill or other intangible value, and (4) cash  
74 on hand and on deposit, agent's balances or uncollected premiums  
75 not due more than 90 days, assets held pursuant to section



1 60A.12, subdivision 2, investment income due and accrued, funds  
 2 due or on deposit or recoverable on loss payments under  
 3 contracts of reinsurance entered into pursuant to section  
 4 60A.09, premium bills and notes receivable, federal income taxes  
 5 recoverable, and equities and deposits in pools and associations;

6 (j) "Qualified net earnings" means that the net earnings of  
 7 the issuer after elimination of extraordinary nonrecurring items  
 8 of income and expense and before income taxes and fixed charges  
 9 over the five immediately preceding completed fiscal years, or  
 10 its period of existence if less than five years, has averaged  
 11 not less than one and one-quarter times its average annual fixed  
 12 charges applicable to the period;

13 (k) "Required liabilities" means the sum of (1) total  
 14 liabilities as required to be reported in the company's most  
 15 recent annual report to the commissioner of commerce of this  
 16 state, (2) for companies operating under the stock plan, the  
 17 minimum paid-up capital and surplus required to be maintained  
 18 pursuant to section 60A.07, subdivision 5a, (3) for companies  
 19 operating under the mutual or reciprocal plan, the minimum  
 20 amount of surplus required to be maintained pursuant to section  
 21 60A.07, subdivision 5b, and (4) the amount, if any, by which the  
 22 company's loss and loss adjustment expense reserves exceed 350  
 23 percent of its surplus as it pertains to policyholders as of the  
 24 same date. In addition to the required amounts pursuant to  
 25 clauses (1) to (4), the commissioner may ~~at his or her~~  
 26 ~~discretion~~, require that the amount of any apparent reserve  
 27 deficiency that may be revealed by one to five year loss and  
 28 loss adjustment expense development analysis for the five years  
 29 reported in the company's most recent annual statement to the  
 30 commissioner be added to required liabilities; and

31 (l) "Unrestricted surplus" means the amount by which  
 32 qualified assets exceed 110 percent of required liabilities.

33 No change for subd 11 to 26

#### 060A#111S

34 60A.111 QUALIFIED ASSETS TO REQUIRED LIABILITIES; RATIO.

35 No change for subd 1

36 Subd. 2. PLAN. If the commissioner determines that  
 37 the required liabilities of any company are greater than its  
 38 qualified assets and that the combined financial resources of  
 39 the insurance company members of any insurance holding company  
 40 system of which the company is a member are not adequate to  
 41 counterbalance that fact, the commissioner may require the  
 42 company to submit to the commissioner for ~~his~~ approval a plan by  
 43 which the company undertakes to bring the ratio of its required  
 44 liabilities to its qualified assets, expressed as a percentage,  
 45 up to at least 100 percent within a reasonable period, usually  
 46 not exceeding five years.

47 No change for subd 3

48 Subd. 4a. PROHIBITION. If the commissioner  
 49 determines that the company does not have unrestricted surplus,  
 50 the commissioner may prohibit that company from purchasing any  
 51 asset which is not a qualified asset as defined in section  
 52 60A.11, unless a request is made of the commissioner and the  
 53 request is not denied within 15 days. The commissioner may ~~in~~  
 54 ~~his discretion~~, exempt any insurer from the requirements of this  
 55 subdivision.

56 No change for subd 5

57 Subd. 6. FACTORS CONSIDERED. The commissioner, in  
 58 exercising ~~his~~ discretion under this section, may take into  
 59 consideration the size, the lines of business, and the  
 60 dispersion of risks of the company, and the consolidated assets  
 61 and surplus as regards policyholders of the other insurers of  
 62 the insurance holding company system of which the company is a  
 63 member and any other factors deemed relevant by the commissioner.

#### 060A#12S

64 60A.12 ASSETS AND LIABILITIES.

65 No change for subd 1 to 3

66 Subd. 4. UNEARNED PREMIUMS RESERVE. (1) FOR  
 67 COMPANIES OTHER THAN LIFE OR TITLE. To determine the policy  
 68 liability of any company other than life or title insurance, and  
 69 the amount the company shall hold as reserve, the commissioner  
 70 shall take 50 percent of the aggregate premiums, on policies  
 71 running one year or less from date of policy, and a pro rata  
 72 rate amount on policies running more than one year from date of  
 73 policy, except upon inland and marine risks, which ~~he~~ the  
 74 commissioner shall compute by charging 50 percent of the amount



1 of premium written in its policies upon yearly risks and upon  
 2 risks covering more than one passage not terminated, and the  
 3 full amount of premiums written in policies upon all other  
 4 inland and marine risks not terminated. In case of any fire and  
 5 marine company with less than \$200,000 capital admitted to  
 6 transact in this state fire business only, the full amount of  
 7 premiums written in its marine and inland navigation and  
 8 transportation policies shall be charged as liability.

9 (2) SPECIAL PROVISIONS FOR MUTUAL FIRE COMPANIES WITH A  
 10 CONTINGENT LIABILITY. In case of a mutual fire insurance  
 11 company with a policyholders' contingent liability fixed by its  
 12 bylaws and in its policies as provided by law, to determine the  
 13 amount of this reinsurance reserve, the commissioner shall take  
 14 25 percent of the aggregate premiums running one year or less  
 15 from date of policy, and 50 percent of the pro rata amount on  
 16 policies running more than one year from date of policy.

17 (3) CASUALTY COMPANIES WRITING LIABILITY OR WORKERS'  
 18 COMPENSATION. In case of a casualty insurance company  
 19 writing insurance against loss or damage resulting from accident  
 20 to or injuries suffered by an employee or other person and for  
 21 which the insured is liable, and under insurance against loss  
 22 from liability on account of the death of or injury to an  
 23 employee not caused by the negligence of an employer, he the  
 24 commissioner shall charge as a liability, in addition to the  
 25 capital stock and all other outstanding indebtedness of the  
 26 corporation:

27 The premium reserve on policies in force, equal to 50  
 28 percent of the gross premiums charged for covering the risks;  
 29 provided, that the commissioner may, ~~in his discretion,~~ charge a  
 30 premium reserve equal to the unearned portions of the gross  
 31 premiums charged, computed on each respective risk from the date  
 32 of the issuance of the policy.

33 (4) PROVISION FOR ANNUAL PAYMENT TERM POLICIES. A  
 34 policy for a term of years on which the premium is payable  
 35 annually shall be considered a policy for one year.

36 Subd. 5. LOSS RESERVES. (1) FOR OTHER THAN  
 37 LIABILITY AND WORKERS' COMPENSATION. The reserve for  
 38 outstanding losses under policies other than workers'  
 39 compensation and liability policies shall be at least equal to  
 40 the aggregate estimated amounts due or to become due on account  
 41 of all the losses and claims of which the corporation has  
 42 received notice. The loss reserve shall also include the  
 43 estimated liability on any notices received by the corporation  
 44 of the occurrence of any event which may result in a loss, and  
 45 the estimated liability for all losses which have occurred but  
 46 on which no notice has been received. For the purpose of these  
 47 reserves, the corporation shall keep a complete and itemized  
 48 record showing all losses and claims on which it has received  
 49 notice, including all notices received by it of the occurrence  
 50 of any event which may result in a loss.

51 When, in the judgment of the commissioner, the loss  
 52 reserves, calculated in accordance with the foregoing  
 53 provisions, are inadequate, he the commissioner may, ~~in his~~  
 54 ~~discretion,~~ require the corporation to maintain additional  
 55 reserves.

56 (2) FOR LIABILITY LOSSES. The reserve for  
 57 outstanding losses and loss expenses incurred under liability  
 58 policies during each of the three years immediately preceding  
 59 the date of the statement shall be not less than 60 percent of  
 60 the earned liability premium for each of the three corresponding  
 61 years immediately preceding the date of the statement, less all  
 62 loss and loss expense payments made under claims incurred during  
 63 each of those years.

64 (3) FOR COMPENSATION CLAIMS. The reserve for  
 65 outstanding losses and loss expenses incurred under workers'  
 66 compensation policies shall be at least equal to the following  
 67 amounts:

68 (a) For all compensation claims under policies written more  
 69 than three years prior to the date of the statement, the present  
 70 values, at four percent interest, of the determined and the  
 71 estimated future payments;

72 (b) For all compensation claims under policies written in  
 73 the three years immediately preceding the date of the statement,  
 74 the reserve shall be not less than 65 percent of the earned  
 75 compensation premiums for each of the three years, less all loss  
 76 and loss expense payments made in connection with the claims



1 under policies written in each of the corresponding years. For  
2 the first year of the three-year period, the reserve shall be  
3 not less than the present value, at four percent interest, of  
4 the determined and the estimated unpaid compensation claims  
5 under policies written during that year.

6 Subd. 6. Repealed, 1978 c 465 s 15

7 Subd. 7. LIABILITY AND WORKERS' COMPENSATION RESERVES  
8 SUBJECT TO INCREASE. When, in the judgment of the  
9 commissioner, the liability or compensation loss reserves of any  
10 supervised insurer ~~under his supervision~~, calculated in  
11 accordance with the foregoing provisions, are inadequate, ~~he the~~  
12 ~~commissioner~~ may, ~~in his discretion~~, require such insurer to  
13 maintain additional reserves based upon estimated individual  
14 claims or otherwise.

15 No change for subd 8 to 9

060A#13S

16 60A.13 ANNUAL STATEMENT, INQUIRIES, ABSTRACTS,  
17 PUBLICATION THEREOF.

18 No change for subd 1 to 1a

19 Subd. 2. COMMISSIONER MAY INQUIRE AND REQUIRE REPLY  
20 UNDER OATH. The commissioner may also address to any  
21 insurer, including fraternal beneficiary associations, township  
22 mutuels and interinsurance exchanges, or its officers, any  
23 inquiry in relation to its transactions or conditions, or any  
24 matter connected therewith. Every insurer, or person so  
25 addressed, shall reply in writing to such inquiry promptly and  
26 truthfully, and such reply shall be verified, if required by the  
27 commissioner, by such individual or by such officer or officers  
28 of an insurer as ~~he the commissioner~~ shall designate.

29 Subd. 3. Repealed, 1978 c 793 s 98

30 No change for subd 3a to 7

060A#15S

31 60A.15 TAXATION OF INSURANCE COMPANIES.

32 No change for subd 1 to 2

33 Subd. 2a. PROCEDURE FOR FILING AND ADJUSTMENT OF  
34 STATEMENTS AND TAXES. (a) Every insurer required to pay a  
35 premium tax in this state shall make and file a statement of  
36 estimated premium taxes for the period covered by the  
37 installment tax payment. Such the installment tax payment.  
38 Such statement shall be in the form prescribed by the  
39 commissioner of revenue.

40 (b) On or before March 1, annually every insurer subject to  
41 taxation under section 60A.15 shall make an annual return for  
42 the preceding calendar year setting forth such information as  
43 the commissioner of revenue may reasonably require on forms  
44 prescribed by ~~him the commissioner~~.

45 (c) On March 1, the insurer shall pay any additional amount  
46 due for the preceding calendar year; if there has been an  
47 overpayment, such overpayment may be credited without interest  
48 on the estimated tax due April 15.

49 (d) If unpaid by this date penalties and interest as  
50 provided in section 290.53, subdivision 1, shall be imposed.

51 Subd. 3. Repealed, 1969 c 1001 s 11

52 No change for subd 4 to 5

53 Subd. 6. MARINE INSURANCE COMPANIES. Every domestic  
54 and foreign company shall pay to the commissioner of revenue on  
55 or before June 1 annually a sum equal to five percent of its  
56 taxable underwriting profit, ascertained as hereinafter  
57 provided, with respect to all insurance written within this  
58 state, during the preceding calendar year, upon hulls, freights,  
59 or disbursements, or upon goods, wares, merchandise and all  
60 other personal property and interests therein, in course of  
61 exportation from, importation into any country, or  
62 transportation coastwise, including transportation by land or  
63 water from point of origin to final destination in respect to,  
64 appertaining to, or in connection with, any and all risks or  
65 perils of navigation, transit or transportation, and while being  
66 prepared for, and while awaiting shipment, and during any  
67 delays, storage, transshipment or reshipment incident thereto,  
68 including war risks and marine builder's risks. If unpaid by  
69 such date, penalties and interest as provided by section 290.53,  
70 subdivision 1, shall be imposed.

71 The underwriting profit on such insurance written within  
72 this state shall be that proportion of the total underwriting  
73 profit of such insurer from such insurance written within the  
74 United States which the amount of net premiums of such insurer



1 from such insurance written within this state bears to the  
2 amount of net premiums of such insurer from such insurance  
3 written within the United States.

4 The underwriting profit of such insurer on such insurance  
5 written within the United States shall be determined by  
6 deducting from the net earned premiums on such marine insurance  
7 written within the United States during the taxable year,  
8 meaning thereby the calendar year next preceding the date on  
9 which such tax is due, the following items:

10 (a) Net losses incurred, meaning gross losses incurred  
11 during such calendar year under such marine insurance contracts  
12 written within the United States, less reinsurance claims  
13 collected or collectible and less net salvages or recoveries  
14 collected or collectible from any source applicable to the  
15 corresponding losses under such contracts;

16 (b) Net expenses incurred in connection with such marine  
17 contracts, including all state and federal taxes in connection  
18 therewith; but in no event shall the aggregate amount of such  
19 net expenses deducted exceed forty percent of the net premiums  
20 on such marine insurance contracts, ascertained as hereinafter  
21 provided; and

22 (c) Net dividends paid or credited to policyholders on such  
23 marine insurance contracts.

24 In determining the amount of such tax, net earned premiums  
25 on such marine insurance contracts written within the United  
26 States during the taxable year shall be arrived at as follows:

27 From gross premiums written on such contracts during the  
28 taxable year deduct any and all return premiums, premiums on  
29 policies not taken, premiums paid for reinsurance of such  
30 contracts and net unearned premiums on all such outstanding  
31 contracts at the end of the taxable year; and add to such amount  
32 net unearned premiums on such outstanding marine insurance  
33 contracts at the end of the calendar year next preceding the  
34 taxable year.

35 In determining the amount of such tax, net expenses  
36 incurred shall be determined as the sum of the following:

37 (d) Specific expenses incurred on such marine insurance  
38 business, consisting of all commissions, agency expenses, taxes,  
39 licenses, fees, loss adjustment expenses, and all other expenses  
40 incurred directly and specifically in connection with such  
41 business, less recoveries or reimbursements on account of or in  
42 connection with such commissions or other expenses collected or  
43 collectible because of reinsurance or from any other source.

44 (e) General expenses incurred on such marine insurance  
45 business, consisting of that proportion of general or overhead  
46 expenses incurred in connection with such business which the net  
47 premiums on such marine insurance written during the taxable  
48 year bear to the total net premiums written by such insurer from  
49 all classes of insurance written by it during the taxable year.  
50 Within the meaning of this paragraph, general or overhead  
51 expenses shall include salaries of officers and employees,  
52 printing and stationery, all taxes of this state and of the  
53 United States, except as included in paragraph (d) last above,  
54 and all other expenses of such insurer, not included in  
55 paragraph (d) last above, after deducting expenses specifically  
56 chargeable to any or all other classes of insurance business.

57 In determining the amount of such tax, the taxable  
58 underwriting profit of such insurer on such marine insurance  
59 business written within this state, shall be ascertained as  
60 follows:

61 (f) In the case of every such insurer which has written any  
62 such business within this state during three calendar years  
63 immediately preceding the year in which such taxes were payable,  
64 the taxable underwriting profit shall be determined by adding or  
65 subtracting, as the case may be, the underwriting profit or loss  
66 on all such insurance written within the United States,  
67 ascertained as hereinbefore provided, for each of such three  
68 years, and dividing by three.

69 (g) In the case of every such insurer other than as  
70 specified in paragraph (f) last above, such taxable underwriting  
71 profit, if any, shall be the underwriting profit, if any, on  
72 such marine insurance business written within this state during  
73 the taxable year, ascertained as hereinbefore provided; but  
74 after such insurer has written such marine insurance business  
75 within this state during three calendar years, an adjustment  
76 shall be made on the three year average basis by ascertaining



1 the amount of tax payable in accordance with paragraph (f) last  
2 above.

3 The tax hereinbefore provided shall be paid annually by  
4 every insurer authorized to do in this state the business of  
5 marine insurance during any one or more of the next preceding  
6 three calendar years, and the calendar year next preceding such  
7 June first shall be deemed the taxable year within the meaning  
8 of this section.

9 Every insurer liable to pay the tax hereinbefore provided  
10 shall, on or before the first day of June in each year, file  
11 with the commissioner of revenue a tax return in the form  
12 prescribed by ~~him~~ the commissioner.

13 The tax provided for in this section shall apply to the  
14 business of the year ending December 31, 1952, and to subsequent  
15 years.

16 No change for subd 7

17 Subd. 8. EXAMINATION OF RETURNS; ASSESSMENTS; REFUNDS.

18 The commissioner of revenue shall, as soon as practicable  
19 after a return required by this section is filed, examine the  
20 same and make any investigation or examination of the company's  
21 records and accounts that ~~he~~ the commissioner may deem necessary  
22 for determining the correctness of the return. The tax computed  
23 by ~~him~~ the commissioner on the basis of such examination and  
24 investigation shall be the tax to be paid by such company. If  
25 the tax found due shall be greater than the amount reported as  
26 due on the company's return, the commissioner shall assess a tax  
27 in the amount of such excess and the whole amount of such excess  
28 shall be paid to the commissioner of revenue within 60 days  
29 after notice of the amount and demand for its payment shall have  
30 been mailed to the company by the commissioner. If the  
31 understatement of the tax on the return was false and fraudulent  
32 with intent to evade the tax, the installments of the tax shown  
33 by the company on its return which have not yet been paid shall  
34 be paid to the state treasurer within 30 days after notice of  
35 the amount thereof and demand for payment shall have been mailed  
36 to the company by the commissioner. If the amount of the tax  
37 found due by the commissioner shall be less than that reported  
38 as due on the company's return, the excess shall be refunded to  
39 the company in the manner provided by subdivision 12, (except  
40 that no demand therefor shall be necessary), if they have  
41 already paid the whole of such tax, or credited against any  
42 unpaid installment thereof; provided, that no refundment shall  
43 be made except as provided in subdivision 12, after the  
44 expiration of three and one-half years after the filing of the  
45 return.

46 If the commissioner examines returns of a company for more  
47 than one year, ~~he~~ the commissioner may issue one order covering  
48 the several years under consideration reflecting the aggregate  
49 refund or additional tax due.

50 The notices and demands provided for by subdivisions 8 to  
51 10, shall be in such form as the commissioner may determine  
52 (including a statement) and shall contain a brief explanation of  
53 the computation of the tax and shall be sent by mail to the  
54 company at the address given in its return, if any, and if no  
55 such address is given, then to the last known address.

56 Subd. 9. FAILURE TO FILE RETURN, FALSE OR FRAUDULENT  
57 RETURN FILED. If any company required by this section to file  
58 any return shall fail to do so within the time prescribed or  
59 shall make, willfully or otherwise, an incorrect, false, or  
60 fraudulent return, it shall, on the written demand of the  
61 commissioner of revenue, file such return, or corrected return,  
62 within 60 days after the mailing of such written demand and at  
63 the same time pay the whole tax, or additional tax, due on the  
64 basis thereof. If such company shall fail within that time to  
65 file such return, or corrected return, the commissioner shall  
66 make for it a return, or corrected return, from his own personal  
67 knowledge and from such information as ~~he~~ the commissioner can  
68 obtain through testimony, or otherwise, and assess a tax on the  
69 basis thereof, which tax (less any payments theretofore made on  
70 account of the tax for the taxable year covered by such return)  
71 shall be paid within 60 days after the commissioner has mailed  
72 to such company a written notice of the amount thereof and  
73 demand for its payment. Any such return or assessment made by  
74 the commissioner on account of the failure of the company to  
75 make a return, or a corrected return, shall be prima facie  
76 correct and valid, and the company shall have the burden of



1 establishing its incorrectness or invalidity in any action or  
2 proceeding in respect thereto.

3 No change for subd 9a to 11

4 Subd. 12. OVERPAYMENTS, CLAIMS FOR REFUND. (1)

5 PROCEDURE, TIME LIMIT, APPROPRIATION. A company who has paid,  
6 voluntarily or otherwise, or from whom there has been collected  
7 an amount of tax for any year in excess of the amount legally  
8 due for that year, may file with the commissioner of revenue a  
9 claim for a refund of the excess. Except as provided in  
10 subdivision 11, no claim or refund shall be allowed or made  
11 after 3-1/2 years from the date prescribed for filing the return  
12 (plus any extension of time granted for filing the return but  
13 only if filed within the extended time) or after two years from  
14 the date of overpayment, whichever period is longer, unless  
15 before the expiration of the period a claim is filed by the  
16 company. For this purpose, a return or amended return claiming  
17 an overpayment constitutes a claim for refund.

18 Upon the filing of a claim, the commissioner shall examine  
19 it ~~and~~, shall make and file written findings denying or allowing \*  
20 the claim in whole or in part. ~~He~~, and shall mail a notice \*  
21 thereof to the company at the address stated upon the return.  
22 If the claim is allowed in whole or in part, the commissioner  
23 shall issue ~~his~~ a certificate for the refundment of the excess \*  
24 paid by the company, with interest at the rate specified in  
25 section 270.76 computed from the date of the payment of the tax  
26 until the date the refund is paid or the credit is made to the  
27 company. The commissioner of finance shall pay the refund out  
28 of the proceeds of the taxes imposed by this section, as other  
29 state moneys are expended. As much of the proceeds of the taxes  
30 as necessary are appropriated for that purpose.

31 (2) DENIAL OF CLAIM, COURT PROCEEDINGS. If the claim  
32 is denied in whole or in part, the commissioner shall mail an  
33 order of denial to the company in the manner prescribed in  
34 subdivision 8. An appeal from this order may be taken to the  
35 Minnesota tax court in the manner prescribed in section 271.06,  
36 or the company may commence an action against the commissioner  
37 to recover the denied overpayment. The action may be brought in  
38 the district court of the district in the county of its  
39 principal place of business, or in the district court for Ramsey  
40 county. The action in the district court must be commenced  
41 within 18 months following the mailing of the order of denial to  
42 the company. If a claim for refund is filed by a company and no  
43 order of denial is issued within six months of the filing, the  
44 company may commence an action in the district court as in the  
45 case of a denial, but the action must be commenced within two  
46 years of the date that the claim for refund was filed.

47 (3) CONSENT TO EXTEND TIME. If the commissioner and  
48 the company have, within the periods prescribed in clause (1),  
49 consented in writing to any extension of time for the assessment  
50 of the tax, the period within which a claim for refund may be  
51 filed, or a refund may be made or allowed, if no claim is filed,  
52 shall be the period within which the commissioner and the  
53 company have consented to an extension for the assessment of the  
54 tax and six months thereafter. The period within which a claim  
55 for refund may be filed shall not expire prior to two years  
56 after the tax was paid.

57 (4) OVERPAYMENTS; REFUNDS. If the amount determined  
58 to be an overpayment exceeds the taxes imposed by this section,  
59 the amount of excess shall be considered an overpayment. An  
60 amount paid as tax constitutes an overpayment even if in fact  
61 there was no tax liability with respect to which the amount was  
62 paid.

63 Notwithstanding any other provision of law to the contrary,  
64 in the case of any overpayment, the commissioner, within the  
65 applicable period of limitations, shall refund any balance of  
66 more than one dollar to the company if the company requests the  
67 refund.

68 No change for subd 13

060A#16S

69 60A.16 MERGERS AND CONSOLIDATIONS.

70 No change for subd 1

71 Subd. 2. PROCEDURE TO BE FOLLOWED. (1)

72 AGREEMENT. The merger or consolidation of insurance  
73 corporations can be effected only as a result of a joint  
74 agreement entered into, approved, and filed as follows:

75 (a) The board of directors of each of such insurance



1 corporations as desire to merge or consolidate may, by majority  
 2 vote, enter into a joint agreement signed by such directors and  
 3 prescribing the terms and conditions of merger or consolidation,  
 4 the mode of carrying the same into effect, with such other  
 5 details and provisions as are deemed necessary. In the case of  
 6 merging or consolidating stock insurance corporations or stock  
 7 and mutual insurance corporations, such joint agreement may  
 8 prescribe that stock of one or more of such corporations shall  
 9 be converted, in whole or in part, into stock or other  
 10 securities of a corporation which is not a merging or  
 11 consolidating corporation or into cash.

12 (b) The agreement shall be submitted to the shareholders or  
 13 members, as the case may be, of each of the merging or  
 14 consolidating insurance corporations, at a special meeting duly  
 15 called for the purpose of considering and acting upon the  
 16 agreement, and if the holders of two-thirds of the voting power  
 17 of the shareholders or members present or represented at the  
 18 meeting of each such insurance corporation shall vote for the  
 19 adoption of the agreement, then that fact shall be certified on  
 20 the agreement by the secretary of each insurance corporation,  
 21 and the agreement so adopted and certified shall be signed and  
 22 acknowledged by the president and secretary of each of said  
 23 insurance corporations; provided, however, that in the case of a  
 24 merger, except one whereby any shares of the surviving insurance  
 25 corporation are to be converted into shares or other securities  
 26 of another corporation or into cash, the agreement need not be  
 27 submitted to the shareholders or members of that one of the  
 28 insurance corporations into which it has been agreed the others  
 29 shall be merged, but the agreement may be signed and  
 30 acknowledged by the president and secretary of such insurance  
 31 corporation at the direction of the board of directors.

32 (c) The agreement so adopted, certified and acknowledged  
 33 shall be delivered to the commissioner of commerce, who, if the  
 34 agreement is reasonable and if the provisions thereof providing  
 35 for any transfer of assets and assumption of liabilities are  
 36 fair and equitable to the claimants and policyholders, shall  
 37 place ~~his~~ a certificate of approval on the agreement and shall \*  
 38 file the agreement in ~~his~~ the commissioner's office, and a copy \*  
 39 of the agreement, certified by the commissioner of commerce,  
 40 shall be filed for record in the office of the secretary of  
 41 state and in the offices of the county recorders of the counties  
 42 in this state in which any of the corporate parties to the  
 43 agreement have their home or principal offices, and of any  
 44 counties in which any of the corporate parties have land, title  
 45 to which will be transferred as a result of the merger or  
 46 consolidation.

47 (2) ARTICLES OF INCORPORATION OF NEW COMPANY. (a) If  
 48 the joint agreement is for a consolidation into a new insurance  
 49 corporation to be formed under any law or laws of this state,  
 50 articles of incorporation for such new insurance corporation  
 51 shall be prepared and delivered to the commissioner of commerce  
 52 together with the agreement as provided in clause (1) hereof.

53 (b) Such articles shall be prepared, executed, approved,  
 54 filed and recorded in the form and manner prescribed in, or  
 55 applicable to, the particular law or laws under which the new  
 56 insurance corporation is to be formed.

57 No change for subd 3 to 4

58 Subd. 5. NON-CONSENTING SHAREHOLDERS. (1) When an  
 59 insurance corporation having capital stock has become a party to  
 60 a merger or consolidation agreement, as hereinbefore provided,  
 61 any shareholder of such an insurance corporation who voted  
 62 against the merger or consolidation at the meeting at which it  
 63 was authorized, may, at any time within 20 days after such  
 64 authorization was given, object thereto in writing and demand  
 65 payment for ~~his~~ the shares held. \*

66 (2) If, after such a demand by a shareholder, the insurance  
 67 corporation and the shareholder cannot agree upon the value of  
 68 the shares at the time the merger or consolidation was  
 69 authorized, such value shall be ascertained by three  
 70 disinterested persons, one of whom shall be named by the  
 71 shareholder, another by the insurance corporation and the third  
 72 by the two thus chosen. The finding of the appraisers shall be  
 73 final, and if their award is not paid by the insurance  
 74 corporation within 30 days after it is made, it may be recovered  
 75 in an action by the shareholder against the insurance  
 76 corporation. The liability of the insurance corporation to the



1 dissenting shareholder for the value of ~~his~~ the shares so agreed \*  
2 upon or awarded shall also be a liability of the surviving or  
3 new insurance corporation, as the case may be. Upon payment by  
4 the insurance corporation or by the surviving or new corporation  
5 to the shareholder of the agreed or awarded price of ~~his~~ the \*  
6 shares, the shareholder shall forthwith transfer and assign the \*  
7 shares held ~~by him~~ at, and in accordance with, the request of \*  
8 the corporation.

9 (3) A shareholder shall not be entitled to payment for ~~his~~ \*  
10 shares under the provisions of this subdivision unless the value \*  
11 of the corporate assets which would remain after such payment \*  
12 would be at least equal to the aggregate amount of its debts and \*  
13 liabilities including outstanding capital stock.

14 Subd. 6. DISCLOSURE OF EXPENSES; PROHIBITIONS AND \*  
15 PENALTY. All actual expenses and costs incident to \*  
16 proceedings under the provisions of this section shall be paid \*  
17 by the surviving or new company and an itemized statement of the \*  
18 expenses and costs shall be filed with the commissioner prior to \*  
19 ~~his~~ formal approval. No officer of any such company or employee \*  
20 of the department of commerce, shall receive any compensation, \*  
21 gratuity or otherwise, directly or indirectly, for in any manner \*  
22 aiding, promoting, or assisting in such consolidation or merger. \*  
23 Any officer, director, or stockholder of any company, or \*  
24 any employee of the state, violating, or consenting to the \*  
25 violation of, the provisions of this subdivision shall be \*  
26 punished by a fine of not less than \$20,000 and by imprisonment \*  
27 for not less than one year.

060A#17S

28 60A.17 AGENTS; SOLICITORS.

29 No change for subd 1 to 2d

30 Subd. 3. BROKERAGE BUSINESS. Every insurance agent \*  
31 duly licensed to transact business in this state shall have the \*  
32 right to procure the insurance of risks, or parts of risks, in \*  
33 the class or classes of insurance for which ~~he~~ the agent is \*  
34 licensed in other insurers duly authorized to transact business \*  
35 in this state, but such insurance shall only be consummated \*  
36 through a duly appointed resident agent of the insurer taking \*  
37 the risk. If the law of another state requires a non-resident \*  
38 agent who is a resident agent of Minnesota to pay a portion of \*  
39 the premium to or share commissions with a licensed resident \*  
40 agent of that state, then the licensed resident agent of \*  
41 Minnesota when consummating and countersigning for a licensed \*  
42 non-resident agent of that state shall receive five percent of \*  
43 the total premium or 25 percent of the commission, whichever is \*  
44 less.

45 Subd. 4. Repealed, 1981 c 307 s 22

46 No change for subd 5 to 6b

47 Subd. 6c. REVOCATION OR SUSPENSION OF LICENSE. (a)  
48 The commissioner may by order suspend or revoke an insurance  
49 agent's or agency's license issued to a natural person or impose  
50 a civil penalty appropriate to the offense, not to exceed \$5,000  
51 upon that licensee, or both, if, after notice and hearing, the  
52 commissioner finds as to that licensee any one or more of the  
53 following conditions:

54 (1) any materially untrue statement in the license  
55 application;

56 (2) any cause for which issuance of the license could have  
57 been refused had it then existed and been known to the  
58 commissioner at the time of issuance;

59 (3) violation of, or noncompliance with, any insurance law  
60 or violation of any rule or order of the commissioner or of a  
61 commissioner of insurance of another state or jurisdiction;

62 (4) obtaining or attempting to obtain any license through  
63 misrepresentation or fraud;

64 (5) improperly withholding, misappropriating, or converting  
65 to the licensee's own use any moneys belonging to a  
66 policyholder, insurer, beneficiary, or other person, received by  
67 the licensee in the course of the licensee's insurance business;

68 (6) misrepresentation of the terms of any actual or  
69 proposed insurance contract;

70 (7) conviction of a felony or of a gross misdemeanor or  
71 misdemeanor involving moral turpitude;

72 (8) that the licensee has been found guilty of any unfair  
73 trade practice, as defined in chapters 60A to 72A, or of fraud;

74 (9) that in the conduct of the agent's affairs under the  
75 license, the licensee has used fraudulent, coercive, or



1 dishonest practices, or the licensee has been shown to be  
2 incompetent, untrustworthy, or financially irresponsible;  
3 (10) that the agent's license has been suspended or revoked  
4 in any other state, province, district, territory, or foreign  
5 country;

6 (11) that the licensee has forged another's name to an  
7 application for insurance; or

8 (12) that the licensee has violated subdivision 6b.

9 (b) The commissioner may by order suspend or revoke an  
10 insurance agent's or insurance agency's license issued to a  
11 partnership or corporation or impose a civil penalty not to  
12 exceed \$5,000 upon that licensee, or both, if, after notice and  
13 hearing, the commissioner finds as to that licensee, or as to  
14 any partner, director, shareholder, officer, or employee of that  
15 licensee, any one or more of the conditions set forth in  
16 paragraph (a).

17 (c) A revocation of a license shall prohibit the licensee  
18 from making a new application for a license for at least one  
19 year. Further, the commissioner may, as a condition of  
20 relicensure, require the applicant to file a reasonable bond for  
21 the protection of the citizens of this state, which bond shall  
22 be maintained by the licensee in full force for a period of five  
23 years immediately following issuance of the license, unless the  
24 commissioner at ~~his-or-her~~ the commissioner's discretion shall \*  
25 after two years permit the licensee to sooner terminate the  
26 maintenance filing of the bond.

27 (d) Whenever it appears to the commissioner that any person  
28 has engaged or is about to engage in any act or practice  
29 constituting a violation of chapters 60A to 72A or of any rule  
30 or order of the commissioner:

31 (1) The commissioner may issue and cause to be served upon  
32 the person an order requiring the person to cease and desist  
33 from the violation. The order shall give reasonable notice of  
34 the time and place of hearing and shall state the reasons for  
35 the entry of the order. A hearing shall be held not later than  
36 seven days after the issuance of the order unless the person  
37 requests a delay. After the hearing and within 30 days of  
38 filing of any exceptions to the administrative law judge's  
39 report, the commissioner shall issue an order vacating the cease  
40 and desist order or making it permanent as the facts require. \*  
41 All hearings shall be conducted in accordance with the  
42 provisions of chapter 14. If the person to whom a cease and  
43 desist order is issued fails to appear at the hearing after  
44 being duly notified, the person shall be deemed in default, and  
45 the proceeding may be determined against the person upon  
46 consideration of the cease and desist order, the allegations of  
47 which may be deemed to be true;

48 (2) The commissioner may bring an action in the district  
49 court in the appropriate county to enjoin the acts or practices  
50 and to enforce compliance with chapters 60A to 72A and any rule  
51 or order of the commissioner; and

52 (3) In any proceeding under chapters 60A to 72A relating to  
53 injunction, the request for injunction may be brought on for  
54 hearing and disposition upon an order to show cause returnable  
55 upon not more than eight days notice to the defendant. The case  
56 shall have precedence over other matters on the court calendar  
57 and shall not be continued without the consent of the state of  
58 Minnesota, except upon good cause shown to the court, and then  
59 only for a reasonable length of time as may be necessary in the  
60 opinion of the court to protect the rights of the defendant.

61 (e) The commissioner may, in the manner prescribed by  
62 chapter 14, impose a civil penalty not to exceed \$5,000 upon a  
63 person whose license has lapsed, or been suspended, revoked, or  
64 otherwise terminated, for engaging in conduct prohibited by  
65 paragraph (a) before, during, or after the period of ~~his-or-her~~ \*  
66 licensure.

67 Subd. 6d. SHOW CAUSE ORDERS. If the commissioner  
68 determines that one of the conditions listed in subdivision 6c  
69 exists, the commissioner may issue an order requiring a licensee  
70 or an applicant for a license to show cause why the license  
71 should not be revoked or the application denied. The order must  
72 be calculated to give reasonable notice of the time and place  
73 for hearing thereon, and must state the reasons for the entry of  
74 the order. The commissioner may by order summarily suspend a  
75 license pending final determination of an order to show cause.  
76 If a license is suspended pending final determination of an



1 order to show cause, a hearing on the merits must be held within  
2 30 days of the issuance of the order of suspension. All  
3 hearings must be conducted in accordance with chapter 14. After  
4 the hearing, the commissioner shall enter an order making a  
5 disposition of the matter as the facts require. If the licensee  
6 or applicant fails to appear at a hearing of which ~~he~~ that  
7 person has been duly notified, the person is in default, and the  
8 proceeding may be determined against ~~him~~ that person upon  
9 consideration of the order to show cause, the allegations of  
10 which may be deemed to be true. The commissioner may adopt rules  
11 of procedure concerning all proceedings conducted pursuant to  
12 this subdivision.

13 Subd. 7. Repealed, 1981 c 307 s 22

14 No change for subd 7a

15 Subd. 8. REDRESS OF PERSON AGGRIEVED. Any person  
16 aggrieved by any ruling or order of the commissioner may appeal  
17 therefrom to any district court of the state by serving written  
18 notice of such intention upon the commissioner, specifying the  
19 court, within ten days after the same is made. The commissioner  
20 shall thereupon file with the clerk of court a certified copy of  
21 ~~his~~ the order or ruling and findings of fact upon which the same  
22 are based, which shall be prima facie evidence of the facts  
23 therein stated. Thereupon the court shall summarily hear and  
24 determine the questions involved on the appeal.

25 Subd. 9. Repealed, 1981 c 307 s 22

26 Subd. 9a. POWERS OF THE COMMISSIONER. The  
27 commissioner shall have the full power to order the appearance  
28 of any person to appear before ~~him~~ the commissioner in relation  
29 to any matter which is, by the provisions of the laws of this  
30 state relating to insurance, a subject of inquiry or  
31 investigation, and may require the production of any book,  
32 paper, or document deemed pertinent.

33 No change for subd 10

34 Subd. 11. LIFE COMPANY AGENTS. Any person who shall  
35 solicit an application for insurance upon the life of another  
36 shall, in any controversy between the assured or ~~his~~ the  
37 assured's beneficiary and the company issuing any policy upon  
38 such application, be regarded as the agent of the company and  
39 not the agent of the assured.

40 No change for subd 12 to 16

41 Subd. 17. PREMIUMS. All premiums or other monies  
42 received by an agent from an insured or applicant for insurance  
43 must be forthwith deposited directly in a business checking,  
44 savings, or other similar account maintained by the agent or ~~his~~  
45 agency, unless the moneys are forwarded directly to the  
46 designated insurer.

47 Subd. 18. PERSONAL SOLICITATION OF INSURANCE SALES.

48 (a) DEFINITIONS. For the purposes of this subdivision, the  
49 following terms have the meanings given them:

50 (1) "agent" means a person, copartnership, or corporation  
51 required to be licensed pursuant to subdivision 1.

52 (2) "personal solicitation" means any contact by an agent,  
53 or any person acting on behalf of an agent, made for the purpose  
54 of selling or attempting to sell insurance, when either the  
55 agent or a person acting for the agent contacts the buyer by  
56 telephone or in person, except: an attempted sale in which the  
57 buyer personally knows the identity of the agent, the name of  
58 the general agency, if any, which ~~he-or-she~~ the agent  
59 represents, and the fact that the agent is an insurance agent;  
60 an attempted sale in which the prospective purchaser of  
61 insurance initiated the contact; or a personal contact which  
62 takes place at the agent's place of business.

63 (b) DISCLOSURE REQUIREMENT. Before a personal  
64 solicitation, the agent or person acting for an agent shall, at  
65 the time of initial personal contact or communication with the  
66 potential buyer, clearly and expressly disclose:

67 (1) the name of the person making the contact or  
68 communication;

69 (2) the name of the agent, general agency, or insurer ~~he-or~~  
70 ~~she~~ that person represents;

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

73 (c) FALSE REPRESENTATION OF GOVERNMENT AFFILIATION.

74 No agent or person acting for an agent shall make any  
75 communication to a potential buyer that indicates or gives the  
76 impression that the agent is acting on behalf of a government



1 agency.

2 No change for subd 19

060A#1701S

3 60A.1701 CONTINUING INSURANCE EDUCATION.

4 No change for subd 1 to 3

5 Subd. 4. CONTINUING INSURANCE EDUCATION ADVISORY TASK  
6 FORCE. The commissioner of commerce may appoint a continuing  
7 insurance education advisory task force consisting of 13  
8 members. All members must be residents of Minnesota. Three  
9 members must neither be employed by an insurance company nor  
10 licensed as an insurance agent. These three members are not  
11 eligible to be chairperson chair and are compensated according \*  
12 to section 15.059, subdivision 6. Each of the other ten members  
13 must be actively engaged in some activity in the insurance  
14 industry in this state and have a principal office located in  
15 this state. These ten members serve without compensation, but  
16 are paid reasonable and necessary expenses incurred in the  
17 performance of their duties in the same amount and in the same  
18 manner as state employees. Three of these ten members must be  
19 employed in capacities other than as licensed agents by  
20 insurance companies authorized to do business in this state.  
21 The remaining seven members must be licensed insurance agents  
22 actively engaged in the solicitation and sale of insurance and  
23 currently subject to continuing education requirements.  
24 Membership on the advisory task force must represent, to the  
25 extent possible, the various phases of the insurance industry  
26 and especially the several classes of insurance.

27 The commissioner shall appoint the members of the task  
28 force. Before making appointments to the advisory task force,  
29 the commissioner shall solicit nominations from the several  
30 professional organizations representing persons selling  
31 insurance in this state and from the organizations representing  
32 companies authorized to do business in this state.

33 No change for subd 5 to 6

34 Subd. 7. CRITERIA FOR COURSE ACCREDITATION. (a) The  
35 commissioner may accredit a course only to the extent it is  
36 designed to impart substantive and procedural knowledge of the  
37 insurance field. The burden of demonstrating that the course  
38 satisfies this requirement is on the individual or organization  
39 seeking accreditation. The commissioner shall approve any  
40 educational program approved by Minnesota Continuing Legal  
41 Education relating to the insurance field.

42 (b) The commissioner may not accredit a course:

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

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

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

50 (4) in motivation, salesmanship the art of selling, \*  
51 psychology, or time management.

52 No change for subd 8 to 9

53 Subd. 10. REPORTING. (a) After completing the  
54 minimum education requirement, each person subject to this  
55 section shall file or cause to be filed a compliance report in  
56 accordance with the procedures adopted by the commissioner.

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

60 (c) If a person subject to this section completes a  
61 nonaccredited course, he that person may submit a written report \*  
62 to the advisory committee accompanied by a fee of not more than  
63 \$10 payable to the state of Minnesota for deposit in the general  
64 fund. This report must be accompanied by proof satisfactory to  
65 the commissioner that the person has completed the minimum  
66 education requirement for the annual period during which the  
67 nonaccredited course was completed. Upon the recommendation of  
68 the advisory committee that the course satisfies the criteria  
69 for course accreditation, the commissioner may approve the  
70 nonaccredited course and shall so inform the person. If the  
71 nonaccredited course is approved by the commissioner, it may be  
72 used to satisfy the minimum education requirement for the  
73 person's next annual compliance period.

74 No change for subd 11

060A#171S



1 60A.171 CANCELLATION OF AGENCY CONTRACTS BY FIRE AND  
2 CASUALTY LOSS INSURANCE COMPANIES.

3 No change for subd 1 to 5

4 Subd. 6. The provisions of this section do not apply to  
5 the termination of an agent's contract for insolvency,  
6 abandonment, gross and willful misconduct, or failure to pay  
7 over to the company money due to the company after ~~his~~ receipt  
8 by the agent of a written demand therefor, or after revocation  
9 of the agent's license by the commissioner of commerce; nor to  
10 the termination of agents who write insurance business  
11 exclusively for one company or agents in the direct employ of  
12 the company.

\*  
\*

13 No change for subd 7 to 8

060A#18S

14 60A.18 SALE BY VENDING MACHINES; SCOPE AND REQUIREMENTS.

15 No change for subd 1 to 3

16 Subd. 4. SUSPENSION OR REVOCATION OF LICENSE. The  
17 license for each device shall be subject to expiration,  
18 suspension or revocation coincidentally with that of the agent  
19 or the insuring company. The commissioner also may suspend or  
20 revoke the license as to any device concerning which ~~he~~ the  
21 commissioner finds any conditions upon which the device was  
22 licensed as referred to in subdivision 2 have been violated, or  
23 no longer exist, or that the device is being used or operated by  
24 the agent in violation of the laws of this state; provided, that  
25 before suspending or revoking a license for a device, the  
26 commissioner shall conduct a hearing in the manner prescribed in  
27 chapter 72A, and shall make ~~his~~ a determination upon the basis  
28 of the standards, conditions and requirements of this section.

\*  
\*

\*

060A#19S

29 60A.19 FOREIGN COMPANIES.

30 Subdivision 1. REQUIREMENTS. Any insurance company  
31 of another state, upon compliance with all laws governing such  
32 corporations in general and with the foregoing provisions so far  
33 as applicable and the following requirements, shall be admitted  
34 to do business in this state:

35 (1) It shall deposit with the commissioner a certified copy  
36 of its charter or certificate of incorporation and its bylaws,  
37 and a statement showing its financial condition and business,  
38 verified by its president and secretary or other proper officers;

39 (2) It shall furnish the commissioner satisfactory evidence  
40 of its legal organization and authority to transact the proposed  
41 business and that its capital, assets, deposits with the proper  
42 official of its own state, amount insured, number of risks,  
43 reserve and other securities, and guaranties for protection of  
44 policyholders, creditors, and the public, comply with those  
45 required of like domestic companies;

46 (3) By a duly executed instrument filed in the office of  
47 the commissioner, it shall appoint ~~him~~ the commissioner and ~~his~~  
48 successors in office its lawful attorneys in fact and therein  
49 irrevocably agree that legal process in any action or proceeding  
50 against it may be served upon them with the same force and  
51 effect as if personally served upon it, so long as any of its  
52 liability exists in this state;

\*

53 (4) It shall appoint, as its agents in this state,  
54 residents thereof, and obtain from the commissioner a license to  
55 transact business;

56 (5) Regardless of what lines of business an insurer of  
57 another state is seeking to write in this state, the lines of  
58 business it is licensed to write in its state of incorporation  
59 shall be the basis for establishing the financial requirements  
60 it must meet for admission in this state or for continuance of  
61 its authority to write business in this state;

62 (6) No insurer of another state shall be admitted to do  
63 business in this state for a line of business that it is not  
64 authorized to write in its state of incorporation.

65 Subd. 2. SERVICE OF GARNISHEE PROCESS. When  
66 garnishee process is served upon the commissioner, as attorney  
67 for any insurance company, no garnishee fee shall be paid ~~him~~  
68 the commissioner. After the receipt of copy of the process the  
69 insurance company may demand of the attorney of the person  
70 making the garnishee the proper fees, and if the demand is not  
71 complied with before the day fixed for the disclosure of the  
72 garnishee, the proceeding may be dismissed.

\*  
\*

73 Subd. 3. COMMISSIONER APPOINTED ATTORNEY FOR SERVICE OF  
74 PROCESS. Before any corporation, association, or company



1 issuing policies of insurance of any character and not organized  
 2 or existing pursuant to the laws of this state is admitted to or  
 3 authorized to transact the business of insurance in this state,  
 4 it shall, by a duly executed instrument to be filed in the  
 5 office of the commissioner, constitute and appoint the  
 6 commissioner and ~~his~~ successors in office its true and lawful  
 7 attorney, upon whom proofs of loss, any notice authorized or  
 8 required by any contract with the company to be served on it,  
 9 summonses and all lawful processes in any action or legal  
 10 proceeding against it may be served, and that the authority  
 11 thereof shall continue in force irrevocable so long as any  
 12 liability of the company remains outstanding in this state.

13 This instrument shall contain a provision and agreement  
 14 declaring that the company, association, or corporation desires  
 15 to transact the business of insurance in this state, and that it  
 16 will accept a license therefor according to the laws of this  
 17 state.

18 In case of the failure of any such insurance company to  
 19 comply with any of the provisions of subdivisions 3 and 4, or if  
 20 it shall violate any of the conditions or agreements contained  
 21 in the instrument filed, its right to transact insurance  
 22 business in this state shall cease and it shall be the duty of  
 23 the commissioner to immediately declare its license revoked;  
 24 and, in case of revocation, the company shall not be again  
 25 licensed to transact business in this state for the period of  
 26 one year from date of the revocation.

27 Subd. 4. FEES. The commissioner shall be entitled to  
 28 charge and receive a fee prescribed by section 60A.14,  
 29 subdivision 1, paragraph (c), clause (4), for each notice, proof  
 30 of loss, summons, or other process served ~~upon him~~ under the  
 31 provisions of subdivisions 3 and 4, to be paid by the persons  
 32 serving the same. The service of process is made by delivering  
 33 to and leaving with the commissioner two copies thereof for each  
 34 company being served.

35 No change for subd 5

36 Subd. 6. RETALIATORY PROVISIONS. (1) When by the  
 37 laws of any other state or country any taxes, fines, deposits,  
 38 penalties, licenses, or fees, other than assessments made by an  
 39 insurance guaranty association or similar organization, in  
 40 addition to or in excess of those imposed by the laws of this  
 41 state upon foreign insurance companies and their agents doing  
 42 business in this state, other than assessments made pursuant to  
 43 section 60C.06, are imposed on insurance companies of this state  
 44 and their agents doing business in that state or country, or  
 45 when any conditions precedent to the right to do business in  
 46 that state are imposed by the laws thereof, beyond those imposed  
 47 upon these foreign companies by the laws of this state, the same  
 48 taxes, fines, deposits, penalties, licenses, fees, and  
 49 conditions precedent shall be imposed upon every similar  
 50 insurance company of that state or country and their agents  
 51 doing or applying to do business in this state so long as these  
 52 foreign laws remain in force.

53 (2) In the event that a domestic insurance company, after  
 54 complying with all reasonable laws and rulings of any other  
 55 state or country, is refused permission by that state or country  
 56 to transact business therein after the commissioner of commerce  
 57 of Minnesota has determined that that company is solvent and  
 58 properly managed and after he the commissioner has so certified  
 59 to the proper authority of that other state or country, then,  
 60 and in every such case, the commissioner may ~~in his discretion~~  
 61 forthwith suspend or cancel the certificate of authority of  
 62 every insurance company organized under the laws of that other  
 63 state or country to the extent that it insures, or seeks to  
 64 insure, in this state against any of the risks or hazards which  
 65 that domestic company seeks to insure against in that other  
 66 state or country. Without limiting the application of the  
 67 foregoing provision, it is hereby determined that any law or  
 68 ruling of any other state or country which prescribes to a  
 69 Minnesota domestic insurance company the premium rate or rates  
 70 for life insurance issued or to be issued outside that other  
 71 state or country shall not be deemed reasonable.

72 No change for subd 7

73 Subd. 8. INSURANCE FROM UNLICENSED FOREIGN COMPANIES.  
 74 ~~When~~ Any person, firm, or corporation ~~desires~~ desiring to  
 75 obtain insurance upon any property, interests, or risks of any  
 76 nature other than life insurance in this state in companies not



1 authorized to do business therein ~~he-or-they~~ shall give bond to \*  
 2 the commissioner of commerce in such sum as ~~he~~ the commissioner \*  
 3 shall deem reasonable, with satisfactory resident sureties,  
 4 conditioned that the obligors, on the expiration of a license to  
 5 obtain such insurance, shall pay to the commissioner of revenue,  
 6 for the use of the state, a tax of two percent upon the gross  
 7 premiums paid by the licensee. Thereupon the commissioner of  
 8 commerce shall issue such license, good for one year, and all  
 9 insurance procured thereunder shall be lawful and valid and the  
 10 provisions of all policies thereof shall be deemed in  
 11 accordance, and construed as if identical in effect, with the  
 12 standard policy prescribed by the laws of this state and the  
 13 insurers may enter the state to perform any act necessary or  
 14 proper in the conduct of the business. This bond may be  
 15 enforced by the commissioner of commerce in ~~his-own~~ the \*  
 16 commissioner's name in any district court. The licensee shall \*  
 17 file with the commissioner of commerce on June thirtieth and  
 18 December thirty-first annually a verified statement of the  
 19 aggregate premiums paid and returned premiums received on  
 20 account of such insurance.

060A#198S

21 60A.198 TRANSACTION OF SURPLUS LINES INSURANCE.

22 No change for subd 1 to 2

23 Subd. 3. PROCEDURE FOR OBTAINING LICENSE. A person  
 24 licensed as a resident agent in this state pursuant to other law  
 25 may obtain a surplus lines license by doing the following:

26 (a) filing an application in the form and with the  
 27 information the commissioner may reasonably require to determine  
 28 the ability of the applicant to act in accordance with sections  
 29 60A.195 to 60A.209;

30 (b) maintaining a resident agent license in this state;

31 (c) delivering to the commissioner a financial guarantee  
 32 bond from a surety acceptable to the commissioner for the  
 33 greater of the following:

34 (1) \$5,000; or

35 (2) the largest semiannual surplus lines premium tax  
 36 liability incurred by ~~him~~ the applicant in the immediately \*  
 37 preceding five years; and

38 (d) agreeing to file with the commissioner of revenue no  
 39 later than February 15 and August 15 annually, a sworn statement  
 40 of the charges for insurance procured or placed and the amounts  
 41 returned on the insurance canceled under the license for the  
 42 preceding six month period ending December 31 and June 30  
 43 respectively, and at the time of the filing of this statement,  
 44 paying the commissioner a tax on premiums equal to three percent  
 45 of the total written premiums less cancellations; and

46 (e) annually paying a fee as prescribed by section 60A.14,  
 47 subdivision 1, paragraph (c), clause (11).

48 No change for subd 4 to 5

060A#199S

49 60A.199 EXAMINATIONS.

50 Subdivision 1. EXAMINATION OF BOOKS AND RECORDS. If  
 51 the commissioner considers it necessary, ~~he~~ the commissioner may \*  
 52 examine the books and records of a surplus lines licensee to  
 53 determine whether the licensee is conducting business in  
 54 accordance with sections 60A.195 to 60A.209. For the purposes  
 55 of facilitating examinations, the licensee shall allow the  
 56 commissioner free access at reasonable times to all of the  
 57 licensee's books and records relating to the transactions to  
 58 which sections 60A.195 to 60A.209 apply. If an examination is  
 59 conducted, the cost of the examination shall be paid by the  
 60 insurer.

61 Subd. 2. EXAMINATION OF RETURNS; ASSESSMENT; REFUNDS.

62 The commissioner of revenue shall, as soon as practicable  
 63 after a return required by section 60A.198 is filed, examine it  
 64 and make any investigation or examination of the company's  
 65 records and accounts that ~~he~~ the commissioner deems necessary \*  
 66 for determining the correctness of the return. The tax computed \*  
 67 by ~~him~~ the commissioner on the basis of the examination and \*  
 68 investigation is the tax to be paid by the company. If the tax  
 69 found due is greater than the amount reported due on the  
 70 company's return, the commissioner shall assess a tax in the  
 71 amount of the excess and the whole amount of the excess shall be  
 72 paid to the commissioner within 60 days after notice of the  
 73 amount and demand for its payment is mailed to the company by  
 74 the commissioner. If the understatement of the tax on the



1 return was false and fraudulent with intent to evade the tax,  
 2 the installments of the tax shown by the company on its return  
 3 which are not paid shall be paid to the state treasurer within  
 4 60 days after notice of the amount thereof and demand for  
 5 payment is mailed to the company by the commissioner. If the  
 6 amount of the tax found due by the commissioner is less than  
 7 that reported due on the company's return, the excess shall be  
 8 refunded to the company in the manner provided by this section,  
 9 except that no demand therefor is necessary, if the whole of the  
 10 tax has been paid or credited against any unpaid installment  
 11 thereof. No refund shall be made except as provided in this  
 12 section after the expiration of three and one-half years after  
 13 the filing of the return.

14 If the commissioner examines returns of a company for more  
 15 than one year, ~~he~~ the commissioner may issue one order covering  
 16 the several years under consideration reflecting the aggregate  
 17 refund or additional tax due. \*

18 The notices and demands provided for by this section shall  
 19 be in the form the commissioner determines, including a  
 20 statement, and shall contain a brief explanation of the  
 21 computation of the tax and shall be sent by mail to the company  
 22 at the address given in its return. If the address is not  
 23 given, then they will be sent to the last known address.

24 Subd. 3. FAILURE TO FILE; FALSE OR FRAUDULENT RETURN.

25 If any company required by section 60A.198 to file any return  
 26 fails to do so within the time prescribed or makes, wilfully or  
 27 otherwise, an incorrect, false, or fraudulent return, it must,  
 28 on the written demand of the commissioner of revenue, file the  
 29 return, or corrected return, within 60 days after the mailing of  
 30 the written demand and at the same time pay the whole tax, or  
 31 additional tax, due on the basis thereof. If the company fails  
 32 within that time to file the return, or corrected return, the  
 33 commissioner shall make for it a return, or corrected return,  
 34 from ~~his own~~ personal knowledge and from the information ~~he can~~  
 35 obtain obtainable through testimony, or otherwise, and assess a  
 36 tax on the basis thereof. The tax assessed, less any payments  
 37 theretofore made on account of the tax for the taxable year  
 38 covered by the return, must be paid within 60 days after the  
 39 commissioner has mailed to the company a written notice of the  
 40 amount thereof and demand for its payment. Any return or  
 41 assessment made by the commissioner on account of the failure of  
 42 the company to make a return, or a corrected return, is prima  
 43 facie correct and valid, and the company has the burden of  
 44 establishing its incorrectness or invalidity in any action or  
 45 proceeding in respect thereto.

46 No change for subd 4 to 7

47 Subd. 8. REFUND PROCEDURE; TIME LIMIT; APPROPRIATION.

48 A company which has paid, voluntarily or otherwise, or from  
 49 which there was collected an amount of tax for any year in  
 50 excess of the amount legally due for that year, may file with  
 51 the commissioner of revenue a claim for a refund of the excess.  
 52 Except as provided in subdivision 3, no claim or refund shall be  
 53 allowed or made after 3-1/2 years from the date prescribed for  
 54 filing the return (plus any extension of time granted for filing  
 55 the return but only if filed within the extended time) or after  
 56 two years from the date of overpayment, whichever period is  
 57 longer, unless before the expiration of the period a claim is  
 58 filed by the company. For this purpose, a return or amended  
 59 return claiming an overpayment constitutes a claim for refund.

60 Upon the filing of a claim the commissioner shall examine  
 61 the same ~~and~~, shall make and file written findings thereon  
 62 denying or allowing the claim in whole or in part. ~~He, and~~  
 63 shall mail a notice thereof to the company at the address stated  
 64 upon the return. If the claim is allowed in whole or in part,  
 65 the commissioner shall issue ~~his~~ a certificate for a refund of  
 66 the excess paid by the company, with interest at the rate  
 67 specified in section 270.76 computed from the date of the  
 68 payment of the tax until the date the refund is paid or credit  
 69 is made to the company. The commissioner of finance shall cause  
 70 the refund to be paid as other state moneys are expended. So  
 71 much of the proceeds of the taxes as is necessary are  
 72 appropriated for that purpose. \*

73 No change for subd 9 to 11

060A#206S

74 60A.206 QUALIFICATION AS ELIGIBLE SURPLUS LINES INSURER.

75 No change for subd 1 to 3 .



1 Subd. 4. REMOVAL OF INSURERS. When the commissioner  
 2 considers it necessary, ~~he~~ the commissioner may request \*  
 3 information about or examine the affairs of any eligible surplus  
 4 lines insurer at the expense of the insurer, to determine  
 5 whether the insurer should continue to remain on the list of  
 6 eligible surplus lines insurers. If the commissioner determines  
 7 that it is in the public interest to remove an insurer from the  
 8 list because the insurer no longer meets the requirements of  
 9 sections 60A.195 to 60A.209, or is no longer qualified to  
 10 provide coverage under sections 60A.195 to 60A.209, the  
 11 commissioner shall do so. If an insurer removed from the list  
 12 desires a hearing pursuant to the administrative procedure act,  
 13 the hearing shall be scheduled within 30 days following request  
 14 for the hearing.

15 No change for subd 5 to 7

060A#21S

16 60A.21 UNAUTHORIZED INSURERS PROCESS ACT.

17 No change for subd 1

18 Subd. 2. SERVICE OF PROCESS UPON UNAUTHORIZED INSURER.

19 (1) Any of the following acts in this state effected by mail  
 20 or otherwise by an unauthorized foreign or alien insurer: (a)  
 21 the issuance or delivery of contracts of insurance to residents  
 22 of this state or to corporations authorized to do business  
 23 therein; (b) the solicitation of applications for such  
 24 contracts; (c) the collection of premiums, membership fees,  
 25 assessments, or other considerations for such contracts; or (d)  
 26 any other transaction of insurance business, is equivalent to  
 27 and shall constitute an appointment by such insurer of the  
 28 commissioner of commerce and ~~his~~ the commissioner's successor or \*  
 29 successors in office to be its true and lawful attorney upon  
 30 whom may be served all lawful process in any action, suit, or  
 31 proceeding instituted by or on behalf of an insured or  
 32 beneficiary arising out of any such contract of insurance and  
 33 any such act shall be signification of its agreement that such  
 34 service of process is of the same legal force and validity as  
 35 personal service of process in this state upon such insurer.

36 (2) Such service of process shall be made by delivering to  
 37 and leaving with the commissioner of commerce or some person in  
 38 apparent charge of ~~his~~ that office two copies thereof and the \*  
 39 payment to ~~him~~ that person of a filing fee as prescribed by \*  
 40 section 60A.14, subdivision 1, paragraph (c), clause (4). The  
 41 commissioner of commerce shall forthwith mail by certified mail  
 42 one of the copies of such process to the defendant at its last  
 43 known principal place of business and shall keep a record of all  
 44 process so served upon ~~him~~ the commissioner. Such service of \*  
 45 process is sufficient provided notice of such service and a copy  
 46 of the process are sent within ten days thereafter by certified  
 47 mail by plaintiff or plaintiff's attorney to the defendant at  
 48 its last known principal place of business and the defendant's  
 49 receipt, or receipt issued by the post office with which the  
 50 letter is certified showing the name of the sender of the letter  
 51 and the name and address of the person to whom the letter is  
 52 addressed, and the affidavit of the plaintiff or plaintiff's  
 53 attorney showing a compliance herewith are filed with the clerk  
 54 of the court in which such action is pending on or before the  
 55 date the defendant is required to appear or within such further  
 56 time as the court may allow.

57 (3) Service of process in any such action, suit, or  
 58 proceeding shall in addition to the manner provided in clause  
 59 (2) of this subdivision be valid if served upon any person  
 60 within this state who, in this state on behalf of such insurer,  
 61 is: (a) soliciting insurance, or (b) making, issuing, or  
 62 delivering any contract of insurance, or (c) collecting or  
 63 receiving any premium, membership fee, assessment, or other  
 64 consideration for insurance; and if a copy of such process is  
 65 sent within ten days thereafter by certified mail by the  
 66 plaintiff or plaintiff's attorney to the defendant at the last  
 67 known principal place of business of the defendant and the  
 68 defendant's receipt, or the receipt issued by the post office  
 69 with which the letter is certified showing the name of the  
 70 sender of the letter and the name and address of the person to  
 71 whom the letter is addressed, and the affidavit of the plaintiff  
 72 or plaintiff's attorney showing a compliance herewith are filed  
 73 with the clerk of the court in which such action is pending on  
 74 or before the date the defendant is required to appear or within  
 75 such further time as the court may allow.



1 (4) No plaintiff or complainant shall be entitled to a  
2 judgment by default under this subdivision until the expiration  
3 of 30 days from the date of the filing of the affidavit of  
4 compliance.

5 (5) Nothing in this subdivision contained shall limit or  
6 abridge the right to serve any process, notice, or demand upon  
7 any insurer in any other manner now or hereafter permitted by  
8 law.

9 (6) The provisions of this section shall not apply to  
10 surplus line insurance lawfully effectuated under Minnesota law,  
11 or to reinsurance, nor to any action or proceeding against an  
12 unauthorized insurer arising out of:

13 (a) Wet marine and transportation insurance;

14 (b) Insurance on or with respect to subjects located,  
15 resident, or to be performed wholly outside this state, or on or  
16 with respect to vehicles or aircraft owned and principally  
17 garaged outside this state;

18 (c) Insurance on property or operations of railroads  
19 engaged in interstate commerce; or

20 (d) Insurance on aircraft or cargo of such aircraft, or  
21 against liability, other than employer's liability, arising out  
22 of the ownership, maintenance, or use of such aircraft, where  
23 the policy or contract contains a provision designating the  
24 commissioner as its attorney for the acceptance of service of  
25 lawful process in any action or proceeding instituted by or on  
26 behalf of an insured or beneficiary arising out of any such  
27 policy, or where the insurer enters a general appearance in any  
28 such action.

29 No change for subd 3 to 6

060A#22S

30 60A.22 SPECIAL PROVISIONS AS TO STOCK COMPANIES;  
31 STOCKHOLDERS, OFFICERS, DIRECTORS AND INVESTORS.

32 Subdivision 1. SHAREHOLDERS' RIGHTS. (1) If an  
33 insurance corporation has given notice to shareholders of a  
34 proposal to amend the articles of incorporation, which proposed  
35 amendment would substantially change the corporate purposes or  
36 would extend the duration of the corporation, a shareholder may,  
37 at any time prior to the date of the meeting at which such  
38 proposed amendment is to be voted upon, file a written objection  
39 to such amendment in the office of the secretary or president of  
40 the corporation and demand payment for his shares held;  
41 provided, that such demand shall be of no force and effect if  
42 such shareholder votes in favor of the amendment, or at any time  
43 consents thereto in writing, or if the proposed amendment be not  
44 in fact effected.

45 (2) If, after such a demand by a shareholder, the  
46 corporation and the shareholder cannot agree upon the fair cash  
47 value of the shares at the time such amendment was authorized,  
48 such value shall be determined by three disinterested  
49 appraisers, one of whom shall be named by the shareholder,  
50 another by the corporation, and the third by the two thus  
51 chosen. The determination of a majority of the appraisers in  
52 good faith made shall be final, and if the amount so determined  
53 is not paid by the corporation within 30 days after it is made,  
54 such amount may be recovered in an action by the shareholder  
55 against the corporation. The corporation shall not be required  
56 to make payment of such amount except upon transfer to it of the  
57 shares for which such payment was demanded and upon surrender of  
58 the certificate or certificates evidencing the same.

59 (3) A shareholder shall not be entitled to payment for his  
60 shares under the provisions of this subdivision unless the value  
61 of the corporate assets which would remain after such payment  
62 would be at least equal to the aggregate amount of its debts and  
63 liabilities exclusive of stated capital.

64 Subd. 2. TRANSACTIONS OF PRINCIPAL STOCKHOLDERS,  
65 DIRECTORS, AND OFFICERS IN EQUITY SECURITIES. (1) Every  
66 person who is directly or indirectly the beneficial owner of  
67 more than ten percent of any class of any equity security of a  
68 domestic stock insurance company, or who is a director or an  
69 officer of such company, shall file in the office of the  
70 commissioner of commerce on or before January 31, 1966, or  
71 within ten days after he-becomes becoming such beneficial owner,  
72 director, or officer, a statement, in such form as the  
73 commissioner of commerce may prescribe, of the amount of all  
74 equity securities of such company of which he that person is the  
75 beneficial owner, and within ten days after the close of each



1 calendar month thereafter, if there has been a change in such  
 2 ownership during such month, shall file in the office of the  
 3 commissioner of commerce a statement, in such form as the  
 4 commissioner of commerce may prescribe, indicating ~~his~~ ownership \*  
 5 at the close of the calendar month and such changes in ~~his~~ \*  
 6 ownership as may have occurred during such calendar month.

7 (2) For the purpose of preventing the unfair use of  
 8 information which may have been obtained by such beneficial  
 9 owner, director, or officer by reason of ~~his~~ that person's \*  
 10 relationship to such company, any profit realized by ~~him~~ that \*  
 11 person from any purchase and sale, or any sale and purchase, of \*  
 12 any equity security of such company within any period of less  
 13 than six months, unless such security was acquired in good faith  
 14 in connection with a debt previously contracted, shall inure to  
 15 and be recoverable by the company, irrespective of any intention  
 16 on the part of such beneficial owner, director, or officer in  
 17 entering into such transaction of holding the security purchased  
 18 or of not repurchasing the security sold for a period exceeding  
 19 six months. Suit to recover such profit may be instituted at  
 20 law or in equity in any court of competent jurisdiction by the  
 21 company, or by the owner of any security of the company in the  
 22 name and in behalf of the company if the company shall fail or  
 23 refuse to bring such suit within 60 days after request or shall  
 24 fail diligently to prosecute the same thereafter; but no such  
 25 suit shall be brought more than two years after the date such  
 26 profit was realized. This clause shall not be construed to  
 27 cover any transaction where such beneficial owner was not such  
 28 both at the time of the purchase and sale, or the sale and  
 29 purchase, of the security involved, or any transaction or  
 30 transactions which the commissioner of commerce by rules and  
 31 regulations may exempt as not comprehended within the purpose of  
 32 this clause.

33 (3) It shall be unlawful for any such beneficial owner,  
 34 director, or officer, directly or indirectly, to sell any equity  
 35 security of such company if the person selling the security or  
 36 ~~his~~ that person's principal (a) does not own the security sold, \*  
 37 or (b) if owning the security, does not deliver it against such  
 38 sale within 20 days thereafter, or does not within five days  
 39 after such sale deposit it in the mails or other usual channels  
 40 of transportation; but no person shall be deemed to have  
 41 violated this clause ~~if he proves that on proving,~~ \*  
 42 notwithstanding the exercise of good faith ~~he was unable, the~~ \*  
 43 inability to make such delivery or deposit within such time, or \*  
 44 ~~that to do so would cause~~ without causing undue inconvenience or \*  
 45 expense.

46 (4) The provisions of clause (2) of this subdivision shall  
 47 not apply to any purchase and sale, or sale and purchase, and  
 48 the provisions of clause (3) of this subdivision shall not apply  
 49 to any sale, of any equity security of a domestic stock  
 50 insurance company not then or theretofore held by ~~him~~ the person \*  
 51 in an investment account, by a dealer in the ordinary course \*  
 52 of ~~his~~ business and incident to the establishment or maintenance \*  
 53 by ~~him~~ the person of a primary or secondary market, otherwise \*  
 54 than on an exchange as defined in the federal Securities  
 55 Exchange Act of 1934, for such security. The commissioner of  
 56 commerce may, by such rules and regulations as ~~he~~ the \*  
 57 commissioner deems necessary or appropriate in the public \*  
 58 interest, define and prescribe terms and conditions with respect  
 59 to securities held in an investment account and transactions  
 60 made in the ordinary course of business and incident to the  
 61 establishment or maintenance of a primary or secondary market.

62 (5) The provisions of this subdivision shall not apply to  
 63 foreign or domestic arbitrage transactions unless made in  
 64 contravention of such rules and regulations as the commissioner  
 65 of commerce may adopt in order to carry out the purposes of this  
 66 subdivision.

67 Subd. 3. REGULATION OF PROXIES, CONSENTS AND

68 AUTHORIZATIONS. (1) It shall be unlawful for any person, in  
 69 contravention of such rules and regulations as the commissioner  
 70 of commerce may prescribe as necessary or appropriate in the  
 71 public interest or for the protection of investors, to solicit  
 72 or to permit the use of ~~his~~ that person's name to solicit any \*  
 73 proxy or consent or authorization in respect of any equity  
 74 security of a domestic stock insurance company.

75 (2) Unless proxies, consents, or authorizations in respect  
 76 of an equity security of a domestic stock insurance company are



1 solicited by or on behalf of the management of such company from  
 2 the holders of record of such security in accordance with the  
 3 rules and regulations prescribed under clause (1) of this  
 4 subdivision, prior to any annual or other meeting of the holders  
 5 of such security, such company shall, in accordance with such  
 6 rules and regulations as the commissioner of commerce may  
 7 prescribe as necessary or appropriate in the public interest or  
 8 for the protection of investors, if required thereby, file with  
 9 the commissioner of commerce and transmit to all holders of  
 10 record of such security information substantially equivalent to  
 11 the information which would be required to be transmitted if a  
 12 solicitation were made.

13 No change for subd 4

14 Subd. 5. RULES AND REGULATIONS. The commissioner of  
 15 commerce shall have the power to make such rules and regulations  
 16 as may be necessary for the execution of the functions vested in  
 17 ~~him~~ the commissioner by subdivisions 2 and 3 hereof, and may for \*  
 18 such purpose classify domestic stock insurance companies,  
 19 securities, and other persons or matters within ~~his~~ the \*  
 20 commissioner's jurisdiction. No provision of subdivisions 2 and \*  
 21 3 hereof imposing any liability shall apply to any act done or  
 22 omitted in good faith in conformity with any rule or regulation  
 23 of the commissioner of commerce, notwithstanding that such rule  
 24 or regulation may, after such act or omission, be amended or  
 25 rescinded or determined by judicial or other authority to be  
 26 invalid for any reason.

27 Subd. 6. DEFINITIONS. (1) The term "equity  
 28 security" when used in this section means any stock or similar  
 29 security; or any security convertible, with or without  
 30 consideration, into such a security, or carrying any warrant or  
 31 right to subscribe to or purchase such a security; or any such  
 32 warrant or right; or any other security which the commissioner  
 33 of commerce shall deem to be of similar nature and consider  
 34 necessary or appropriate, by such rules and regulations as ~~he~~ \*  
 35 the commissioner may prescribe in the public interest or for the \*  
 36 protection of investors, to treat as an equity security.

37 (2) The term "domestic stock insurance company" when used  
 38 in this section includes a domestic stock and mutual insurance  
 39 company as defined in sections 61A.33 to 61A.38.

060A#23S

40 60A.23 MISCELLANEOUS.

41 Subdivision 1. LIABILITY OF DIRECTORS AND OFFICERS  
 42 GENERALLY. If a company be at any time under liability for  
 43 losses exceeding its net assets, and the president and  
 44 directors, or any of them, knowing it, directly or indirectly,  
 45 issue or consent to the issue of further insurance, each shall  
 46 be personally liable for any loss under this insurance; and if  
 47 any of them insures or allows to be insured on a single risk a  
 48 larger sum than is authorized by law, ~~he~~ that person shall be \*  
 49 personally liable for any loss thereon above the amount which  
 50 might lawfully be insured.

51 Subd. 2. LIABILITY OF DIRECTORS AND OFFICERS OF MUTUAL  
 52 COMPANY. No director or other officer of any mutual company  
 53 shall, officially or privately, guarantee a policyholder thereof  
 54 against an assessment to which ~~he~~ the policyholder would \*  
 55 otherwise be liable. When the directors of any mutual company  
 56 fail for 30 days after entry of any judgment, or for six months  
 57 after the accruing of any other indebtedness against it, to levy  
 58 and deliver for collection any assessment required by law for  
 59 payment thereof, or to apply the proceeds thereof in either  
 60 case, each shall be personally liable for the amount thereof,  
 61 and for all debts and claims then outstanding or which may  
 62 accrue until the assessment shall be levied and put in process  
 63 of collection. When the treasurer unreasonably fails to collect  
 64 and properly apply the proceeds of any such assessment ~~he~~ the \*  
 65 treasurer shall be personally liable, not exceeding the total \*  
 66 assessment, to any person entitled thereto, and shall be repaid  
 67 only out of funds thereafter collected thereon.

68 Subd. 3. CONFLICT OF INTEREST AND COMPENSATION IN  
 69 MUTUAL FIRE COMPANY. No officer or other person employed to  
 70 determine the character of a risk, and decide the question of  
 71 its acceptance by any mutual fire company other than a town or  
 72 farmers company, shall receive a commission or other payment  
 73 therefrom, but ~~his~~ that person's compensation shall be by fixed \*  
 74 salary and such share, if any, of the net profits as the \*  
 75 directors may determine; and such officer or person shall not be



1 an employee of any other officer or agent of the company, nor  
 2 interested in ~~his~~ the officer's or agent's business. \*

3 No change for subd 4

4 Subd. 5. PROVISIONS AS TO FIDELITY AND SURETY  
 5 COMPANIES. (1) REQUIREMENTS AND ACCEPTABILITY. No  
 6 company for guaranteeing the fidelity of persons in fiduciary  
 7 positions, public or private, or for acting as surety, shall  
 8 transact any business in this state until it shall have  
 9 satisfied the commissioner that it has complied with all the  
 10 provisions of law and obtained ~~his~~ the commissioner's \*  
 11 certificate to that effect. Thereupon it shall be authorized to  
 12 execute as sole or joint surety any bond, undertaking, or  
 13 recognizance which, by any municipal or other law, or by the  
 14 rules or regulations of any municipal or other board, body,  
 15 organization, or officer, is required or permitted to be made,  
 16 given, tendered, or filed for the security or protection of any  
 17 person, corporation, or municipality, or any department thereof,  
 18 or of any other organization, conditioned for the doing or  
 19 omitting of anything in such bond or other instrument specified  
 20 or provided; and any and all courts, judges, officers, and heads  
 21 of departments, boards, and municipalities required or permitted  
 22 to accept or approve of the sufficiency of any such bond or  
 23 instrument may in their discretion accept the same when  
 24 executed, or the conditions thereof guaranteed solely or jointly  
 25 by any such company, and the same shall be in all respects full  
 26 compliance with every law or other provisions for the execution  
 27 or guaranty by one surety or by two or more sureties, or that  
 28 sureties shall be residents or householders, or freeholders, or  
 29 all or either.

30 (2) LIMITS OF RISK. No fidelity or surety company  
 31 shall insure or reinsure in a single risk, less any portion  
 32 thereof reinsured, a larger sum than one-tenth of its net assets.

33 No change for subd 6

34 Subd. 7. LICENSES REQUIRED FOR EMPLOYERS MAKING  
 35 DEDUCTIONS FROM WAGES FOR CERTAIN PURPOSES. (1)  
 36 REQUIREMENTS. No employer shall make deductions from the  
 37 wages of ~~his~~ employees for the purpose of furnishing them with \*  
 38 life insurance, funeral benefits, medical or hospital care, \*  
 39 accident, sickness or old age insurance or benefits, unless ~~he~~ \*  
 40 the employer first receives from the commissioner of commerce a \*  
 41 license for the benefit plan ~~he~~ the employer operates or \*  
 42 proposes to operate. The license shall be granted only when the  
 43 commissioner is satisfied that the benefits given are  
 44 commensurate with the charges made and that the charges will  
 45 keep the fund solvent. All licenses shall be for the period of  
 46 one year. The commissioner may require a statement of the  
 47 operation of the fund, on a form to be prescribed by ~~him~~ the \*  
 48 commissioner, before granting a renewal. The fee for a license \*  
 49 is \$25 and for filing the annual statement \$10. Any fees  
 50 received by the commissioner pursuant to this subdivision shall  
 51 be paid into the general fund. Before granting a license the  
 52 commissioner of commerce shall submit the proposed plan to  
 53 the ~~chairman~~ chair of the workers' compensation court of appeals \*  
 54 in order that ~~he~~ the chair may determine whether the benefits \*  
 55 are in conjunction with the benefits under the workers'  
 56 compensation act.

57 (2) EXCEPTIONS. The requirements of clause (1) shall  
 58 not apply to deductions made from the employees' wages for group  
 59 insurance issued by insurers authorized to transact business in  
 60 this state nor to railroad companies engaged in interstate  
 61 commerce.

62 (3) PENALTY. Any person, firm, corporation, or  
 63 association that makes deductions from the wages of an employee  
 64 in violation of clause (1) shall be guilty of a misdemeanor.

65 No change for subd 8

060A#26S

66 60A.26 SUSPENSION OF INSURERS, NOTICE TO OTHER STATES.  
 67 The commissioner of commerce shall notify the insurance  
 68 departments of all other states whenever, under any law then in  
 69 effect, ~~he~~ the commissioner suspends the right of a foreign or \*  
 70 domestic insurer to transact business in this state.

060A#28S

71 60A.28 DOCUMENTS FILED WITH COMMISSIONER, VERIFICATION.  
 72 The commissioner of commerce may require that any document  
 73 required by law to be filed with ~~him~~ the commissioner, be \*  
 74 accompanied by a sworn verification of its contents by a



1 responsible officer of the corporation filing it. The  
2 commissioner shall prescribe the form of the verification by  
3 rule.

## 060B#03S

## 4 60B.03 DEFINITIONS.

5 No change for subd 1

6 Subd. 2. "Commissioner" means the commissioner of commerce  
7 of the state of Minnesota and, in ~~his~~ the commissioner's absence  
8 or disability, ~~his~~ a deputy or other person duly designated to  
9 act in ~~his~~ the commissioner's place.

10 No change for subd 3 to 19

## 060B#07S

## 11 60B.07 COOPERATION OF OFFICERS AND EMPLOYEES.

12 Subdivision 1. DUTY TO COOPERATE. Any officer,  
13 manager, trustee, agent or general agent of any insurer and any  
14 other person with executive authority over or in charge of any  
15 segment of the insurer's affairs having notice of the  
16 proceedings shall cooperate with the commissioner in any  
17 proceeding under sections 60B.01 to 60B.61 or any investigation  
18 preliminary or incidental to the proceeding. "To cooperate"  
19 includes, but is not limited to, the following:

20 (a) To reply promptly in writing to any inquiry from the  
21 commissioner requesting such a reply; and

22 (b) To make available and deliver to the commissioner any  
23 books, accounts, documents, or other records, or information or  
24 property of or pertaining to the insurer and in ~~his~~ that  
25 person's possession, custody, or control.

26 No change for subd 2 to 4

## 060B#08S

## 27 60B.08 BONDS.

28 In any proceeding under sections 60B.01 to 60B.61 the  
29 commissioner and ~~his~~ deputies shall be responsible on their  
30 official bonds for the faithful performance of their duties. If  
31 the court deems it desirable for the protection of the assets,  
32 it may at any time require an additional bond from the  
33 commissioner or ~~his~~ the deputies.

## 060B#09S

## 34 60B.09 COMMISSIONER'S REPORTS.

35 Subdivision 1. GENERAL REPORT OF PROCEEDINGS. The  
36 commissioner shall include in ~~his~~ a biennial report:

37 (a) The names of the insurers proceeded against under  
38 sections 60B.15, 60B.20, 60B.24, 60B.52, 60B.53, and 60B.55, and  
39 such other facts as indicate in reasonable detail ~~his~~ formal  
40 proceedings under sections 60B.01 to 60B.61; and

41 (b) Such facts as generally indicate the utilization and  
42 effectiveness of proceedings under sections 60B.11, 60B.12, and  
43 60B.13.

44 Subd. 2. SPECIAL REPORTS. (a) The commissioner shall  
45 include in ~~his~~ the biennial report, not later than the second  
46 biennial report following the initiation of any formal  
47 proceedings under sections 60B.01 to 60B.61, a detailed analysis  
48 of the basic causes and the contributing factors making the  
49 initiation of formal proceedings necessary, and shall make  
50 recommendations for remedial legislation if any. For this  
51 purpose the commissioner may appoint and determine the  
52 compensation of a special assistant who shall be in the  
53 unclassified service, qualified to conduct the study and prepare  
54 the analysis, ~~and may determine his compensation.~~

55 (b) The commissioner shall include in ~~his~~ the biennial  
56 report, not later than the biennial report following discharge  
57 of the receiver, a detailed study of the delinquency proceeding  
58 for each insurer subjected to a formal proceeding, with an  
59 analysis of the problems faced and their solutions. He The  
60 commissioner shall also suggest alternative solutions, as well  
61 as other material of interest, for the purpose of assisting and  
62 guiding liquidators or rehabilitators in the future.

63 No change for subd 3

## 060B#11S

## 64 60B.11 COMMISSIONER'S SUMMARY ORDERS.

65 Subdivision 1. SUMMARY ORDER AFTER HEARING.

66 Whenever the commissioner has reasonable cause to believe, and  
67 determines, after a hearing held as prescribed in subdivision 3,  
68 that any insurer has committed or engaged in, or is committing  
69 or engaging in or is about to commit or engage in any act,  
70 practice, or transaction that would subject it to formal  
71 delinquency proceedings under sections 60B.01 to 60B.61, he the



1 commissioner may make and serve upon the insurer and any other \*  
 2 persons involved such orders other than seizure orders under  
 3 sections 60B.12 and 60B.13 as are reasonably necessary to  
 4 correct, eliminate, or remedy such conduct, condition, or ground.

5 Subd. 2. SUMMARY ORDER BEFORE HEARING. If the  
 6 conditions of subdivision 1 are satisfied, and if it appears to  
 7 the commissioner that irreparable harm to the property or  
 8 business of the insurer or to the interests of its  
 9 policyholders, creditors, or the public may occur unless ~~he~~ the \*  
 10 commissioner issues with immediate effect the orders described \*  
 11 in subdivision 1, ~~he~~ the commissioner may make and serve such \*  
 12 orders without notice and before hearing, simultaneously serving  
 13 upon the insurer notice of the hearing upon such order.

14 Subd. 3. SERVICE, NOTICE, HEARING. The notice of  
 15 hearing under subdivision 1 or 2 and the summary order issued  
 16 under subdivision 1 or 2 shall be served personally or by  
 17 sending a copy of such notice of order by prepaid certified  
 18 mail. The notice of hearing under subdivision 1 shall state the  
 19 time and place of hearing, and the conduct, condition, or ground  
 20 upon which the commissioner would base ~~his~~ an order; the notice \*  
 21 of hearing under subdivision 2 shall state the time and place of  
 22 hearing. Unless mutually agreed between the commissioner and  
 23 the insurer, the hearing shall occur not less than ten days nor  
 24 more than 30 days after notice is served and shall be either in  
 25 Ramsey county or in some other place convenient to the parties  
 26 to be designated by the commissioner.

27 No change for subd 4

28 Subd. 5. SANCTION. If any person has violated any  
 29 order issued under this section which as to ~~him~~ that person was \*  
 30 then still in effect, ~~he~~ that person shall be liable to forfeit \*  
 31 a sum not to exceed \$10,000. The penalty shall be imposed and  
 32 collected in an action brought by the attorney general and shall  
 33 be paid into the state treasury to the credit of the general  
 34 fund.

35 No change for subd 6

060B#13S

36 60B.13 COMMISSIONER'S SEIZURE ORDER.

37 Subdivision 1. ISSUANCE. If it appears to the  
 38 commissioner that an emergency exists whereby the interests of  
 39 the creditors, policyholders, or the public will be endangered  
 40 by the delay incident to applying for a court seizure order,  
 41 then on any ground that would justify a court seizure order  
 42 under section 60B.12, without notice and without applying to the  
 43 court, ~~he~~ the commissioner may issue a seizure order which must \*  
 44 contain a verified statement of the grounds of ~~his~~ his action. As \*  
 45 directed by the seizure order, the commissioner or ~~his~~ any \*  
 46 representatives of the commissioner shall forthwith take \*  
 47 possession and control of all or any part of the property,  
 48 books, accounts, documents, and other records of the insurer,  
 49 and of the premises occupied by the insurer for the transaction  
 50 of its business. The commissioner shall retain possession and  
 51 control until the order is vacated by the commissioner, is set  
 52 aside by order of court, is replaced by an order of the court  
 53 pursuant to a proceeding commenced under subdivision 2, a formal  
 54 proceeding under sections 60B.01 to 60B.61, or until the  
 55 expiration of 10 days without a filing by the commissioner of a  
 56 petition for a court order as required by subdivision 2.

57 No change for subd 2

58 Subd. 3. DUTY TO ASSIST COMMISSIONER. Every law  
 59 enforcement officer shall assist the commissioner in making and  
 60 enforcing any such seizure, and every sheriff and police  
 61 department shall furnish ~~him-with~~ such deputies, ~~patrolmen~~ \*  
 62 patrol officers, or officers as are necessary to assist ~~him~~ the \*  
 63 commissioner. \*

64 No change for subd 4

060B#14S

65 60B.14 CONDUCT OF HEARINGS IN SUMMARY PROCEEDINGS.

66 No change for subd 1 to 2

67 Subd. 3. RECORDS. In all summary proceedings and  
 68 judicial reviews thereof, all records of the company, other  
 69 documents, and all department of commerce files and court  
 70 records and papers, so far as they pertain to or are a part of  
 71 the record of the summary proceedings, shall be and remain  
 72 confidential except as is necessary to obtain compliance  
 73 therewith, unless the court, after hearing arguments from the  
 74 parties in chambers, shall order otherwise, or unless the



1 insurer requests that the matter be made public. Until such  
2 court order, all papers filed with the clerk of the court shall  
3 be held by him in a confidential file. \*

4 Subd. 4. PARTIES. If at any time it appears to the  
5 court that any person whose interest is or will be substantially  
6 affected by an order did not appear at the hearing and has not  
7 been served, the court may order that notice be given and the  
8 proceedings be adjourned to give him that person opportunity to  
9 appear on such terms as may be just. \*

10 No change for subd 5

060B#15S

11 60B.15 GROUNDS FOR REHABILITATION.

12 The commissioner may apply by verified petition to the  
13 district court for Ramsey county or for the county in which the  
14 principal office of the insurer is located for an order  
15 directing him the commissioner to rehabilitate a domestic  
16 insurer or an alien insurer domiciled in this state on any one  
17 or more of the following grounds: \*

18 (1) Any ground on which he the commissioner may apply for  
19 an order of liquidation under section 60B.20, whenever he the  
20 commissioner believes that the insurer may be successfully  
21 rehabilitated without substantial increase in the risk of loss  
22 to creditors of the insurer, its policyholders or to the public; \*

23 (2) That the commissioner has reasonable cause to believe  
24 that there has been theft from the insurer, wrongful  
25 sequestration or diversion of the insurer's assets, forgery or  
26 fraud affecting the insurer or other illegal conduct in, by or  
27 with respect to the insurer, which endanger assets in an amount  
28 threatening insolvency of the insurer; \*

29 (3) That substantial and unexplained discrepancies exist  
30 between the insurer's records and the most recent annual report  
31 or other official company reports; \*

32 (4) That the insurer, after written demand by the  
33 commissioner, has failed to remove any person who in fact has  
34 executive authority in the insurer, whether an officer, manager,  
35 general agent, employee, or other person, if the person has been  
36 found by the commissioner after notice and hearing to be  
37 dishonest or untrustworthy in a way affecting the insurer's  
38 business such as is the basis for action under section 60A.051;

39 (5) That control of the insurer, whether by stock ownership  
40 or otherwise, and whether direct or indirect, is in one or more  
41 persons found by the commissioner after notice and hearing to be  
42 dishonest or untrustworthy such as is the basis for action under  
43 section 60A.051;

44 (6) That the insurer, after written demand by the  
45 commissioner, has failed within a reasonable period of time to  
46 terminate the employment and status and all influences on  
47 management of any person who in fact has executive authority in  
48 the insurer, whether an officer, manager, general agent,  
49 employee or other person if the person has refused to submit to  
50 lawful examination under oath by the commissioner concerning the  
51 affairs of the insurer, whether in this state or elsewhere;

52 (7) That after lawful written demand by the commissioner  
53 the insurer has failed to submit promptly any of its own  
54 property, books, accounts, documents, or other records, or those  
55 of any subsidiary or related company within the control of the  
56 insurer, or those of any person having executive authority in  
57 the insurer so far as they pertain to the insurer, to reasonable  
58 inspection or examination by the commissioner or his an \*  
59 authorized representative. If the insurer is unable to submit  
60 the property, books, accounts, documents, or other records of a  
61 person having executive authority in the insurer, it shall be  
62 excused from doing so if it promptly and effectively terminates  
63 the relationship of the person to the insurer;

64 (8) That without first obtaining the written consent of the  
65 commissioner, or if required by law, the written consent of the  
66 attorney general, the insurer has transferred, or attempted to  
67 transfer, substantially its entire property or business, or has  
68 entered into any transaction the effect of which is to merge,  
69 consolidate, or reinsure substantially its entire property or  
70 business of any other person;

71 (9) That the insurer or its property has been or is the  
72 subject of an application for the appointment of a receiver,  
73 trustee, custodian, conservator or sequestrator or similar  
74 fiduciary of the insurer or its property otherwise than as  
75 authorized under sections 60B.01 to 60B.61, and that such



1 appointment has been made or is imminent, and that such  
 2 appointment might divest the courts of this state of  
 3 jurisdiction or prejudice orderly delinquency proceedings under  
 4 sections 60B.01 to 60B.61;

5 (10) That within the previous year the insurer has wilfully  
 6 violated its charter or articles of incorporation or its bylaws  
 7 or any applicable insurance law or regulation of any state, or  
 8 of the federal government, or any valid order of the  
 9 commissioner under section 60B.11 in any manner or as to any  
 10 matter which threatens substantial injury to the insurer, its  
 11 creditors, its policyholders or the public, or having become  
 12 aware within the previous year of an unintentional or willful  
 13 violation has failed to take all reasonable steps to remedy the  
 14 situation resulting from the violation and to prevent the same  
 15 violations in the future;

16 (11) That the directors of the insurer are deadlocked in  
 17 the management of the insurer's affairs and that the members or  
 18 shareholders are unable to break the deadlock and that  
 19 irreparable injury to the insurer, its creditors, its  
 20 policyholders, or the public is threatened by reason thereof;

21 (12) That the insurer has failed to pay for 60 days after  
 22 due date any obligation to this state or any political  
 23 subdivision thereof or any judgment entered in this state,  
 24 except that such nonpayment shall not be a ground until 60 days  
 25 after any good faith effort by the insurer to contest the  
 26 obligation or judgment has been terminated, whether it is before  
 27 the commissioner or in the courts;

28 (13) That the insurer has failed to file its annual report  
 29 or other report within the time allowed by law, and after  
 30 written demand by the commissioner has failed to give an  
 31 adequate explanation immediately;

32 (14) That two-thirds of the board of directors, or the  
 33 holders of a majority of the shares entitled to vote, or a  
 34 majority of members or policyholders of an insurer subject to  
 35 control by its members or policyholders, consent to  
 36 rehabilitation under sections 60B.01 to 60B.61;

37 (15) That the insurer is engaging in a systematic practice  
 38 of reaching settlements with and obtaining releases from  
 39 policyholders or third party claimants and then unreasonably  
 40 delaying payment of or failing to pay the agreed upon  
 41 settlements;

42 (16) That the insurer is in such condition that the further  
 43 transaction of business would be hazardous, financially or  
 44 otherwise, to its policyholders, its creditors, or the public;

45 (17) That within the previous 12 months the insurer has  
 46 systematically attempted to compromise with its creditors on the  
 47 ground that it is financially unable to pay its claims in full.

060B#16S

48 60B.16 REHABILITATION ORDERS.

49 Subdivision 1. APPOINTMENT OF REHABILITATOR. An  
 50 order to rehabilitate the business of a domestic insurer, or an  
 51 alien insurer domiciled in this state, shall appoint the  
 52 commissioner and ~~his~~ successors in office rehabilitator and \*  
 53 shall direct the rehabilitator forthwith to take possession of  
 54 the assets of the insurer and to administer them under the  
 55 orders of the court. The filing or recording of the order with  
 56 any county recorder in the state imparts the same notice as a  
 57 deed, bill of sale, or other evidence of title duly filed or  
 58 recorded with that county recorder.

59 No change for subd 2

060B#17S

60 60B.17 POWERS AND DUTIES OF THE REHABILITATOR.

61 No change for subd 1

62 Subd. 2. GENERAL POWER. Subject to court approval,  
 63 the rehabilitator may take such action as he that person deems \*  
 64 necessary or expedient to reform and revitalize the insurer. He \*  
 65 The rehabilitator shall have all the powers of the officers and \*  
 66 managers, whose authority shall be suspended, except as they are  
 67 redelegated by the rehabilitator---He and shall have full power \*  
 68 to direct and manage, to hire and discharge employees subject to  
 69 any contract rights they may have, and to deal with the property  
 70 and business of the insurer.

71 No change for subd 3

72 Subd. 4. PURSUIT OF INSURER'S CLAIMS AGAINST INSIDERS.

73 If the rehabilitator finds that there has been criminal or  
 74 tortious conduct or breach of any contractual or fiduciary



1 obligation detrimental to the insurer by any officer, manager,  
 2 agent, broker, employee, or other person, he the rehabilitator  
 3 may pursue all appropriate legal remedies on behalf of the  
 4 insurer.

5 No change for subd 5 to 6

6 Subd. 7. COORDINATION OF ACTIVITIES WITH GUARANTY  
 7 ASSOCIATIONS. The rehabilitator shall coordinate his  
 8 activities with those of each guaranty association having an  
 9 interest in the rehabilitation and shall submit a report  
 10 detailing how coordination will be achieved to the court for its  
 11 approval within 30 days following his appointment, or within the  
 12 time the court, in its discretion, may establish.

060B#19S

13 60B.19 TERMINATION OF REHABILITATION.

14 Subdivision 1. TRANSFORMATION TO LIQUIDATION.

15 Whenever he the rehabilitator believes that further attempts to  
 16 rehabilitate an insurer would substantially increase the risk of  
 17 loss to creditors, policyholders, or the public, or would be  
 18 futile, the rehabilitator may petition the court for an order of  
 19 liquidation. A petition under this subdivision shall have the  
 20 same effect as a petition under section 60B.20. The court shall  
 21 permit the directors to defend against the petition and shall  
 22 order payment from the estate of the insurer of such costs and  
 23 other expenses of defense as justice requires.

24 No change for subd 2

060B#20S

25 60B.20 GROUNDS FOR LIQUIDATION.

26 The commissioner may apply by verified petition to the  
 27 district court for Ramsey county or for the county in which the  
 28 principal office of the insurer is located for an order  
 29 ~~directing him~~ to liquidate a domestic insurer or an alien  
 30 insurer domiciled in this state on any one or more of the  
 31 following grounds:

32 (1) Any ground on which he the commissioner may apply for  
 33 an order of rehabilitation under section 60B.15, whenever he the  
 34 commissioner believes that attempts to rehabilitate the insurer  
 35 would substantially increase the risk of loss to its creditors,  
 36 its policyholders, or the public, or would be futile, or that  
 37 rehabilitation would serve no useful purpose;

38 (2) That the insurer is or is about to become insolvent;

39 (3) That the insurer has not transacted the business for  
 40 which it was organized or incorporated during the previous 12  
 41 months or has transacted only a token such business during that  
 42 period, although authorized to do so throughout that period, or  
 43 that more than 12 months after incorporation it has failed to  
 44 become authorized to do the business for which it was organized  
 45 or incorporated;

46 (4) That the insurer has commenced, or within the previous  
 47 year has attempted to commence, voluntary dissolution or  
 48 liquidation otherwise than as provided in section 60B.04,  
 49 subdivision 3 in the case of a solvent insurer;

50 (5) That the insurer has concealed records or assets from  
 51 the commissioner or improperly removed them from the  
 52 jurisdiction, or the commissioner believes that the insurer is  
 53 about to do so;

54 (6) That the insurer does not satisfy the requirements that  
 55 would be applicable if it were seeking initial authorization in  
 56 this state to do the business for which it was organized or  
 57 incorporated, except for:

58 (a) Requirements that are intended to apply only at the  
 59 time the initial authorization to do business is obtained, and  
 60 not thereafter; and

61 (b) Requirements that are expressly made inapplicable by  
 62 the laws establishing the requirements;

63 (7) That the holders of two-thirds of the shares entitled  
 64 to vote, or two-thirds of the members or policyholders entitled  
 65 to vote in an insurer controlled by its members or  
 66 policyholders, have consented to a petition.

060B#21S

67 60B.21 LIQUIDATION ORDERS.

68 Subdivision 1. ORDER TO LIQUIDATE. An order to  
 69 liquidate the business of a domestic insurer shall appoint the  
 70 commissioner and his successors in office liquidator and shall  
 71 direct the liquidator forthwith to take possession of the assets  
 72 of the insurer and to administer them under the orders of the  
 73 court. The liquidator shall be vested by operation of law with



1 the title to all of the property, contracts, and rights of  
2 action and all of the books and records of the insurer ordered  
3 liquidated, wherever located, as of the date of the filing of  
4 the petition for liquidation. He The commissioner may recover \*  
5 and reduce the same to possession except that ancillary  
6 receivers in reciprocal states shall have, as to assets located  
7 in their respective states, the rights and powers which are  
8 prescribed in section 60B.55, subdivision 3, for ancillary  
9 receivers appointed in this state as to assets located in this  
10 state. The filing or recording of the order with any county  
11 recorder in this state imparts the same notice as a deed, bill  
12 of sale, or other evidence of title duly filed or recorded with  
13 that county recorder.

14 No change for subd 2 to 4

060B#23S

15 60B.23 DISSOLUTION OF INSURER.

16 The commissioner may petition for an order dissolving the  
17 corporate existence of a domestic insurer or the United States  
18 branch of an alien insurer domiciled in this state at the time  
19 he the commissioner applies for a liquidation order. If the \*  
20 court issues a liquidation order, it also shall order  
21 dissolution if the commissioner has petitioned for it. The  
22 court shall order dissolution of the corporation upon petition  
23 by the commissioner at any time after a liquidation order has  
24 been granted. If the dissolution has not previously occurred,  
25 it shall be effected by operation of law upon the discharge of  
26 the liquidator.

060B#24S

27 60B.24 FEDERAL RECEIVERSHIP.

28 Subdivision 1. PETITION FOR FEDERAL RECEIVER.

29 Whenever in the commissioner's opinion, liquidation of a  
30 domestic insurer or an alien insurer domiciled in this state  
31 would be facilitated by a federal receivership, and when any  
32 ground exists upon which the commissioner might petition the  
33 court for an order of rehabilitation or liquidation under  
34 section 60B.15 or 60B.20, or if an order of rehabilitation or  
35 liquidation has already been entered, the commissioner may  
36 request another commissioner or other willing resident of  
37 another state to petition any appropriate federal district court  
38 for the appointment of a federal receiver. The commissioner may  
39 intervene in any such action to support or oppose the petition,  
40 and may accept appointment as the receiver if ~~he is~~ so \*  
41 designated. So much of sections 60B.01 to 60B.61 shall apply to  
42 the receivership as can be made applicable and is appropriate.  
43 Upon motion of the commissioner, the courts of this state shall  
44 relinquish all jurisdiction over the insurer for purposes of  
45 rehabilitation or liquidation.

46 Subd. 2. FILING ORDERS. If the commissioner is

47 appointed receiver under this section, he the commissioner shall \*  
48 comply with any requirements necessary to ~~give him~~ take title to \*  
49 and control over the assets and affairs of the insurer.

060B#25S

50 60B.25 POWERS OF LIQUIDATOR.

51 The liquidator shall report to the court monthly, or at  
52 other intervals specified by the court, on the progress of the  
53 liquidation in whatever detail the court orders. The liquidator  
54 shall coordinate having an interest in the liquidation and shall  
55 submit a report detailing how coordination will be achieved to  
56 the court for its approval within 30 days following his \*  
57 appointment, or within the time which the court, in its  
58 discretion, may establish. Subject to the court's control, he \*  
59 the liquidator may: \*  
60

61 (1) Appoint a special deputy to act ~~for him~~ under sections \*  
62 60B.01 to 60B.61 and determine his the deputy's compensation. \*  
63 The special deputy shall have all powers of the liquidator \*  
64 granted by this section. The special deputy shall serve at the \*  
65 pleasure of the liquidator.

66 (2) Appoint or engage employees and agents, actuaries, \*  
67 accountants, appraisers, consultants, and other personnel he \*  
68 deems deemed necessary to assist in the liquidation without \*  
69 regard to chapter 14.

70 (3) Fix the compensation of persons under clause (2), \*  
71 subject to the control of the court.

72 (4) Defray all expenses of taking possession of, \*  
73 conserving, conducting, liquidating, disposing of, or otherwise  
dealing with the business and property of the insurer. If the



1 property of the insurer does not contain sufficient cash or  
2 liquid assets to defray the costs incurred, the liquidator may  
3 advance the costs so incurred out of the appropriation made to  
4 the department of commerce. Any amounts so paid shall be deemed  
5 expense of administration and shall be repaid for the credit of  
6 the department of commerce out of the first available moneys of  
7 the insurer.

8 (5) Hold hearings, subpoena witnesses and compel their  
9 attendance, administer oaths, examine any person under oath and  
10 compel any person to subscribe to his testimony after it has \*  
11 been correctly reduced to writing, and in connection therewith  
12 require the production of any books, papers, records, or other \*  
13 documents which ~~he~~ the liquidator deems relevant to the inquiry.

14 (6) Collect all debts and moneys due and claims belonging  
15 to the insurer, wherever located, and for this purpose institute  
16 timely action in other jurisdictions, in order to forestall  
17 garnishment and attachment proceedings against such debts; do  
18 such other acts as are necessary or expedient to collect,  
19 conserve, or protect its assets or property, including sell,  
20 compound, compromise, or assign for purposes of collection, upon  
21 such terms and conditions as ~~he~~ the liquidator deems best, any \*  
22 bad or doubtful debts; and pursue any creditor's remedies \*  
23 available to enforce his claims. \*

24 (7) Conduct public and private sales of the property of the  
25 insurer in a manner prescribed by the court.

26 (8) Use assets of the estate to transfer coverage  
27 obligations to a solvent assuming insurer, if the transfer can  
28 be arranged without prejudice to applicable priorities under  
29 section 60B.44.

30 (9) Acquire, hypothecate, encumber, lease, improve, sell,  
31 transfer, abandon, or otherwise dispose of or deal with any  
32 property of the insurer at its market value or upon such terms  
33 and conditions as are fair and reasonable, except that no  
34 transaction involving property the market value of which exceeds  
35 \$10,000 shall be concluded without express permission of the  
36 court. ~~He~~ The liquidator may also execute, acknowledge, and \*  
37 deliver any deeds, assignments, releases, and other instruments  
38 necessary or proper to effectuate any sale of property or other  
39 transaction in connection with the liquidation. In cases where  
40 real property sold by the liquidator is located other than in  
41 the county where the liquidation is pending, the liquidator  
42 shall cause to be filed with the county recorder for the county  
43 in which the property is located a certified copy of the  
44 order ~~appointing him~~ of appointment. \*

45 (10) Borrow money on the security of the insurer's assets  
46 or without security and execute and deliver all documents  
47 necessary to that transaction for the purpose of facilitating  
48 the liquidation.

49 (11) Enter into such contracts as are necessary to carry  
50 out the order to liquidate, and affirm or disavow any contracts  
51 to which the insurer is a party.

52 (12) Continue to prosecute and institute in the name of the  
53 insurer or in ~~his~~ the liquidator's own name any suits and other \*  
54 legal proceedings, in this state or elsewhere, and abandon the \*  
55 prosecution of claims ~~he~~ the liquidator deems unprofitable to \*  
56 pursue further. If the insurer is dissolved under section \*  
57 60B.23, ~~he~~ the liquidator may apply to any court in this state \*  
58 or elsewhere for leave to ~~substitute himself~~ be substituted for \*  
59 the insurer as plaintiff.

60 (13) Prosecute any action which may exist in behalf of the  
61 creditors, members, policyholders, or shareholders of the  
62 insurer against any officer of the insurer, or any other person.

63 (14) Remove any records and property of the insurer to the  
64 offices of the commissioner or to such other place as is  
65 convenient for the purposes of efficient and orderly execution  
66 of the liquidation.

67 (15) Deposit in one or more banks in this state such sums  
68 as are required for meeting current administration expenses and  
69 dividend distributions.

70 (16) Deposit with the state board of investment for  
71 investment pursuant to section 11A.24, all sums not currently  
72 needed, unless the court orders otherwise.

73 (17) File any necessary documents for record in the office  
74 of any county recorder or record office in this state or  
75 elsewhere where property of the insurer is located.

76 (18) Assert all defenses available to the insurer as



1 against third persons, including statutes of limitations,  
2 statutes of frauds, and the defense of usury. A waiver of any  
3 defense by the insurer after a petition for liquidation has been  
4 filed shall not bind the liquidator.

5 (19) Exercise and enforce all the rights, remedies, and  
6 powers of any creditor, shareholder, policyholder, or member,  
7 including any power to avoid any transfer or lien that may be  
8 given by law and that is not included within sections 60B.30 and  
9 60B.32.

10 (20) Intervene in any proceeding wherever instituted that  
11 might lead to the appointment of a receiver or trustee, and act  
12 as the receiver or trustee whenever the appointment is offered.

13 (21) Enter into agreements with any receiver or  
14 commissioner of any other state relating to the rehabilitation,  
15 liquidation, conservation, or dissolution of an insurer doing  
16 business in both states.

17 (22) Exercise all powers now held or hereafter conferred  
18 upon receivers by the laws of this state not inconsistent with  
19 sections 60B.01 to 60B.61.

20 (23) The enumeration in this section of the powers and  
21 authority of the liquidator is not a limitation ~~upon him~~, nor  
22 does it exclude ~~his~~ the right to do such other acts not herein  
23 specifically enumerated or otherwise provided for as are  
24 necessary or expedient for the accomplishment of or in aid of  
25 the purpose of liquidation.

\*  
\*

060B#26S

26 60B.26 NOTICE TO CREDITORS AND OTHERS.

27 Subdivision 1. NOTICE REQUIRED. (a) The liquidator  
28 shall give notice of the liquidation order as soon as possible  
29 by first class mail and either by telegram or telephone to the  
30 commissioner of commerce of each jurisdiction in which the  
31 insurer is licensed to do business, by first class mail and by  
32 telephone to the department of labor and industry of this state  
33 if the insurer is or has been an insurer of workers'  
34 compensation, by first class mail within this state and by  
35 airmail outside this state to all agents of the insurer having a  
36 duty under section 60B.27, by first class mail, if the insurer  
37 is a surety company to every probate judge and the clerks of all  
38 courts of record in this state and upon receipt of such notice  
39 it shall be the duty of those judges and clerks to notify and  
40 require every executor, administrator, guardian, trustee, or  
41 other fiduciary having filed a bond on which such company is  
42 surety, to forthwith file a new bond with new sureties, and by  
43 first class mail within this state and by airmail outside this  
44 state at the last known address to all persons known or  
45 reasonably expected to have claims against the insurer,  
46 including all policyholders. ~~He~~ The liquidator also shall  
47 publish a notice three consecutive times in a newspaper of  
48 general circulation in the county in which the liquidation is  
49 pending or in Ramsey county, the last publication to be not less  
50 than three months before the earliest deadline specified in the  
51 notice under subdivision 2.

\*

52 (b) Notice to agents shall inform them of their duties  
53 under section 60B.27 and inform them what information they must  
54 communicate to policyholders. Notice to policyholders shall  
55 include notice of impairment and termination of coverage under  
56 section 60B.22. When it is applicable, notice to policyholders  
57 shall include (1) notice of withdrawal of the insurer from the  
58 defense of any case in which the policyholder is interested, (2)  
59 notice of the right to file a claim under section 60B.40,  
60 subdivision 2, and (3) information about the existence of  
61 section 79.28, relating to certain unpaid workers' compensation  
62 awards.

63 (c) Within 15 days of the date of entry of the order, the  
64 liquidator shall report to the court what notice has been  
65 given. The court may order such additional notice as it deems  
66 appropriate.

67 No change for subd 2 to 3

060B#27S

68 60B.27 DUTIES OF AGENTS.

69 Subdivision 1. WRITTEN NOTICE. Every person who  
70 receives notice in the form prescribed in section 60B.26 that an  
71 insurer which ~~he~~ that person represents as an independent agent  
72 is the subject of a liquidation order shall as soon as  
73 practicable give notice of the liquidation order. The notice  
74 shall be sent by first class mail to the last address contained

\*



1 in the agent's records to each policyholder or other person  
 2 named in any policy or contract for coverage issued through the  
 3 agent by the company, if he the agent has a record of the  
 4 address of the policyholder or other person. A policy or  
 5 contract shall be deemed issued through an agent if the agent  
 6 has a property interest in the expiration of the coverage; or if  
 7 the agent has had in ~~his~~ possession a copy of the declarations  
 8 of the policy or contract at any time during its life, except  
 9 where the ownership of the expiration of the policy or contract  
 10 has been transferred to another. The written notice shall  
 11 include the name and address of the insurer, the name and  
 12 address of the agent, identification of the policy or contract  
 13 impaired, and the nature of the impairment under section  
 14 60B.22. Notice by a general agent satisfies the notice  
 15 requirement for any agents under contract ~~to him~~.

16 Subd. 2. SANCTIONS. Any agent failing to give  
 17 notice as required in subdivision 1 may be fined not more than  
 18 \$100 and may have ~~his~~ that person's license suspended.

19 Subd. 3. ORAL NOTICE. So far as practicable, every  
 20 agent subject to subdivision 1 shall give immediate oral notice,  
 21 by telephone or otherwise, of the liquidation order to the same  
 22 persons to whom he the agent is obligated to give written notice.  
 23 The oral notice shall include substantially the same information  
 24 as the written notice.

060B#28S

25 60B.28 ACTIONS BY AND AGAINST LIQUIDATOR.

26 Subdivision 1. TERMINATION OF ACTIONS AGAINST INSURER  
 27 BY ORDER APPOINTING LIQUIDATOR. Upon issuance of any order  
 28 appointing the commissioner liquidator of a domestic insurer or  
 29 of an alien insurer domiciled in this state, all actions and all  
 30 proceedings against the insurer whether in this state or  
 31 elsewhere shall be abated and the liquidator shall not intervene  
 32 in them, except as provided in this section. Whenever in the  
 33 liquidator's judgment an action in this state has proceeded to a  
 34 point where fairness or convenience would be served by its  
 35 continuation to judgment, he the liquidator may apply to the  
 36 court for leave to defend or to be substituted for the insurer,  
 37 and if the court gives ~~him~~ leave, the action shall not be  
 38 abated. Whenever in the liquidator's judgment, protection of  
 39 the estate of the insurer necessitates intervention in an action  
 40 against the insurer that is pending outside this state, with  
 41 approval of the court he the liquidator may intervene in the  
 42 action. The liquidator may defend any action in which he the  
 43 liquidator intervenes under this section at the expense of the  
 44 estate of the insurer.

45 No change for subd 2 to 3

060B#29S

46 60B.29 COLLECTION AND LIST OF ASSETS.

47 No change for subd 1

48 Subd. 2. LIQUIDATION OF ASSETS. The liquidator  
 49 shall reduce the assets to a degree of liquidity that is  
 50 consistent with the effective execution of the liquidation as  
 51 rapidly and economically as he the liquidator can.

060B#30S

52 60B.30 FRAUDULENT TRANSFERS PRIOR TO PETITION.

53 No change for subd 1 to 3

54 Subd. 4. FRAUDULENT TRANSFERS TO AFFILIATES. Any  
 55 distribution, other than stock dividends paid by the insurer on  
 56 its capital stock, made by the insurer to an affiliate owning  
 57 more than 50 percent of the voting stock of the insurer during  
 58 the five years preceding the filing of a successful petition for  
 59 rehabilitation or liquidation under sections 60B.01 to 60B.61  
 60 shall be deemed fraudulent and may be avoided by the receiver;  
 61 except that:

62 (a) No distribution shall be recoverable if the insurer  
 63 shows that when paid, it was lawful, reasonable, and that the  
 64 insurer did not know, and could not reasonably have known, that  
 65 the distribution might adversely affect the ability of the  
 66 insurer to fulfill its contractual obligations;

67 (b) Any person who was an affiliate owning more than 50  
 68 percent of the voting stock of the insurer at the time the  
 69 distributions were paid shall be liable only up to the amount of  
 70 distributions he received. Any person who was an affiliate that  
 71 controlled the insurer at the time the distributions were  
 72 declared shall be liable up to the amount of distributions he  
 73 that person would have received if they had been paid



1 immediately. If two persons are liable with respect to the same  
2 distribution, they shall be jointly and severally liable;

3 (c) The maximum amount recoverable under this subdivision  
4 shall be the amount needed in addition to all other available  
5 assets of the insurer to pay its contractual obligations;

6 (d) If any person liable under clause (b) is insolvent, all  
7 its affiliates that controlled it at the time the distribution  
8 was paid shall be jointly and severally liable for any resulting  
9 deficiency in the amount recovered from the insolvent affiliate.

060B#31S

10 60B.31 FRAUDULENT TRANSFERS AFTER PETITION.

11 No change for subd 1

12 Subd. 2. EFFECT OF PETITION; PERSONAL PROPERTY.

13 After a petition for rehabilitation or liquidation and before  
14 either the receiver takes possession of the property of the  
15 insurer or an order of rehabilitation or liquidation is granted:

16 (a) A transfer of any of the property of the insurer, other  
17 than real property, made to a person acting in good faith shall  
18 be valid against the receiver if made for a present fair  
19 equivalent value or, if not made for a present fair equivalent  
20 value, then to the extent of the present consideration actually  
21 paid therefor, for which amount the transferee shall have a lien  
22 on the property so transferred.

23 (b) A person indebted to the insurer or holding property of  
24 the insurer may, if acting in good faith, pay the indebtedness  
25 or deliver the property or any part thereof to the insurer or  
26 upon ~~his~~ the insurer's order, with the same effect as if the \*  
27 petition were not pending.

28 (c) A person having actual knowledge of the pending  
29 rehabilitation or liquidation shall be deemed not to act in good  
30 faith unless ~~he~~ that person has reasonable cause to believe that \*  
31 the petition is not well founded.

32 (d) A person asserting the validity of a transfer under  
33 this section shall have the burden of proof. Except as  
34 elsewhere provided in this section, no transfer by or in behalf  
35 of the insurer after the date of the petition for liquidation by  
36 any person other than the liquidator shall be valid against the  
37 liquidator.

38 No change for subd 3

060B#32S

39 60B.32 VOIDABLE PREFERENCES AND LIENS.

40 Subdivision 1. PREFERENCES. (a) A preference is a  
41 transfer of any of the property of an insurer to or for the  
42 benefit of a creditor, for or on account of an antecedent debt,  
43 made or suffered by the insurer within one year before the  
44 filing of a successful petition for liquidation under sections  
45 60B.01 to 60B.61 the effect of which transfer may be to enable  
46 the creditor to obtain a greater percentage of ~~his~~ debt than \*  
47 another creditor of the same class would receive. If a  
48 liquidation order is entered while the insurer is already  
49 subject to a rehabilitation order, transfers otherwise  
50 qualifying shall be deemed preferences if made or suffered  
51 within one year before the filing of the successful petition for  
52 rehabilitation or within two years before the filing of the  
53 successful petition for liquidation, whichever time is shorter.

54 (b) Any preference may be avoided by the liquidator, if (1)  
55 the insurer was insolvent at the time of the transfer, or (2)  
56 the transfer was made within four months before the filing of  
57 the petition, or (3) the creditor receiving it or to be \*  
58 benefited thereby or ~~his~~ an agent of the creditor acting with  
59 reference thereto had reasonable cause to believe at the time  
60 when the transfer was made that the insurer was insolvent or was  
61 about to become insolvent, or (4) the creditor receiving it was  
62 an officer, employee, attorney, or other person who was in fact  
63 in a position of comparable influence in the insurer to an \*  
64 officer whether or not ~~he~~ the creditor held such position, or  
65 any shareholder holding directly or indirectly more than five  
66 percent of any class of any equity security issued by the  
67 insurer, or any other person with whom the insurer did not deal  
68 at arm's length. Where the preference is voidable, the  
69 liquidator may recover the property or, if it has been  
70 converted, its value from any person who has received or  
71 converted the property, except a bona fide purchaser from or  
72 lienor of the debtor's transferee for a present fair equivalent  
73 value. Where the bona fide purchaser or lienor has given less  
74 than fair equivalent value, ~~he~~ that person shall have a lien \*



1 upon the property to the extent of the consideration actually  
 2 given by-him. Where a preference by way of lien or security \*  
 3 title is voidable, the court may on due notice order the lien or  
 4 title to be preserved for the benefit of the estate, in which  
 5 event the lien or title shall pass to the liquidator.

6 No change for subd 2 to 8

7 Subd. 9. SET-OFF OF NEW ADVANCES. If a creditor has  
 8 been preferred and afterward in good faith gives the insurer  
 9 further credit without security of any kind for property which  
 10 becomes a part of the insurer's estate, the amount of the new  
 11 credit remaining unpaid at the time of the petition may be set  
 12 off against the preference which would otherwise be recoverable  
 13 from him the creditor. \*

14 No change for subd 10

15 Subd. 11. PERSONAL LIABILITY. (a) Every officer,  
 16 manager, employee, shareholder, member, subscriber, attorney, or  
 17 any other person acting on behalf of the insurer who knowingly  
 18 participates in giving any preference when he that person has \*  
 19 reasonable cause to believe the insurer to be or about to become  
 20 insolvent at the time of the preference shall be personally  
 21 liable to the liquidator for the amount of the preference. It  
 22 is permissible to infer that there is reasonable cause to so  
 23 believe if the transfer was made within four months before the  
 24 date of filing of the successful petition for liquidation.

25 (b) Every person receiving any property from the insurer or  
 26 the benefit thereof as a preference voidable under subdivision  
 27 1, clause (b), shall be personally liable therefor and shall be  
 28 bound to account to the liquidator.

29 (c) Nothing in this subdivision shall prejudice any other  
 30 claim by the liquidator against any person.

060B#33S

31 60B.33 CLAIMS OF HOLDERS OF VOID OR VOIDABLE RIGHTS.

32 Subdivision 1. DISALLOWANCE FOR FAILURE TO SURRENDER  
 33 PROPERTY. No claims of a creditor who has received or  
 34 acquired a preference, lien, conveyance, transfer, assignment,  
 35 or encumbrance, voidable under sections 60B.01 to 60B.61, shall  
 36 be allowed unless he the creditor surrenders the preference, \*  
 37 lien, conveyance, transfer, assignment, or encumbrance. If the  
 38 avoidance is effected by a proceeding in which a final judgment  
 39 has been entered, the claim shall not be allowed unless the  
 40 money is paid or the property is delivered to the liquidator  
 41 within 30 days from the date of the entering of the final  
 42 judgment, except that the court having jurisdiction over the  
 43 liquidation may allow further time if there is an appeal or  
 44 other continuation of the proceeding.

45 No change for subd 2

060B#34S

46 60B.34 SET-OFFS AND COUNTERCLAIMS.

47 No change for subd 1

48 Subd. 2. EXCEPTIONS. No set-off or counterclaim  
 49 shall be allowed in favor of any person where:

50 (a) The obligation of the insurer to the person would not  
 51 at the date of the filing of a petition for liquidation entitle  
 52 him that person to share as a claimant in the assets of the \*  
 53 insurer;

54 (b) The obligation of the insurer to the person was  
 55 purchased by or transferred to the person with a view to its  
 56 being used as a set-off;

57 (c) The obligation of the person is to pay an assessment  
 58 levied against the members or subscribers of the insurer, or is  
 59 to pay a balance upon a subscription to the capital stock of the  
 60 insurer, or is in any other way in the nature of a capital  
 61 contribution; or

62 (d) The obligation of the person is to pay premiums,  
 63 whether earned or unearned, to the insurer.

060B#35S

64 60B.35 ASSESSMENTS.

65 No change for subd 1 to 2

66 Subd. 3. ORDER TO SHOW CAUSE. After levy of  
 67 assessment under subdivision 2, the court shall issue an order  
 68 directing each member who has not paid the assessment pursuant  
 69 to the order to show cause why the liquidator shall not have a  
 70 judgment therefor. If a member of the insurer also appears to  
 71 be indebted to the insurer apart from the assessment, the court,  
 72 upon application of the liquidator, may also direct the member  
 73 to show cause why he the member should not pay the other \*



1 indebtedness. Liability for such indebtedness shall be  
2 determined in the same manner and at the same time as the  
3 liability to pay the assessment.

4 Subd. 4. NOTICE. The liquidator shall give notice  
5 of the order to show cause by publication if so directed by the  
6 court and by first class mail to each member liable thereunder  
7 mailed at least 20 days before the return day of the order to  
8 show cause to ~~his~~ the last known address as it appears on the  
9 records of the insurer. \*

10 Subd. 5. ORDERS AND HEARINGS. (a) If a member does  
11 not appear and serve duly verified objections upon the  
12 liquidator upon the return day of the order to show cause under  
13 subdivision 3, the court shall make an order adjudging the  
14 member liable for the amount of the assessment against ~~him~~ the  
15 member and other indebtedness, pursuant to subdivision 3, \*  
16 together with costs, and the liquidator shall have a judgment \*  
17 against the member therefor.

18 (b) If on such return day, the member appears and serves  
19 duly verified objections upon the liquidator, the court may hear  
20 and determine the matter or may appoint a referee to hear it and  
21 make such order as the facts warrant. Any order made by a  
22 referee under this clause shall have the same force and effect  
23 as if it were a judgment of the court, subject to review by the  
24 court upon application within 30 days.

25 No change for subd 6

060B#37S

26 60B.37 FILING OF CLAIMS.

27 No change for subd 1

28 Subd. 2. EXCUSED LATE FILINGS. For a good cause  
29 shown, the liquidator shall recommend and the court shall permit  
30 a claimant making a late filing to share in dividends, whether  
31 past or future, as if ~~he~~ the claimant were not late, to the \*  
32 extent that any such payment will not prejudice the orderly  
33 administration of the liquidation. Good cause includes but is  
34 not limited to the following:

35 (a) That existence of a claim was not known to the claimant  
36 and that ~~he~~ the claimant filed within 30 days after ~~he-learned~~  
37 learning of it; \*

38 (b) That a claim for unearned premiums or for cash  
39 surrender values or other investment values in life insurance or  
40 annuities which was not required to be filed was omitted from  
41 the liquidator's recommendations to the court under section  
42 60B.45, and that it was filed within 30 days after the claimant  
43 learned of the omission;

44 (c) That a transfer to a creditor was avoided under  
45 sections 60B.30 to 60B.32 or was voluntarily surrendered under  
46 section 60B.33, and that the filing satisfies the conditions of  
47 section 60B.33;

48 (d) That valuation under section 60B.43 of security held by  
49 a secured creditor shows a deficiency, which is filed within 30  
50 days after the valuation; and

51 (e) That a claim was contingent and became absolute, and  
52 was filed within 30 days after it became absolute.

53 Subd. 3. UNEXCUSED LATE FILINGS. The liquidator may  
54 consider any claim filed late which is not covered by  
55 subdivision 2, and permit it to receive dividends, other than  
56 the first dividend, which are subsequently declared on any  
57 claims of the same or lower priority if the payment does not  
58 prejudice the orderly administration of the liquidation. The  
59 late filing claimant shall receive, at each distribution, the  
60 same percentage of the amount allowed on ~~his~~ the claim as is \*  
61 then being paid to other claimants of the same priority plus the \*  
62 same percentage of the amount allowed on ~~his~~ the claim as is \*  
63 then being paid to claimants of any lower priority. This shall \*  
64 continue until ~~his~~ the claim has been paid in full. \*

060B#38S

65 60B.38 PROOF OF CLAIM.

66 Subdivision 1. CONTENTS OF PROOF OF CLAIM. (a)  
67 Proof of claim shall consist of a verified statement that  
68 includes all of the following that are applicable:

69 (1) The particulars of the claim, including the  
70 consideration given for it.

71 (2) The identity and amount of the security on the claim.

72 (3) The payments made on the debt, if any.

73 (4) That the sum claimed is justly owing and that there is  
74 no set-off, counterclaim, or defense to the claim.



1 (5) Any right of priority of payment or other specific  
 2 right asserted by the claimant.  
 3 (6) A copy of any written instrument which is the  
 4 foundation of the claim.

5 (7) In the case of any third party claim based on a  
 6 liability policy issued by the insurer, a conditional release of  
 7 the insured pursuant to section 60B.40, subdivision 1.

8 (8) The name and address of the claimant and the claimant's \*  
 9 attorney ~~who represents him~~, if any. \*

10 (b) No claim need be considered or allowed if it does not  
 11 contain all the information under clause (a) which may be  
 12 applicable. The liquidator may require that a prescribed form  
 13 be used and may require that other information and documents be  
 14 included.

15 No change for subd 2 to 3

060B#39S

16 60B.39 SPECIAL CLAIMS.

17 Subdivision 1. CLAIMS CONTINGENT ON JUDGMENTS. The  
 18 claim of a third party which is contingent only on ~~his~~ that \*  
 19 person first obtaining a judgment against the insured shall be \*  
 20 considered and may be allowed as if there were no such  
 21 contingency.

22 Subd. 2. CLAIMS UNDER TERMINATED POLICIES. Any  
 23 claim that would have become absolute if there had been no  
 24 termination of coverage under section 60B.22, and which was not  
 25 covered by insurance acquired to replace the terminated  
 26 coverage, shall be allowed as if the coverage had remained in  
 27 effect, unless at least ten days before the insured event  
 28 occurred either the claimant had actual notice of the  
 29 termination or notice was mailed to ~~him~~ the claimant as \*  
 30 prescribed by section 60B.26, subdivision 1, or section 60B.27,  
 31 subdivision 1. If allowed the claim shall share in  
 32 distributions under section 60B.44, subdivision 9.

33 No change for subd 3 to 6

060B#40S

34 60B.40 SPECIAL PROVISIONS FOR THIRD PARTY CLAIMS.

35 No change for subd 1

36 Subd. 2. INSURED'S CLAIM. Whether or not the third  
 37 party files a claim, the insured may file a claim on ~~his~~ the \*  
 38 insured's own behalf in the liquidation. If the insured fails \*  
 39 to file a claim by the date for filing claims specified in the  
 40 order of liquidation or within 60 days after mailing of the  
 41 notice required by section 60B.26, subdivision 1, clause (b),  
 42 whichever is later, ~~he~~ the insured is an unexcused late filer. \*

43 Subd. 3. PROCEDURE FOR INSURED'S CLAIM. The  
 44 liquidator shall make ~~his~~ recommendations to the court under \*  
 45 section 60B.45 for the allowance of an insured's claim under \*  
 46 subdivision 2 after consideration of the probable outcome of any  
 47 pending action against the insured on which the claim is based,  
 48 the probable damages recoverable in the action, and the probable  
 49 costs and expenses of defense. After allowance by the court,  
 50 the liquidator shall withhold any dividends payable on the  
 51 claim, pending the outcome of litigation and negotiation with  
 52 the insured. Whenever it seems appropriate, ~~he~~ the liquidator \*  
 53 shall reconsider the claim on the basis of additional \*  
 54 information and amend ~~his~~ the recommendations to the court. The \*  
 55 insured shall be afforded the same notice and opportunity to be  
 56 heard on all changes in the recommendation as in its initial  
 57 determination. The court may amend its allowance as it thinks  
 58 appropriate. As claims against the insured are settled or  
 59 barred, the insured shall be paid from the amount withheld the  
 60 same percentage dividend as was paid on other claims of like  
 61 priority, based on the lesser of (a) the amount actually  
 62 recovered from the insured by action or paid by agreement plus  
 63 the reasonable costs and expenses of defense, or (b) the amount  
 64 allowed on the claims by the court. After all claims are  
 65 settled or barred, any sum remaining from the amount withheld  
 66 shall revert to the undistributed assets of the insurer. Delay  
 67 in final payment under this subdivision shall not be a reason  
 68 for unreasonable delay of final distribution and discharge of  
 69 the liquidator.

70 No change for subd 4

060B#41S

71 60B.41 DISPUTED CLAIMS.

72 Subdivision 1. NOTICE OF REJECTION AND REQUEST FOR  
 73 HEARING. When a claim is denied in whole or in part by the



1 liquidator, written notice of the determination shall be given  
2 to the claimant and ~~his~~ the claimant's attorney by first class \*  
3 mail at the address shown in the proof of claim. Within 60 days \*  
4 from the mailing of the notice, the claimant may file ~~his~~  
5 objections with the court. If no such filing is made, the  
6 claimant may not further object to the determination.

7 Subd. 2. NOTICE OF HEARING. Whenever objections are  
8 filed with the court, the liquidator shall ask the court for a  
9 hearing as soon as practicable and give notice of the hearing by  
10 first class mail to the claimant or ~~his~~ the claimant's attorney \*  
11 and to any other persons directly affected, not less than ten  
12 nor more than 20 days before the date of the hearing. The  
13 matter may be heard by the court or by a court appointed referee.

060B#42S

## 14 60B.42 CLAIMS OF SURETY.

15 Whenever a creditor whose claim against an insurer is  
16 secured in whole or in part by the undertaking of another person  
17 fails to prove and file that claim, the other person may do so  
18 in the creditor's name, and shall be subrogated to the rights of  
19 the creditor, whether the claim has been filed by the creditor  
20 or by the other person in the creditor's name, to the extent  
21 that ~~he~~ the person discharges the undertaking. In the absence \*  
22 of an agreement with the creditor to the contrary, the other  
23 person shall not be entitled to any dividend until the amount  
24 paid to the creditor on the undertaking plus the dividends paid  
25 on the claim from the insurer's estate to the creditor equals  
26 the amount of the entire claim of the creditor. Any excess  
27 received by the creditor shall be held ~~by him~~ in trust for such \*  
28 other person.

060B#43S

## 29 60B.43 SECURED CREDITORS' CLAIMS.

30 No change for subd 1

31 Subd. 2. The determination shall be under the supervision  
32 and control of the court. The amount so determined shall be  
33 credited upon the secured claim, and any deficiency shall be  
34 treated as an unsecured claim. If the claimant surrenders ~~his~~ \*  
35 the security to the liquidator, the entire claim shall be \*  
36 allowed as if unsecured.

060B#44S

## 37 60B.44 ORDER OF DISTRIBUTION.

38 No change for subd 1 to 3

39 Subd. 4. LOSS CLAIMS. All claims under policies or  
40 contracts of coverage for losses incurred including third party  
41 claims, and all claims against the insurer for liability for  
42 bodily injury or for injury to or destruction of tangible  
43 property which are not under policies or contracts, except the  
44 first \$200 of losses otherwise payable to any claimant under  
45 this subdivision. All claims under life insurance and annuity  
46 policies, whether for death proceeds, annuity proceeds, or  
47 investment values, shall be treated as loss claims. Claims may  
48 not be cumulated by assignment to avoid application of the \$200  
49 deductible provision. That portion of any loss for which  
50 indemnification is provided by other benefits or advantages  
51 recovered or recoverable by the claimant shall not be included  
52 in this class, other than benefits or advantages recovered or  
53 recoverable in discharge of familial obligations of support or  
54 by way of succession at death or as proceeds of life insurance,  
55 or as gratuities. No payment made by an employer to ~~his~~ an \*  
56 employee shall be treated as a gratuity.

57 No change for subd 5 to 6

58 Subd. 7. JUDGMENTS. Claims based solely on  
59 judgments. If a claimant files a claim and bases it both on the  
60 judgment and on the underlying facts, the claim shall be  
61 considered first by the liquidator on the basis of the  
62 underlying facts, giving the judgment such weight as ~~he~~ the \*  
63 liquidator deems appropriate. The claim as allowed on the \*  
64 underlying facts shall receive the priority it would receive in  
65 the absence of the judgment. If the judgment is larger than the  
66 allowance on the underlying claim, the remaining portion of the  
67 judgment shall be treated as if it were a claim based solely on  
68 a judgment.

69 No change for subd 8 to 11

060B#45S

## 70 60B.45 LIQUIDATOR'S RECOMMENDATIONS TO THE COURT.

71 Subdivision 1. RECOMMENDED CLAIMS. The liquidator  
72 shall review all claims duly filed in the liquidation and shall



1 make such further investigation as he the liquidator deems \*  
2 necessary. He The liquidator may compound, compromise, or in \*  
3 any other manner negotiate the amount for which claims will be  
4 recommended to the court. Unresolved disputes shall be  
5 determined under section 60B.41. As often as practicable, he \*  
6 the liquidator shall present to the court reports of claims \*  
7 against the insurer with his recommendations. The reports shall \*  
8 include the name and address of each claimant, the particulars  
9 of the claim and the amount of the claim finally recommended, if  
10 any. As soon as reasonably possible after the last day for  
11 filing claims, he the liquidator shall present a list of all \*  
12 claims not already reported. If the insurer has issued  
13 annuities or life insurance policies, the liquidator shall  
14 report the persons to whom, according to the records of the  
15 insurer, amounts are owed as cash surrender values or other  
16 investment values and the amounts owed. If the insurer has  
17 issued policies or contracts of coverage on the advance premium  
18 plan, the liquidator shall report the persons to whom, according  
19 to the records of insurer, unearned premiums or subscription  
20 rates are owed and the amounts owed.

21 No change for subd 2

060B#46S

22 60B.46 DISTRIBUTION OF ASSETS.

23 No change for subd 1

24 Subd. 2. EXCESS ASSETS. (a) Upon liquidation of a  
25 domestic mutual insurance company, any assets held in excess of  
26 its liabilities and the amounts which may be paid to its members  
27 as provided under clause (b) shall be paid into the state  
28 treasury to the credit of the general fund.

29 (b) The maximum amount payable upon liquidation to any  
30 member for and on account of his membership in a domestic mutual \*  
31 insurance company, in addition to the insurance benefits  
32 promised in the policy, shall be the total of all premium  
33 payments made by the member with interest at the legal rate  
34 compounded annually.

35 No change for subd 3 to 6

060B#47S

36 60B.47 UNCLAIMED AND WITHHELD FUNDS.

37 Subdivision 1. UNCLAIMED FUNDS. All unclaimed funds  
38 subject to distribution remaining in the liquidator's hands when  
39 he the liquidator is ready to apply to the court for discharge, \*  
40 including the amount distributable to any creditor, shareholder,  
41 member, or other person who is unknown or cannot be found or who  
42 is under disability with no person legally competent to  
43 receive his that person's distributive share, shall be deposited \*  
44 with the state treasurer to the credit of the general fund, and  
45 shall be paid over without interest except in accordance with  
46 section 60B.44 to the person entitled thereto or his a legal \*  
47 representative upon proof satisfactory to the state treasurer of  
48 his a right thereto. Any amount on deposit not claimed within \*  
49 six years from the discharge of the liquidator is deemed  
50 abandoned and shall become the property of the state. The state  
51 treasurer shall at the end of each fiscal year transfer these  
52 amounts to the general fund.

53 Subd. 2. WITHHELD FUNDS. All funds withheld under  
54 section 60B.40 and not distributed shall upon discharge of the  
55 liquidator be deposited with the state treasurer and paid by-him \*  
56 in accordance with section 60B.40. Any sums remaining which  
57 under section 60B.40 would revert to the undistributed assets of  
58 the insurer shall be transferred to the state treasurer and  
59 become the property of the state under subdivision 1, unless the  
60 commissioner petitions the court to reopen the liquidation under  
61 section 60B.49.

060B#50S

62 60B.50 DISPOSITION OF RECORDS DURING AND AFTER  
63 TERMINATION OF LIQUIDATION.

64 Whenever it appears to the commissioner that the records of  
65 an insurer in process of liquidation or completely liquidated  
66 are no longer useful, he the commissioner may recommend to the \*  
67 court what records should be retained for future reference and  
68 what should be disposed of. The court shall enter an order  
69 thereon. The commissioner shall immediately submit to the state  
70 historical society a copy of the court order, and on written  
71 application of the historical society within three months after  
72 receipt from the commissioner of the copy of the court order,  
73 the commissioner shall deliver to the society such records which



1 are to be disposed of as the society deems of historical  
2 significance and shall destroy the remainder, whether or not the  
3 records have been photographed or otherwise reproduced. Until  
4 further order of the court, the commissioner shall keep all  
5 records the court orders preserved.

## 060B#52S

6 60B.52 CONSERVATION OF PROPERTY OF FOREIGN OR ALIEN  
7 INSURERS FOUND IN THIS STATE.

8 Subdivision 1. GROUNDS FOR PETITION. If a  
9 domiciliary liquidator has not been appointed, the commissioner  
10 may apply to the district court for Ramsey county by verified  
11 petition for an order directing ~~him~~ the commissioner to conserve \*  
12 the property of an alien insurer not domiciled in this state or  
13 a foreign insurer on any one or more of the following grounds: .

14 (a) Any of the grounds in section 60B.15;

15 (b) Any of the grounds in section 60B.20;

16 (c) That any of its property has been sequestered by  
17 official action in its domiciliary state, or in any other state;

18 (d) That enough of its property has been sequestered in a  
19 foreign country to give reasonable cause to fear that the  
20 insurer is or may become insolvent;

21 (e) That its certificate of authority to do business in  
22 this state has been revoked or that none was ever issued, and  
23 there are residents of this state with outstanding claims or  
24 outstanding policies.

25 No change for subd 2 to 4

## 060B#53S

26 60B.53 LIQUIDATION OF PROPERTY OF FOREIGN OR ALIEN  
27 INSURERS FOUND IN THIS STATE.

28 Subdivision 1. GROUNDS FOR PETITION. If no  
29 domiciliary receiver has been appointed, the commissioner may  
30 apply to the district court for Ramsey county by verified  
31 petition for an order directing ~~him~~ the commissioner to \*  
32 liquidate the assets found in this state of a foreign insurer or  
33 an alien insurer not domiciled in this state, on any of the  
34 following grounds:

35 (a) Any of the grounds in section 60B.15.

36 (b) Any of the grounds in section 60B.20.

37 (c) Any of the grounds in section 60B.52.

38 No change for subd 2 to 4

## 060B#54S

39 60B.54 FOREIGN DOMICILIARY RECEIVERS IN OTHER STATES.

40 Subdivision 1. PROPERTY RIGHTS AND TITLE; RECIPROCAL  
41 STATE. The domiciliary liquidator of an insurer domiciled in  
42 a reciprocal state shall be vested by operation of law with the  
43 title to all of the property, contracts, and rights of action,  
44 and all of the books, accounts, and other records of the insurer  
45 located in this state. The date of vesting shall be the date of  
46 the filing of the petition, if that date is specified by the  
47 domiciliary law for the vesting of property in the domiciliary  
48 state; otherwise, the date of vesting shall be the date of entry  
49 of the order directing possession to be taken. The domiciliary  
50 liquidator shall have the immediate right to recover balances  
51 due from agents and to obtain possession of the books, accounts,  
52 and other records of the insurer located in this state. ~~He~~ The  
53 domiciliary liquidator also shall have the right to recover the \*  
54 other assets of the insurer located in this state, subject to \*  
55 section 60B.55, subdivision 2.

56 No change for subd 2 to 3

## 060B#55S

57 60B.55 ANCILLARY FORMAL PROCEEDINGS.

58 Subdivision 1. APPOINTMENT OF ANCILLARY RECEIVER IN  
59 THIS STATE. If a domiciliary liquidator has been appointed  
60 for an insurer not domiciled in this state, the commissioner  
61 shall file a petition with the district court for Ramsey county  
62 requesting appointment as ancillary receiver in this state:

63 (a) If ~~he~~ the commissioner finds that there are sufficient \*  
64 assets of the insurer located in this state to justify the  
65 appointment of an ancillary receiver;

66 (b) If ten or more persons resident in this state having  
67 claims against the insurer file a petition with the commissioner  
68 requesting appointment of an ancillary receiver; or

69 (c) If the protection of creditors or policyholders in this  
70 state so requires.

71 No change for subd 2

72 Subd. 3. PROPERTY RIGHTS AND TITLE; ANCILLARY RECEIVERS



1 IN THIS STATE. When a domiciliary liquidator has been  
 2 appointed in a reciprocal state, the ancillary receiver  
 3 appointed in this state under subdivision 1 shall have the sole  
 4 right to recover all the assets of the insurer in this state not  
 5 already recovered by the domiciliary liquidator, except that the  
 6 domiciliary liquidator shall be entitled to and have the sole  
 7 right to recover balances due from agents and the books,  
 8 accounts, and other records of the insurer. The ancillary  
 9 receiver shall have the right to recover balances due from  
 10 agents and books, accounts, and other records of the insurer, if  
 11 such action is necessary to protect the assets because of  
 12 inaction by the domiciliary liquidator. The ancillary receiver  
 13 shall, as soon as practicable, liquidate from their respective  
 14 securities those special deposit claims and secured claims which  
 15 are proved and allowed in the ancillary proceedings in this  
 16 state, and shall pay the necessary expenses of the proceedings.  
 17 ~~He~~ The ancillary receiver shall promptly transfer all remaining  
 18 assets to the domiciliary liquidator. Subject to this section,  
 19 the ancillary receiver and ~~his~~ deputies shall have the same  
 20 powers and be subject to the same duties with respect to the  
 21 administration of assets as a liquidator of an insurer domiciled  
 22 in this state.

23 No change for subd 4

060B#56S

24 60B.56 ANCILLARY SUMMARY PROCEEDINGS.

25 The commissioner ~~in his~~ has the sole discretion  
 26 may discretionary authority to institute proceedings under  
 27 sections 60B.11 to 60B.13 at the request of the commissioner or  
 28 other appropriate official of the domiciliary state of any  
 29 foreign or alien insurer having property located in this state.

060B#58S

30 60B.58 CLAIMS OF RESIDENTS AGAINST INSURERS DOMICILED IN  
 31 RECIPROCAL STATES.

32 No change for subd 1

33 Subd. 2. PROVING CLAIMS. Claims belonging to  
 34 claimants residing in this state may be proved either in the  
 35 domiciliary state under the law of that state or in ancillary  
 36 proceedings, if any, in this state. If a claimant who elects to  
 37 prove ~~his~~ a claim in this state, ~~he~~ shall file ~~his~~ the claim  
 38 with the court in the manner provided in sections 60B.37 and  
 39 60B.38. The ancillary receiver shall make ~~his~~ recommendation to  
 40 the court as under section 60B.45. ~~He~~ The ancillary receiver  
 41 also shall arrange a date for hearing if necessary under section  
 42 60B.41 and shall give notice to the liquidator in the  
 43 domiciliary state, either by certified mail or by personal  
 44 service at least 40 days prior to the date set for hearing. If  
 45 a domiciliary liquidator, within 30 days after the giving of  
 46 such notice, gives notice in writing to the ancillary receiver  
 47 and to the claimant, either by certified mail or by personal  
 48 service, of ~~his~~ intention to contest the claim, ~~he~~ the  
 49 domiciliary liquidator shall be entitled to appear or to be  
 50 represented in any proceeding in this state involving the  
 51 adjudication of the claim. The final allowance of the claim by  
 52 the courts of this state shall be accepted as conclusive as to  
 53 amount and as to priority against special deposits or other  
 54 security located in this state.

060B#60S

55 60B.60 INTERSTATE PRIORITIES.

56 No change for subd 1 to 2

57 Subd. 3. PRIORITY OF SECURED CLAIMS. The owner of a  
 58 secured claim against an insurer for which a liquidator has been  
 59 appointed in this or any other state may surrender ~~his~~ the  
 60 security and file ~~his~~ a claim as a general creditor, or the  
 61 claim may be discharged by resort to the security in accordance  
 62 with section 60B.43, in which case the deficiency, if any, shall  
 63 be treated as a claim against the general assets of the insurer  
 64 on the same basis as claims of unsecured creditors.

060B#61S

65 60B.61 SUBORDINATION OF CLAIMS FOR NONCOOPERATION.

66 If an ancillary receiver in another state or foreign  
 67 country, whether or not called by that name, fails to transfer  
 68 to the domiciliary liquidator in this state any assets within  
 69 ~~his~~ the receiver's control other than special deposits,  
 70 diminished only by the expenses of the ancillary receivership,  
 71 if any, the claims filed in the ancillary receivership, other  
 72 than special deposit claims or secured claims, shall be placed



1 in the class of claims under section 60B.44, subdivision 9.

060C#03S

2 60C.03 DEFINITIONS.

3 No change for subd 1 to 6

4 Subd. 7. "Resident" means:

5 (a) An individual person who fixes ~~his~~ habitation in this \*  
6 state without any intention of removing therefrom and who,  
7 whenever absent therefrom, intends to return; or

8 (b) Any other person who maintains a place of business or a  
9 resident agent in this state.

10 No change for subd 8

060C#09S

11 60C.09 COVERED CLAIMS.

12 Subdivision 1. DEFINITION. A covered claim is any  
13 unpaid claim, including one for unearned premium, which:

14 (a) Arises out of and is within the coverage of an  
15 insurance policy issued by a member insurer if the insurer  
16 becomes an insolvent insurer after April 30, 1979;

17 (b) Arises out of a class of business which is not excepted  
18 from the scope of Laws 1971, chapter 145 by section 60C.02; and

19 (c) Is made by:

20 (i) A policyholder, or an insured beneficiary under a  
21 policy, who, at the time of the insured event, was a resident of  
22 this state; or

23 (ii) A person designated in the policy as having an  
24 insurable interest in or related to property situated in this  
25 state at the time of the insured event; or

26 (iii) An obligee or creditor under any surety bond, who, at  
27 the time of default by the principal debtor or obligor, was a  
28 resident of this state; or

29 (iv) A third party claimant under a liability policy or  
30 surety bond, if: (a) the insured or the third party claimant  
31 was a resident of this state at the time of the insured event;

32 (b) the claim is for bodily or personal injuries suffered in \*  
33 this state by a person who when ~~he suffered the injuries~~ injured  
34 was a resident of this state; or (c) the claim is for damages to

35 real property situated in this state at the time of damage; or  
36 (v) A direct or indirect assignee of a person who except

37 for the assignment might have claimed under (i), (ii) or (iii).

38 A covered claim also includes any unpaid claim which arises  
39 or exists within 30 days after the time of entry of an order of  
40 liquidation with a finding of insolvency by a court of competent  
41 jurisdiction unless prior thereto the insured replaces the  
42 policy or causes its cancellation or the policy expires on its  
43 expiration date.

44 No change for subd 2

060C#10S

45 60C.10 EVALUATION OF CLAIMS.

46 No change for subd 1

47 Subd. 3. If the board finds that a claim for which the  
48 claimant has requested payment out of the fund is not a covered  
49 claim or the board reduces the amount of or rejects the claim,  
50 the board shall notify the claimant in writing of ~~his~~ the rights \*  
51 the claimant has under section 60C.12. \*

060C#11S

52 60C.11 EFFECT OF PAID CLAIMS.

53 Subdivision 1. Any The rights under the policy of a person \*  
54 recovering under Laws 1971, Chapter 145 shall be deemed to  
55 have been assigned ~~his rights under the policy by the person~~ \*  
56 the association to the extent of ~~his~~ the recovery. \*

57 No change for subd 2 to 6

060C#12S

58 60C.12 APPEAL AND REVIEW.

59 Subdivision 1. APPEAL. A claimant whose claim has  
60 been declared to be not covered or reduced by the board under  
61 section 60C.10 may appeal to the board within 30 days after the  
62 claimant has been notified of the board's decision and of ~~his~~ \*  
63 the rights of the claimant under this section. \*

64 No change for subd 2

060C#13S

65 60C.13 NON-DUPLICATION OF RECOVERY.

66 Subdivision 1. Any person having a claim against an  
67 insurer under any provision in an insurance policy other than a  
68 policy of an insurer in liquidation which is also a covered  
69 claim, is required to exhaust first ~~his right~~ any rights under \*  
70 the other policy. Any amount payable on a covered claim under



1 Laws 1971, Chapter 145 shall be reduced by the amount of any  
 2 recovery under such insurance policy.  
 3 Subd. 2. Any person having a claim which may be recovered  
 4 under more than one insurance guaranty association or its  
 5 equivalent shall seek recovery first from the association of the  
 6 state of residence of the insured except that if the claim is a  
 7 first party claim for damage to property with a permanent  
 8 location, he that person shall seek recovery first from the \*  
 9 association of the state in which the property is located. Any  
 10 recovery under Laws 1971, Chapter 145 shall be reduced by the  
 11 amount of recovery from any other insurance guaranty association  
 12 or its equivalent.

060C#14S

13 60C.14 DUTIES AND POWERS OF THE COMMISSIONER.

14 Subdivision 1. MANDATORY POWERS AND DUTIES. The  
15 commissioner shall:

16 (a) Notify the association of the issuance of any order of  
17 liquidation of a member insurer not later than three days after  
18 he the commissioner has knowledge of the issuance of the order. \*

19 (b) Upon request of the board of directors provide the  
20 association with a statement of the net direct written premiums  
21 of each member insurer.

22 Subd. 2. OPTIONAL POWERS AND DUTIES. The  
23 commissioner may:

24 (a) Require the association to notify the insureds of any  
25 insurer undergoing liquidation and any other interested parties  
26 of their possible rights under Laws 1971, Chapter 145.  
27 Notification shall be by mail at their last known address, where  
28 available, but if sufficient information for notification by  
29 mail is not available, notice by publication in a newspaper of  
30 general circulation shall be sufficient.

31 (b) Suspend or revoke, after notice and hearing, the  
32 certificate of authority to transact insurance or to execute  
33 surety bonds in this state of any member insurer which fails to  
34 pay an assessment when due or fails to comply with the plan of  
35 operation. As an alternative, the commissioner may levy a fine  
36 on any member insurer which fails to pay an assessment when  
37 due. The fine shall not exceed five percent of the unpaid  
38 assessment per month, except that no fine shall be less than  
39 \$100 per month.

40 (c) Revoke the designation of any servicing facility if he \*  
41 the commissioner finds claims are being handled unsatisfactorily. \*

42 No change for subd 3

060C#15S

43 60C.15 PREVENTION OF INSOLVENCIES.

44 To aid in the detection and prevention of insurer  
45 insolvencies:

46 (1) It is the duty of each member insurer to notify the  
47 commissioner of any established facts indicating any other  
48 member insurer may be insolvent or in a financial condition  
49 hazardous to its policyholders or the public.

50 (2) The board of directors shall request that the  
51 commissioner order an examination of any member insurer which  
52 the board in good faith believes may be in a financial condition  
53 hazardous to its policyholders or the public. Within 30 days of  
54 the receipt of the request, the commissioner shall begin the  
55 examination. The examination may be conducted as a national  
56 association of insurance commissioners examination or may be  
57 conducted by persons designated by the commissioner. The cost  
58 of the examination shall be paid by the association and the  
59 examination report shall be treated as are other examination  
60 reports. In no event shall the examination report be released  
61 to the board of directors prior to its release to the public,  
62 but this shall not preclude the commissioner from complying with  
63 paragraph (3). The commissioner shall notify the board of  
64 directors when the examination is completed. The request for an  
65 examination shall be kept on file by the commissioner, but it  
66 shall not be open to public inspection unless the report finds  
67 the company to be insolvent.

68 (3) It shall be the duty of the commissioner to report to \*  
69 the board of directors when he the commissioner has reasonable \*  
70 cause to believe that any member insurer examined or being  
71 examined at the request of the board of directors may be  
72 insolvent or in a financial condition hazardous to the  
73 policyholders or the public.

74 (4) The board of directors may, upon majority vote, make



1 reports and recommendations to the commissioner upon any matter  
2 germane to the solvency, liquidation, rehabilitation or  
3 conservation of any member insurer. The reports and  
4 recommendations shall not be considered public documents.  
5 (5) The board of directors may, upon majority vote, make  
6 recommendations to the commissioner for the detection and  
7 prevention of insurer insolvencies.

060C#19S

8 60C.19 IMMUNITY.

9 There shall be no liability on the part of and no cause of  
10 action of any nature shall arise against any member insurer, the  
11 association or its agents or employees, the board of directors,  
12 or the commissioner, or ~~his~~ the commissioner's representatives \*  
13 for action by them in the ordinary performance of their powers  
14 and duties under Laws 1971, Chapter 145.

060D#01S

15 60D.01 DEFINITIONS.

16 No change for subd 1 to 2

17 Subd. 3. "Commissioner" means the commissioner of commerce  
18 or, in ~~his~~ the absence or disability of the commissioner, one \*  
19 duly designated to act in ~~his~~ the commissioner's place, and \*  
20 shall include the department of commerce, as appropriate.

21 No change for subd 4 to 10

060D#02S

22 60D.02 ACQUISITION OF CONTROL OF DOMESTIC INSURER.

23 No change for subd 1

24 Subd. 2. CONTENT OF STATEMENT. The statement to be  
25 filed with the commissioner shall be made under oath or  
26 affirmation and shall contain:

27 (1) The name and address of each person by whom or on whose  
28 behalf the acquisition of control is to be effected (hereinafter  
29 called "acquiring party"), and

30 (i) if such person is an individual, ~~his~~ that person's \*  
31 principal occupation and all offices and positions held during  
32 the past five years, and any conviction of crimes other than  
33 minor traffic violations during the past ten years;

34 (ii) if such person is not an individual, a report of the  
35 nature of its business operations during the past five years or  
36 for such lesser period as such person and any predecessors  
37 thereof shall have been in existence; an informative description  
38 of the business intended to be done by such person and such  
39 person's subsidiaries; and a list of all individuals who are or  
40 who have been selected to become directors or executive officers  
41 of such person, or who perform or will perform functions  
42 appropriate to such positions. Such list shall include for each  
43 such individual the information required by paragraph (1) (i).

44 (2) The source, nature and amount of the consideration used  
45 or to be used in effecting the acquisition of control, a  
46 description of any transaction wherein funds were or are to be  
47 obtained for any such purpose, and the identity of persons  
48 furnishing such consideration, provided, however, that where a  
49 source of such consideration is a loan made in the lender's  
50 ordinary course of business, the identity of the lender shall  
51 remain confidential, if the person filing such statement so  
52 requests.

53 (3) Fully audited financial information as to the earnings  
54 and financial condition of each acquiring party and, if  
55 requested by the commissioner, its affiliates, for the preceding  
56 five fiscal years, or for such lesser period as such acquiring  
57 party and any predecessors thereof shall have been in existence,  
58 and similar unaudited information as of a date not earlier than  
59 90 days prior to the filing of the statement.

60 (4) Any plans or proposals which each acquiring party may  
61 have to liquidate such insurer, to sell its assets or merge or  
62 consolidate it with any person, or to make any other material  
63 change in the business or corporate structure or management.

64 (5) The number of shares of any security which each  
65 acquiring party proposes to acquire, and the terms of the offer,  
66 request, invitation, agreement, or acquisition, and a statement  
67 as to the method by which the fairness of the proposal was  
68 arrived at.

69 (6) The amount of each class of any security referred to in  
70 subdivision 1 which is beneficially owned or concerning which  
71 there is a right to acquire beneficial ownership by each  
72 acquiring party.

73 (7) A full description of any contracts, arrangements or



1 understandings with respect to any security referred to in  
2 subdivision 1 in which any acquiring party is involved,  
3 including but not limited to transfer of any of the securities,  
4 joint ventures, loan or option arrangements, puts or calls,  
5 guarantees of loans, guarantees against loss or guarantees of  
6 profits, division of losses or profits, or the giving or  
7 withholding of proxies. The description shall identify the  
8 persons with whom the contracts, arrangements or understandings  
9 have been entered into.

10 (8) A description of the purchase of any security referred  
11 to in subdivision 1 during the twelve calendar months preceding  
12 the filing of the statement by any acquiring party, including  
13 the dates of purchase, names of the purchasers, and  
14 consideration paid or agreed to be paid therefor.

15 (9) A description of any recommendations to purchase any  
16 security referred to in subdivision 1 made during the twelve  
17 calendar months preceding the filing of the statement, by any  
18 acquiring party, or by anyone based upon interviews or at the  
19 suggestion of such acquiring party.

20 (10) Copies of all tender offers for, requests or  
21 invitations for tenders or exchange offers for, and agreements  
22 to acquire or exchange any securities referred to in subdivision  
23 1, and (if distributed) of additional soliciting material  
24 relating thereto.

25 (11) The terms of any agreement, contract or understanding  
26 made with any broker-dealer as to solicitation of securities  
27 referred to in subdivision 1 for tender, and the amount of any  
28 fees, commissions or other compensation to be paid to  
29 broker-dealers with regard thereto.

30 (12) Such additional information as the commissioner may by  
31 rule or regulation prescribe as necessary or appropriate for the  
32 protection of policyholders and securityholders of the insurer  
33 or in the public interest. If the person required to file the  
34 statement referred to in subdivision 1 is a partnership, limited  
35 partnership, syndicate or other group, the commissioner may  
36 require that the information called for in this subdivision  
37 shall be given with respect to each partner of such partnership  
38 or limited partnership, each member of such syndicate group, and  
39 each person who controls such partner or member. If any  
40 partner, member or person is a corporation or the person  
41 required to file the statement referred to in subdivision 1 is a  
42 corporation, the commissioner may require that the information  
43 called for in this subdivision shall be given with respect to  
44 the corporation, each officer and director of the corporation,  
45 and each person who is directly or indirectly the beneficial  
46 owner of more than ten percent of the outstanding voting  
47 securities of the corporation. If any material change occurs in  
48 the facts set forth in the statement filed with the commissioner  
49 and sent to the insurer pursuant to this section, an amendment  
50 setting forth the change, together with copies of all documents  
51 and other material relevant to the change, shall be filed with  
52 the commissioner and sent to the insurer within two business  
53 days after the person learns of the change. The insurer shall  
54 send the amendment to its shareholders.

55 No change for subd 3

56 Subd. 4. APPROVAL BY COMMISSIONER; HEARINGS. (1)

57 Pursuant to the powers granted under section 60A.03, subdivision  
58 2, the commissioner shall approve any acquisition of control  
59 unless, after a public hearing, he the commissioner finds that  
60 the acquiring party has failed to sustain the burden of showing  
61 that none of the following conditions exist:

62 (i) after the change of control the domestic insurer would  
63 not be able to satisfy the requirements for the issuance of a  
64 license to write the line or lines of insurance for which it is  
65 presently licensed;

66 (ii) the effect of the acquisition of control would be  
67 substantially to lessen competition in insurance in this state  
68 or tend to create a monopoly;

69 (iii) the financial condition of any acquiring party might  
70 jeopardize the financial stability of the insurer, or prejudice  
71 the interest of its policyholders or the interests of any  
72 securityholders who are unaffiliated with the acquiring party;

73 (iv) the terms of the offer, request, invitation,  
74 agreement or acquisition are unfair and unreasonable to the  
75 securityholders of the insurer;

76 (v) the plans or proposals which the acquiring party has



1 to liquidate the insurer, sell its assets or consolidate or  
 2 merge it with any person, or to make any other material change  
 3 in its business or corporate structure or management, are unfair  
 4 and unreasonable to policyholders of the insurer and not in the  
 5 public interest; or

6 (vi) the competence, experience and integrity of those  
 7 persons who would control the operation of the insurer are such  
 8 that it would not be in the interest of policyholders of the  
 9 insurer and of the public to permit the acquisition of control.

10 (2) The hearing shall be held within 60 days after the  
 11 statement is filed, and at least 20 days' notice shall be given  
 12 by the commissioner to the person filing the statement. Not  
 13 less than seven days' notice shall be given by the person filing  
 14 the statement to the insurer and to any other persons as may be  
 15 designated by the commissioner. The insurer shall give notice  
 16 of the hearing to its securityholders. The commissioner shall  
 17 make a determination within 30 days after conclusion of the  
 18 hearing. At the hearing, the person filing the statement, the  
 19 insurer, any person to whom notice of hearing was sent, and any  
 20 other person whose interests may be affected, has the right to  
 21 present evidence, examine and cross-examine witnesses, offer  
 22 oral and written arguments according to the procedure for  
 23 contested cases under chapter 14. The persons participating may  
 24 conduct discovery proceedings in the same manner as prescribed  
 25 for the district courts of this state. All discovery  
 26 proceedings shall be concluded not later than five days prior to  
 27 the commencement of the public hearing.

28 No change for subd 5 to 6

29 Subd. 7. VIOLATIONS. The following shall be  
 30 violations of this section:

31 (1) The failure to file any statement, amendment, or other  
 32 material required to be filed pursuant to subdivision 1 or 2; or

33 (2) The acquisition or attempted acquisition of control of  
 34 a domestic insurer unless the commissioner has given ~~his~~  
 35 approval. \*

36 Subd. 8. JURISDICTION; CONSENT TO SERVICE OF PROCESS.

37 The courts of this state are hereby vested with jurisdiction  
 38 over every person not resident, domiciled, or authorized to do  
 39 business in this state who files a statement with the  
 40 commissioner under this section, and over all actions involving  
 41 such person arising out of violations of this section, and each  
 42 such person shall be deemed to have appointed the commissioner  
 43 as ~~his~~ the attorney upon whom may be served all lawful process  
 44 in any action, suit or proceeding arising out of violations of  
 45 this section. Copies of process shall be served on the  
 46 commissioner and transmitted by registered or certified mail by  
 47 the commissioner to such person at ~~his~~ that person's last known  
 48 address. \*

060D#03S

49 60D.03 REGISTRATION OF INSURERS.

50 No change for subd 1 to 3

51 Subd. 4. AMENDMENTS TO REGISTRATION STATEMENTS.

52 Each registered insurer shall keep current the information  
 53 required to be disclosed in its registration statement by  
 54 reporting all material changes or additions on amendment forms  
 55 provided by the commissioner within such time as ~~he~~ the  
 56 commissioner by regulation shall require. \*

57 No change for subd 5 to 10

060D#04S

58 60D.04 STANDARDS.

59 No change for subd 1 to 2

60 Subd. 3. DIVIDENDS AND OTHER DISTRIBUTIONS. No

61 insurer subject to registration under section 60D.03 shall pay  
 62 any extraordinary dividend or make any other extraordinary  
 63 distribution to its shareholders until 30 days after the  
 64 commissioner has received notice of the declaration or during  
 65 such 30 day period has approved the payment thereof. Any such  
 66 extraordinary dividend paid or distribution made within the 30  
 67 day notice period, or paid or made without first mailing such  
 68 notice to the commissioner, shall be invalid and shall confer no  
 69 rights or benefits upon any stockholders.

70 During such period the commissioner may give notice to the  
 71 insurer of a hearing to be held not less than ten nor more than  
 72 15 days after such notice to determine if the standards required  
 73 by subdivision 1(3) will be violated by payment of the  
 74 dividend. The insurer may appear at the hearing by counsel or



1 by its authorized officer and may present such records, books,  
 2 documents, oral or written arguments and other evidence as it  
 3 may deem necessary to support the approval of its proposed  
 4 action. Within 15 days following the hearing the commissioner  
 5 shall enter ~~his~~ an order either approving or disapproving the  
 6 dividend. The insurer shall be entitled to a copy of the  
 7 specific findings obtained from the hearing upon which the  
 8 commissioner shall have based ~~his~~ the decision. During the  
 9 pendency of such hearing and for 15 days thereafter, the insurer  
 10 shall pay no extraordinary dividends or make no other  
 11 extraordinary distribution, unless approved and permitted by the  
 12 commissioner.

13 In the absence of an order on hearing being entered within  
 14 the period specified, or in the absence of notice given to hold  
 15 such a hearing within the period specified, the commissioner  
 16 shall be deemed to have approved the payment of the dividend.

17 For the purposes of this section, an extraordinary dividend  
 18 or distribution includes any dividend or distribution of cash or  
 19 other property, the fair market value of which together with  
 20 that of other dividends or distributions made within the  
 21 preceding 12 months exceeds the greater of (i) 15 percent of  
 22 such insurer's surplus as regards policyholders as of the  
 23 thirty-first day of December next preceding, or (ii) the net  
 24 gain from operations of such insurer if a life insurer, or the  
 25 net investment income, if such insurer is not a life insurer,  
 26 for the 12 month period ending the thirty-first day of December  
 27 next preceding, but shall not include pro rata distributions of  
 28 any class of the insurer's own securities. Nothing in this  
 29 section shall authorize the payment of any dividend in violation  
 30 of state law.

060D#05S

31 60D.05 EXAMINATION.

32 Subdivision 1. POWER OF COMMISSIONER. In addition  
 33 to the powers which the commissioner has under section 60A.031,  
 34 the commissioner shall also have the power to order any insurer  
 35 registered under section 60D.03, to produce such records, books,  
 36 or other information or papers in possession of the insurer or  
 37 its affiliates as shall be necessary to ascertain the financial  
 38 condition or legality of conduct of such insurer. In the event  
 39 such insurer fails to comply with such order, the commissioner  
 40 shall have the power to examine such affiliates to obtain such  
 41 information. The commissioner may exercise ~~his~~ the power under  
 42 this section if the examination of the insurer under section  
 43 60A.031, is inadequate or the interests of the policyholders of  
 44 such insurer may be adversely affected.

45 No change for subd 2

060D#06S

46 60D.06 CONFIDENTIAL TREATMENT.

47 All information, documents and copies thereof obtained by  
 48 or disclosed to the commissioner or any other person in the  
 49 course of an examination or investigation made pursuant to  
 50 section 60D.05, and all information reported pursuant to section  
 51 60D.03, shall be given confidential treatment and shall not be  
 52 subject to subpoena and shall not be made public by the  
 53 commissioner or any other person, except to insurance  
 54 departments of other states, without the prior written consent  
 55 of the insurer to which it pertains unless the commissioner,  
 56 after giving the insurer and its affiliates who would be  
 57 affected thereby, notice and opportunity to be heard, determines  
 58 that the interests of policyholders, shareholders or the public  
 59 will be served by the publication, in which event ~~he~~ the  
 60 commissioner may publish all or any part in such manner as ~~he~~  
 61 the commissioner may deem appropriate.

060D#10S

62 60D.10 REVOCATION, SUSPENSION, OR NONRENEWAL OF  
 63 INSURER'S LICENSE.

64 Whenever it appears to the commissioner that any person has  
 65 committed a violation of sections 60D.01 to 60D.13 which makes  
 66 the continued operation of an insurer contrary to the interests  
 67 of policyholders or the public, the commissioner may, after  
 68 giving notice and an opportunity to be heard, determine to  
 69 suspend, revoke or refuse to renew such insurer's license or  
 70 authority to do business in this state for such period as ~~he~~ the  
 71 commissioner finds is required for the protection of  
 72 policyholders or the public. Any such determination shall be  
 73 accompanied by specific findings of fact and conclusions of law.



061A#09S

1 61A.09 GROUP LIFE INSURANCE.  
 2 Subdivision 1. No group life insurance policy shall be  
 3 issued for delivery in this state until the form thereof and the  
 4 form of any certificates issued thereunder have been filed in  
 5 accordance with and subject to the provisions of section  
 6 61A.02. Each person insured under such a group life insurance  
 7 policy (excepting policies which insure the lives of debtors of  
 8 a creditor or vendor to secure payment of indebtedness) shall be  
 9 furnished a certificate of insurance issued by the insurer and  
 10 containing the following:

11 (a) Name and location of the insurance company;

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

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

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

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

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

24 (g) In the case of a group term insurance policy if the  
 25 policy provides that insurance of the certificate holder will  
 26 terminate, in case of a policy issued to an employer, by reason  
 27 of termination of the certificate holder's employment, or in  
 28 case of a policy issued to an organization of which the  
 29 certificate holder is a member, by reason of termination of his \*  
 30 membership, a provision to the effect that in case of  
 31 termination of employment or membership the certificate holder \*  
 32 shall be entitled to have issued ~~to him~~ by the insurer, without \*  
 33 evidence of insurability, upon application made to the insurer  
 34 within 31 days after termination of employment or membership,  
 35 and upon payment of the premium applicable to the class of risk  
 36 to which ~~he~~ that person belongs and to the form and amount of \*  
 37 the policy at ~~his~~ that person's then attained age, a policy of \*  
 38 life insurance only, in any one of the forms customarily issued  
 39 by the insurer except term insurance, in an amount equal to the  
 40 amount of ~~his~~ the life insurance protection under such group \*  
 41 insurance policy at the time of such termination; and shall  
 42 contain a further provision to the effect that upon the death of  
 43 the certificate holder during such 31-day period and before any  
 44 such individual policy has become effective, the amount of  
 45 insurance for which the certificate holder was entitled to make  
 46 application shall be payable as a death benefit by the insurer.

47 No change for subd 2

061A#091S

48 61A.091 EMPLOYEE GROUP LIFE INSURANCE PLANS.

49 Subdivision 1. MANDATORY PARTICIPATION. No employer  
 50 who makes available or otherwise sponsors a group life insurance  
 51 plan that provides life insurance benefits to more than five  
 52 employees of that employer, whether through insurance policies,  
 53 self-insurance, or any combination of these arrangements, may  
 54 require an employee to participate in the life insurance plan as  
 55 a condition of his employment, unless the employer pays the full \*  
 56 cost of the plan. No employer may discharge any employee who  
 57 pursuant to this section refuses to contribute to an employee  
 58 group life insurance plan, nor shall the employer discriminate  
 59 or otherwise retaliate against the employee who pursuant to this  
 60 section refuses to contribute to an employee group life  
 61 insurance plan. An employee may bring an action against an  
 62 employer for recovery of any wages withheld in violation of this  
 63 section. This remedy shall be in addition to any other remedy  
 64 provided by law. For the purposes of this section, "employer"  
 65 means any natural person, company, corporation, partnership,  
 66 association or firm which employs any employee. "Employee" is  
 67 an individual as defined by section 62E.02, subdivision 8. This  
 68 section does not apply where a collectively bargained contract  
 69 provides for mandatory participation in a group life insurance  
 70 plan. This section does not apply to any insurance purchased or  
 71 carried for the purpose of buying or selling any part of  
 72 employer, its shares, its assets or its business. This section  
 73 does not apply to any insurance purchased or carried by any  
 74 pension, profit-sharing or other retirement plan or trust.



1 No change for subd 2

061A#11S

2 61A.11 MISSTATEMENT, WHEN NOT TO INVALIDATE POLICY.

3 In any claim upon a policy issued in this state without  
4 previous medical examination, or without the knowledge or  
5 consent of the insured, or, in case of a minor, without the  
6 consent of ~~his~~ a parent, guardian, or other person having ~~his~~ \*  
7 legal custody, the statements made in the application as to the  
8 age, physical condition, and family history of the insured shall  
9 be valid and binding upon the company, unless wilfully false or  
10 intentionally misleading.

061A#12S

11 61A.12 BENEFICIARIES.

12 No change for subd 1 to 4

13 Subd. 5. SUBSTITUTION. When a creditor requires  
14 credit life insurance, credit accident and health insurance, or  
15 both, as additional security for an indebtedness, the debtor  
16 shall be given the option of furnishing the required amount of  
17 insurance through existing policies of insurance owned or  
18 controlled by ~~him~~ the debtor or procuring and furnishing the \*  
19 required coverage through any insurer authorized to transact  
20 insurance business in this state. If this subsection is  
21 applicable, the debtor shall be informed by the creditor of ~~his~~ \*  
22 the right to provide alternative coverage before the transaction \*  
23 is completed.

061A#14S

24 61A.14 COMPANIES ENTITLED TO ISSUE CONTRACTS; ACCOUNTS;  
25 INVESTMENTS.

26 No change for subd 1 to 7

27 Subd. 8. TRANSFER OF ASSETS. No sale, exchange or  
28 other transfer of assets may be made by a company between any of  
29 its separate accounts or between any other investment account  
30 and one or more of its separate accounts unless, (a) in case of  
31 a transfer into a separate account, such transfer is made solely  
32 to establish the account or to support the contractual  
33 obligations of the company with respect to the separate account  
34 to which the transfer is made, or (b) in case of a transfer from  
35 a separate account, such transfer would not cause the remaining  
36 assets of the account to become less than the reserves and other  
37 contract liabilities with respect to such separate account.  
38 Such transfer, whether into or from a separate account, shall be  
39 made by a transfer of cash, or by a transfer of securities  
40 having a readily determinable market value, provided that such  
41 transfer of securities is approved by the commissioner. The  
42 commissioner may approve other transfers among such accounts if,  
43 in ~~his~~ the commissioner's opinion, such transfers would not be \*  
44 inequitable. Where a company transfers assets into a separate  
45 account for the purpose of establishing such account, such  
46 transfer shall be in the form of cash and, except as the  
47 commissioner may otherwise approve, shall be made only from its  
48 surplus, provided that not more than five percent of its surplus  
49 may be so invested in such accounts.

061A#18S

50 61A.18 DISAPPROVAL OF CONTRACTS.

51 The commissioner shall have the power at any time to  
52 disapprove any contract form, application, or certificate (1) if  
53 it does not comply with the provisions of sections 61A.13 to  
54 61A.21; or (2) if it contains provisions which are unjust,  
55 unfair, inequitable, ambiguous, or misleading. After the  
56 commissioner shall have notified a company of ~~his~~ disapproval, \*  
57 it shall be unlawful for that company to issue or use the  
58 contract, application or certificate in the form so disapproved.

061A#25S

59 61A.25 STANDARD VALUATION LAW.

60 No change for subd 1

61 Subd. 2. VALUATION OF RESERVES. The commissioner  
62 shall cause to be valued annually the reserve liabilities,  
63 hereinafter called reserves, for all outstanding life insurance  
64 policies and annuity and pure endowment contracts of every life  
65 insurance company doing business in this state, except that in  
66 the case of a foreign or alien insurer such valuation shall be  
67 limited to its insurance transactions in the United States, and  
68 may certify the amount of any such reserves, specifying the  
69 mortality table or tables, rate or rates of interest and methods  
70 (net level premium method or other) used in calculation of such  
71 reserves. In calculating such reserves, ~~he~~ the commissioner may \*



1 use group methods and approximate averages for fractions of a  
 2 year or otherwise. In lieu of the valuation of the reserves  
 3 herein required of any foreign or alien company, ~~he~~ the \*  
 4 commissioner may accept any valuation made, or caused to be \*  
 5 made, by the insurance supervisory official of any state or  
 6 other jurisdiction when such valuation complies with the minimum  
 7 standard herein provided and if the official of such state or  
 8 jurisdiction accepts as sufficient and valid for all legal  
 9 purposes the certificate of valuation of the commissioner when  
 10 such certificate states the valuation to have been made in a  
 11 specified manner according to which the aggregate reserves would  
 12 be at least as large as if they had been computed in the manner  
 13 prescribed by the law of that state or jurisdiction. In the  
 14 case of insurance issued by a domestic insurer upon the lives of  
 15 residents of a foreign country, the commissioner may vary the  
 16 mortality standard to a standard applicable to that country.

17 No change for subd 3 to 8

061A#26S

18 61A.26 DIVIDENDS.

19 Subdivision 1. ANNUAL APPORTIONMENT AND ACCOUNTING OF  
 20 SURPLUS. Every life insurance company doing business in this  
 21 state conducted on the mutual plan or in which policyholders are  
 22 entitled to share in the profits or surplus shall make an annual  
 23 apportionment and accounting of divisible surplus to each  
 24 policyholder, beginning not later than the end of the third  
 25 policy year, on all participating policies hereafter issued; and  
 26 each such policyholder shall be entitled to and be credited with  
 27 or paid, in the manner hereinafter provided, such a portion of  
 28 the entire divisible surplus as has been contributed thereto by  
 29 ~~his~~ that person's policy. \*

30 Subd. 2. POLICYHOLDER TO CHOOSE. Every policyholder  
 31 shall, on all participating policies hereafter issued, be  
 32 permitted, after ~~his~~ that person's policy has been in force five \*  
 33 years, annually, to select the manner and method of the  
 34 application of the surplus to be annually apportioned to ~~his~~ \*  
 35 that person's policy from among those set forth in the policy. \*  
 36 All apportioned surplus not actually paid over to the insured,  
 37 or applied in the reduction of current or future premiums or in  
 38 the purchase of paid-up insurance or pure endowment additions,  
 39 shall be credited to the insured and carried as an actual  
 40 liability and be paid at the maturity of the policy.

41 No change for subd 3 to 5

061A#27S

42 61A.27 CONTINGENCY RESERVE; LIMITATIONS.

43 Any life insurance company doing business in this state may  
 44 accumulate and maintain, in addition to the capital and surplus  
 45 contributed by its stockholders, and in addition to an amount  
 46 equal to the net values of its policies, computed according to  
 47 the laws of the jurisdiction under which it is organized, a  
 48 contingency reserve not exceeding the following respective  
 49 percentages of these net values: When the net values are less  
 50 than \$100,000, 20 percent thereof, or the sum of \$10,000,  
 51 whichever is the greater; when the net values are greater than  
 52 \$100,000, the percentage thereof measuring the contingency  
 53 reserve shall decrease one-half of one percent for each \$100,000  
 54 of the net values up to \$1,000,000; when the net values are  
 55 greater than \$1,000,000, but do not exceed \$25,000,000, the  
 56 contingency reserve shall not exceed 15 percent thereof; when  
 57 the net values are greater than \$25,000,000, but do not exceed  
 58 \$150,000,000, the contingency reserve shall not exceed 12 1/2  
 59 percent thereof; when the net values are greater than  
 60 \$150,000,000, the contingency reserve shall not exceed ten  
 61 percent thereof; provided, that as the net values of these  
 62 policies increase and the maximum percentage measuring the  
 63 contingency reserve decreases, the corporation may maintain the  
 64 contingency reserve already accumulated hereunder, although for  
 65 the time being it may exceed the maximum percentage herein  
 66 prescribed, but may not add to the contingency reserve when the  
 67 addition will bring it beyond the maximum percentage. For cause  
 68 shown, the commissioner may, at any time and from time to time,  
 69 permit any corporation to accumulate and maintain a contingency  
 70 reserve in excess of the limit above mentioned for a prescribed  
 71 period, not exceeding one year under any one permission, by  
 72 filing in ~~his~~ the commissioner's office a decision stating ~~his~~ \*  
 73 the reasons therefor and causing the same to be published in ~~his~~ \*  
 74 the next annual report. This section shall not apply to any \*



1 company doing exclusively a non-participating business.

061A#275S

2 61A.275 SEPARATE ACCOUNTS; PENSION PLANS.

3 No change for subd 1 to 2

4 Subd. 3. TRANSFER OF ASSETS. No sale, exchange, or  
5 other transfer of assets may be made by a company between any of  
6 its separate accounts or between any other investment account  
7 and one or more of its separate accounts unless:

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

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

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

28 No change for subd 4 to 6

061A#282S

29 61A.282 INVESTMENTS IN NAME OF COMPANY OR NOMINEE AND  
30 PROHIBITIONS.

31 No change for subd 1 to 2

32 Subd. 3. CONFLICTS OF INTEREST. No officer,  
33 director, or member of any committee passing on investments  
34 shall borrow any of the funds, or become, directly or  
35 indirectly, liable as a surety or endorser for or on account of  
36 loans thereof to others, or receive ~~to-his-own~~ for personal use  
37 any fee, brokerage, commission, gift or other consideration for,  
38 or on account of, any loan made by or on behalf of the company.

061A#32S

39 61A.32 DOMESTIC MUTUAL AND STOCK AND MUTUAL COMPANIES;  
40 VOTING RIGHTS OF MEMBERS.

41 Every person insured by a domestic mutual life insurance  
42 company, and every participating policyholder of a domestic  
43 stock and mutual life insurance company as defined in sections  
44 61A.33 to 61A.36, shall be a member, entitled to one vote and  
45 one vote additional for each \$1,000 of insurance in excess of  
46 the first \$1,000; provided, that no member shall be entitled to  
47 more than 100 votes; and, provided, further, that in the case of  
48 group insurance on employees such group shall be deemed to be a  
49 single member and the employer shall be deemed to be such member  
50 for the purpose of voting, having not to exceed 100 votes,  
51 provided, that in cases where the employees pay all or any part  
52 of the premium, either directly or by payroll deductions, the  
53 employees shall be allowed to choose their representative, who  
54 shall exercise a voting power in proportion to the percentage of  
55 premium paid by such employees. Every member shall be notified  
56 of its annual meetings by a written notice mailed to ~~his~~ the  
57 member's address, or by an imprint on the back of ~~his~~ the  
58 policy, premium notice, receipt or certificate of renewal, as  
59 follows:

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

65 The blanks shall be duly filled in print. Any such member  
66 may vote by proxy by filing written proxy appointment with the  
67 secretary of the company at its home office at least five days  
68 before the first meeting at which it is to be used. Such proxy  
69 appointment may be for a specified period of time or may provide  
70 that it will be in effect until revoked. A proxy may be revoked  
71 by a member at any time by written notice to the secretary of  
72 the company or by executing a new proxy appointment and filing  
73 it as required herein: provided, however, that any member may



1 always appear personally and exercise ~~his~~ rights as a member at \*  
2 any meeting of the company.

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

061A#35S

18 61A.35 VOTING RIGHTS.

19 Unless otherwise provided in the certificate of  
20 incorporation or an amendment thereto adopted as provided by  
21 section 300.45 or by section 61A.36, each stockholder of a stock  
22 and mutual life insurance company shall, at all meetings, be \*  
23 entitled to one vote for each share of stock held ~~by-him~~ and,  
24 except as otherwise provided by law, each holder of a policy  
25 entitled to participate in profits or savings shall be a member  
26 and, as such, shall be entitled to the number of votes to which  
27 ~~he~~ that person would be entitled in a mutual company. \*

061A#36S

28 61A.36 CONVERSION OF EXISTING COMPANIES; AMENDMENT OF  
29 CERTIFICATES OF INCORPORATION.

30 Any existing stock or mutual insurance company authorized  
31 to do the kinds of business referred to in section 61A.33 may  
32 amend its certificate of incorporation so as to become a stock  
33 and mutual company; provided, that no such amendment shall  
34 deprive any stockholder or member or policyholder of the right,  
35 at any and all meetings of stockholders and members or  
36 policyholders held thereafter, to cast as many votes for  
37 directors as are provided by the certificate of incorporation in  
38 force at the time of the adoption of such amendment, or by the  
39 law in force at such time. No such amendment shall be construed  
40 to change the identity of the corporation and it shall  
41 thereafter continue to be governed by the laws applicable  
42 thereto at the time of such amendment and as amended hereafter  
43 and not inconsistent with sections 61A.33 to 61A.36, as well as  
44 those relating to the added characteristic of capital stock or  
45 mutuality which it shall have acquired by such amendment.

46 The certificate of incorporation of a stock and mutual life  
47 insurance company may be amended in any respect therein provided  
48 by section 300.45, in the manner therein provided. The  
49 certificate of incorporation of a stock and mutual life  
50 insurance company may also be amended in respect to any matter  
51 which an original certificate of incorporation of a stock and  
52 mutual life insurance company might lawfully have contained, or  
53 so as to vest in its board of directors authority to make and  
54 alter bylaws subject to the power of the stockholders and  
55 members to change or repeal such bylaws, by the affirmative  
56 vote, at a regular meeting of stockholders and members or at a  
57 special meeting of stockholders and members called for that  
58 expressly stated purpose by the board of directors which shall  
59 first have proposed the amendment and declared it to be  
60 advisable, of (1) a majority of the total number of votes to  
61 which all stockholders are entitled, and (2) at least one-fifth  
62 of the total number of votes to which all participating  
63 policyholder members are entitled, provided the proposed  
64 amendment does not receive the negative vote of more than five  
65 percent of the total number of votes to which all participating  
66 policyholder members are entitled. The certificate of  
67 incorporation of a stock and mutual life insurance company may  
68 also be amended so as to increase or decrease its capital stock,  
69 or so as to change the number and par value of the shares of its  
70 capital stock, or so as to limit or deny to stockholders the  
71 pre-emptive right to subscribe to any or all shares of stock  
72 which may be authorized to be thereafter issued, by a majority  
73 vote of all its shares but without the vote of its members, at a  
74 regular meeting or at a special meeting of stockholders called



1 for that expressly stated purpose by the board of directors  
 2 which shall first have proposed the amendment and declared it to  
 3 be advisable and not adverse to or in conflict with the rights  
 4 and interests of the members, provided that if the proposed  
 5 amendment is to increase or decrease the capital stock or to  
 6 change the number of the shares of the capital stock, the  
 7 resolution specifying the proposed amendment and the certificate  
 8 of amendment shall expressly provide (1) that the stockholders  
 9 holding all its shares shall, at all meetings, be entitled to  
 10 the same number of total votes after the amendment is adopted as  
 11 they were entitled to before the amendment, and (2) that each  
 12 stockholder shall, at all meetings, be entitled to a fraction of  
 13 one vote for each share of stock held ~~by him~~, the numerator of \*  
 14 which fraction shall be the number of shares outstanding before  
 15 the first such amendment is adopted and the denominator of which  
 16 fraction shall be the number of shares outstanding. The  
 17 resolution specifying the amendment shall be embraced in a  
 18 certificate duly executed by its president and secretary, or  
 19 other presiding and recording officers, under its corporate  
 20 seal, and approved, filed, recorded, and published in the manner  
 21 prescribed for the execution, approval, filing, recording, and  
 22 publishing of an original certificate of incorporation.

061A#37S

23 61A.37 DOMESTIC INSURANCE CORPORATIONS MAY BECOME MUTUAL  
24 CORPORATIONS.

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

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

34 (b) Such plan shall have been submitted to the commissioner  
 35 of commerce and shall have been approved ~~by him~~ as conforming to \*  
 36 the requirements of sections 61A.37 and 61A.38 and as not  
 37 prejudicial to the policyholders of such company or to the  
 38 insuring public.

39 (c) Such plan shall have been approved by a vote of  
 40 stockholders representing a majority of the outstanding capital  
 41 stock at a meeting of stockholders called for that purpose.  
 42 Stockholders may vote in person or by proxy filed with the  
 43 company at least five days before the meeting at which it is to  
 44 be used. Notice of such meeting shall be given by mailing such  
 45 notice from the home office of such company at least 30 days  
 46 prior to such meeting in a sealed envelope, postage prepaid,  
 47 directed to each stockholder at ~~his~~ the address ~~as~~ \*  
 48 shown on the stock records of the company.

49 (d) Such plan shall have been approved by a majority of the  
 50 votes cast by policyholders (whether or not members) who vote at  
 51 a meeting called for that purpose. Eligibility of  
 52 policyholders, whether or not members of the company, and the  
 53 number of votes to which each is entitled, shall be determined  
 54 by the laws of Minnesota relating to the rights of members of  
 55 domestic mutual life insurance companies to vote at company  
 56 meetings. Policyholders may vote in person or by proxy filed  
 57 with the company at least five days before the meeting at which  
 58 it is to be used. Notice of such meeting shall be given by  
 59 mailing such notice from the home office of such company at  
 60 least 30 days prior to such meeting in a sealed envelope,  
 61 postage prepaid, directed to each policyholder at ~~his~~ the \*  
 62 address ~~as~~ shown on the policy records of the company. Such \*  
 63 meeting shall be conducted in such manner as may be provided for  
 64 in such plan, with the approval of the commissioner. The  
 65 commissioner shall supervise and direct the methods and  
 66 procedure of said meeting and appoint an adequate number of  
 67 inspectors to conduct the voting at said meeting, who shall have  
 68 power to determine all questions concerning the verification of  
 69 the ballots, the ascertaining of the validity thereof, the  
 70 qualifications of the voters and the canvass of the vote. Such  
 71 inspectors, or any one thereof designated by the commissioner,  
 72 shall certify to the commissioner and to such company the result  
 73 of such vote, and with respect thereto shall act under such  
 74 rules as shall be prescribed by the commissioner. All necessary  
 75 expenses incurred by the commissioner, or incurred with ~~his~~ the \*



1 commissioner's approval by the inspectors appointed by ~~him~~, \*  
 2 shall be paid by such company upon the certificate of the  
 3 commissioner.

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

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

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

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

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

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

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

061A#38S

48 61A.38 MAY ACQUIRE CAPITAL STOCK.

49 In pursuance of any plan such company shall have power, and  
 50 shall be privileged, to acquire any shares of its capital stock  
 51 by gift, bequest, or purchase. Until all of the shares of its  
 52 outstanding capital stock are acquired, any shares so acquired  
 53 shall be taken and held in trust for all the policyholders of  
 54 such company, as hereinafter provided, and shall be assigned and  
 55 transferred on the books of the company to three trustees, who  
 56 shall be named in such plan and shall be approved by the  
 57 commissioner. All shares held by such trustees shall be deemed  
 58 admitted assets of such company at their par value. Such  
 59 trustees, who may be directors of the company, shall vote all  
 60 shares so acquired and held by them at all corporate meetings in  
 61 accordance with the majority vote of policyholders voting on any  
 62 question before the meeting. When all of the outstanding  
 63 capital stock of any such corporation shall have been acquired,  
 64 the entire capital stock of such corporation shall be retired  
 65 and canceled and thereupon such corporation shall be and become  
 66 a mutual life insurance company without capital stock. The plan  
 67 of conversion formulated pursuant to section 61A.37 shall  
 68 provide for the method of filling vacancies among such trustees.  
 69 Before undertaking any of the duties of his appointment each \*  
 70 trustee shall file with the company a verified acceptance of his \*  
 71 appointment and a declaration that he the person will faithfully \*  
 72 discharge his the duties as-such of trustee. All dividends and \*  
 73 other sums received by such trustees on the shares of stock so  
 74 acquired by them shall, after paying the necessary expenses of  
 75 executing the trust, be immediately repaid to such company for



1 the benefit of all who are or may become policyholders of such  
2 company and entitled to participate in the profits or savings  
3 thereof.

061A#39S

4 61A.39 COOPERATIVE LIFE AND CASUALTY COMPANIES.  
5 Subdivision 1. COOPERATIVE PLAN. Every corporation,  
6 society, or association which issues a certificate or policy or  
7 makes an agreement with its members by which, upon the decease  
8 of a member, any money is to be paid to, or benefit conferred  
9 upon, the legal representatives or designated beneficiaries of  
10 such member, or reaching a certain age, to pay any money or  
11 benefit to ~~him~~ the member, such money or benefit to be derived \*  
12 from voluntary donations, admission fees, dues, or assessments  
13 to be collected from its members or any class thereof, and which  
14 reserves the right to make any additional assessments, or  
15 without the consent of the certificate or policyholder to  
16 increase the premium named therein, shall be deemed to be  
17 engaged in the business of life insurance upon the cooperative  
18 or assessment plan. Every corporation which likewise agrees, in  
19 case of accident, sickness, or other physical disability, or  
20 reaching a certain age, to pay money or confer benefits likewise  
21 derived and issuing certificates or policies with similar  
22 conditions with reference to the payment of dues or assessments,  
23 shall be deemed to be engaged in the business of casualty  
24 insurance upon the cooperative or assessment plan, and shall,  
25 except as herein otherwise specified, be subject to the  
26 provisions of sections 61A.39 to 61A.42 and 61A.44 to 61A.50.

27 No change for subd 2

061A#42S

28 61A.42 PAYMENTS; LIENS; ASSESSMENTS; POLICIES TO BE  
29 LABELED.  
30 No cooperative or assessment life insurance company shall  
31 hereafter issue any policy in this state which does not provide  
32 for the payment of a fixed minimum sum, which may be increased  
33 each year the insurance remains in force, in the amounts to be  
34 provided in the policy. Any agreement or bylaw providing for the  
35 placing of a lien upon such policy, except for non-payment of  
36 premium or assessment, and any agreement or bylaw providing for  
37 the payment of a less sum than the minimum sum specified in the  
38 contract, because of the failure of the corporation to receive  
39 or collect the amount in the contract by assessment upon the  
40 surviving members, shall be void. Nothing in this section  
41 contained shall be so construed as to render any member liable \*  
42 for more than one assessment for each death occurring during ~~his~~ \*  
43 the period of membership, unless otherwise specified in the  
44 policy. All policies issued by the company shall contain a  
45 title including the word "assessment" on the face and on the  
46 back of the policy correctly describing the same.

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

061A#51S

49 61A.51 INSOLVENCY.  
50 In case any cooperative or assessment life, endowment, or  
51 casualty insurance association or society is adjudged insolvent,  
52 the balance of its reserve fund, if any, after payment of claims  
53 and other indebtedness, shall be paid to the commissioner ~~and-by~~ \*  
54 him-paid who shall pay it into the state treasury. \*

061B#03S

55 61B.03 DEFINITIONS.  
56 No change for subd 1 to 13  
57 Subd. 14. "Commissioner" means the commissioner of  
58 commerce of the state of Minnesota and, in ~~his~~ the \*  
59 commissioner's absence or disability, ~~his~~ a deputy or other \*  
60 person duly designated to act in ~~his~~ the commissioner's place. \*

061B#06S

61 61B.06 POWERS AND DUTIES OF THE ASSOCIATION.  
62 No change for subd 1 to 4  
63 Subd. 5. ADVISORY FUNCTION. The association shall,  
64 upon the request of the commissioner, render assistance and  
65 advice ~~to-him~~ concerning rehabilitation, payment of claims, \*  
66 continuations of coverage, or the performance of other  
67 contractual obligations of any impaired insurer.  
68 No change for subd 6  
69 Subd. 7. ASSIGNMENT; SUBROGATION. (a) Any person  
70 receiving benefits under sections 61B.01 to 61B.16 shall be  
71 deemed to have assigned ~~his~~ rights under the covered policy to \*



1 the association to the extent of the benefits received, whether  
2 the benefits are payments of contractual obligations or  
3 continuation of coverage. The association may require an  
4 assignment to it of the rights by any payee, policy or contract  
5 owner, beneficiary, insured, or annuitant as a condition  
6 precedent to the receipt of any rights or benefits conferred by  
7 sections 61B.01 to 61B.16 upon the person. The association  
8 shall be subrogated to these rights against the assets of any  
9 impaired insurer.

10 (b) The subrogation rights of the association under this  
11 subdivision shall have the same priority against the assets of  
12 the impaired insurer as that of the person entitled to receive  
13 benefits.

14 No change for subd 8 to 9

061B#08S

15 61B.08 PLAN OF OPERATION.

16 Subdivision 1. ADOPTION AND AMENDMENT. (a) The  
17 association shall submit to the commissioner a plan of operation  
18 and amendments thereto, as necessary or suitable to assure the  
19 fair, reasonable, and equitable administration of the  
20 association. The plan of operation and amendments thereto shall  
21 be effective upon approval in writing by the commissioner.

22 (b) If the association fails to submit a suitable plan of  
23 operation within 180 days after May 27, 1977 or if at any time  
24 thereafter the association fails to submit suitable amendments  
25 to the plan, the commissioner shall, after notice and hearing,  
26 adopt and promulgate reasonable rules as necessary or advisable  
27 to effectuate the provisions of sections 61B.01 to 61B.16. The  
28 rules shall continue in force until modified by the commissioner  
29 or superseded by a plan submitted by the association and  
30 approved by the commissioner. If the commissioner finds that  
31 the operation of the association will be unreasonably delayed or  
32 impaired by compliance with the rule making requirements of  
33 section 14.14, subdivision 1, ~~he~~ the commissioner may promulgate  
34 emergency rules in accordance with sections 14.29 to 14.36. \*

35 No change for subd 2 to 4

061B#09S

36 61B.09 DUTIES AND POWERS OF THE COMMISSIONER.

37 (a) The commissioner shall:

38 (1) Notify the board of directors of the existence of an  
39 impaired insurer within three days after a determination of  
40 impairment is made or ~~he~~ the commissioner receives notice of  
41 impairment; \*

42 (2) Upon request of the board of directors, provide the  
43 association with a statement of the premiums in the appropriate  
44 states for each member insurer; and

45 (3) When an impairment is declared and the amount  
46 determined, serve a demand upon the impaired insurer to make  
47 good the impairment within a reasonable time. Notice to the  
48 impaired insurer shall constitute notice to its shareholders.  
49 The failure of the insurer to promptly comply with the demand  
50 shall not excuse the association from performance under sections  
51 61B.01 to 61B.16.

52 (b) The commissioner may, after notice and hearing, suspend  
53 or revoke the certificate of authority to transact insurance in  
54 this state of any member insurer which fails to pay an  
55 assessment when due or to comply with the plan of operation. As  
56 an alternative, the commissioner may levy a forfeiture on any  
57 member insurer which fails to pay an assessment when due. A  
58 forfeiture shall not exceed five percent of the unpaid  
59 assessment per month, but no forfeiture shall be less than \$100  
60 per month.

61 (c) Any action of the board of directors or the association  
62 may be appealed to the commissioner by any member insurer within  
63 30 days of the occurrence of the action. Any final action or  
64 order of the commissioner shall be subject to judicial review in  
65 a court of competent jurisdiction, in the manner provided by  
66 chapter 14.

67 (d) The liquidator, rehabilitator, or conservator of any  
68 impaired insurer may notify all interested persons of the effect  
69 of sections 61B.01 to 61B.16.

061B#10S

70 61B.10 PREVENTION OF IMPAIRMENTS.

71 To aid in the detection and prevention of insurer  
72 impairments:

73 (a) The board of directors may, upon majority vote, notify



1 the commissioner of commerce indicating that a member insurer  
2 may be unable or potentially unable to fulfill its contractual  
3 obligations.

4 (b) The board of directors may, upon majority vote, request  
5 that the commissioner order an examination of any member insurer  
6 which the board believes may be unable or potentially unable to  
7 fulfill its contractual obligations. The commissioner may  
8 conduct the examination. The examination may be conducted as a  
9 national association of insurance commissioners examination or  
10 by persons the commissioner designates. The cost of the  
11 examination shall be paid by the association and the examination  
12 report treated as are other examination reports. In no event  
13 shall the examination report be released to the board of  
14 directors of the association prior to its release to the public,  
15 but this shall not excuse the commissioner from ~~his~~ the \*  
16 obligation to comply with clause (c). The commissioner shall  
17 notify the board of directors when the examination is completed.  
18 The request for an examination shall be kept on file by the  
19 commissioner, but shall not be open to public inspection prior  
20 to the release of the examination report to the public and shall  
21 be released at that time only if the examination discloses that  
22 the examined insurer is unable or potentially unable to meet its  
23 contractual obligations.

24 (c) The commissioner shall report to the board of directors  
25 when ~~he~~ the commissioner has reasonable cause to believe that \*  
26 any member insurer examined at the request of the board of  
27 directors may be unable or potentially unable to fulfill its  
28 contractual obligations.

29 (d) The board of directors may, upon majority vote, make  
30 reports and recommendations to the commissioner upon any matter  
31 germane to the solvency, liquidation, rehabilitation or  
32 conservation of any member insurer. The reports and  
33 recommendations shall not be considered public documents.

34 (e) The board of directors may, upon majority vote, make  
35 recommendations to the commissioner for the detection and  
36 prevention of insurer impairments.

37 (f) The board of directors may, at the conclusion of any  
38 insurer impairment in which the association carried out its  
39 duties or exercised powers under sections 61B.01 to 61B.16,  
40 prepare a report on the history and causes of the impairment,  
41 based on the information available to the association, and  
42 submit the report to the commissioner.

061B#11S

43 61B.11 DELEGATION BY COMMISSIONER.

44 For the purposes of sections 61B.01 to 61B.16, the  
45 commissioner may delegate any of the powers conferred ~~on-him~~ by \*  
46 law.

062A#02S

47 62A.02 POLICY FORMS.

48 No change for subd 1

49 Subd. 2. APPROVAL. No such policy shall be issued,  
50 nor shall any application, rider, or endorsement be used in  
51 connection therewith, until the expiration of 30 days after it  
52 has been so filed unless the commissioner shall sooner give ~~his~~ \*  
53 written approval thereto.

54 Subd. 3. DISAPPROVAL. The commissioner shall, within  
55 30 days after the filing of any form, disapprove the form:

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

58 (2) if it contains a provision or provisions which are  
59 unjust, unfair, inequitable, misleading, deceptive or encourage  
60 misrepresentation of the policy; or

61 (3) If the proposed premium rate is excessive because the  
62 insurer has failed to exercise reasonable cost control.

63 For the purposes of clause (1), the commissioner shall  
64 establish by rule a schedule of minimum anticipated loss ratios  
65 which shall be based on (i) the type or types of coverage  
66 provided, (ii) whether the policy is for group or individual  
67 coverage, and (iii) the size of the group for group policies.  
68 Except for individual policies of disability or income  
69 protection insurance, the minimum anticipated loss ratio shall  
70 not be less than 50 percent after the first year that a policy  
71 is in force. All applicants for a policy shall be informed in  
72 writing at the time of application of the anticipated loss ratio  
73 of the policy. For the purposes of this subdivision,  
74 "anticipated loss ratio" means the ratio at the time of form



1 filing or at the time of subsequent rate revision of the present  
 2 value of all expected future benefits, excluding dividends, to  
 3 the present value of all expected future premiums. Nothing in  
 4 this paragraph shall prohibit the commissioner from disapproving  
 5 a form which meets the requirements of this paragraph but which  
 6 the commissioner determines still provides benefits which are  
 7 unreasonable in relation to the premium charged. The  
 8 commissioner may until December 31, 1978, exercise emergency  
 9 power for the purpose of implementing the minimum anticipated  
 10 loss ratio requirement, and for this purpose may adopt emergency  
 11 rules as provided in sections 14.29 to 14.36. Notwithstanding  
 12 the expiration of the commissioner's emergency power, any  
 13 emergency rule adopted by him prior to the expiration of his \*  
 14 emergency power may remain effective for the periods authorized  
 15 in sections 14.29 to 14.36.

16 If the commissioner notifies an insurer which has filed any  
 17 form that the form does not comply with the provisions of this  
 18 section or sections 62A.03 to 62A.05 and section 72A.20, it  
 19 shall be unlawful thereafter for the insurer to issue the form  
 20 or use it in connection with any policy. In the notice the  
 21 commissioner shall specify the reasons for his disapproval and \*  
 22 state that a hearing will be granted within 20 days after  
 23 request in writing by the insurer.

24 Subd. 4. HEARING. The commissioner shall hear the  
 25 party or parties within 20 days after receipt of the request and  
 26 shall give not less than ten days written notice of the time and  
 27 place of the hearing. Within 15 days after the hearing the  
 28 commissioner shall affirm, reverse or modify his any previous \*  
 29 action, specifying his the reasons therefor. Pending the \*  
 30 hearing and decision thereon, the commissioner may suspend or \*  
 31 postpone the effective date of his the previous action. \*

32 Subd. 5. WITHDRAWAL OF APPROVAL. The commissioner  
 33 may at any time, after a hearing of which not less than 20 days  
 34 written notice shall have been given to the insurer, withdraw  
 35 his approval of any such form on any of the grounds stated in \*  
 36 this section. It shall be unlawful for the insurer to issue  
 37 such form or use it in connection with any policy after the  
 38 effective date of such withdrawal of approval. The notice of  
 39 any hearing called under this subdivision shall specify the  
 40 matters to be considered at such hearing and any decision  
 41 affirming disapproval or directing withdrawal of approval under  
 42 this subdivision shall be in writing and shall specify the  
 43 reasons therefor.

44 No change for subd 6

062A#04S

45 62A.04 STANDARD PROVISIONS.

46 No change for subd 1

47 Subd. 2. REQUIRED PROVISIONS. Except as provided in  
 48 subdivision 4 each such policy delivered or issued for delivery  
 49 to any person in this state shall contain the provisions  
 50 specified in this subdivision in the words in which the same  
 51 appear in this section. The insurer may, at its option,  
 52 substitute for one or more of such provisions corresponding  
 53 provisions of different wording approved by the commissioner  
 54 which are in each instance not less favorable in any respect to  
 55 the insured or the beneficiary. Such provisions shall be  
 56 preceded individually by the caption appearing in this  
 57 subdivision or, at the option of the insurer, by such  
 58 appropriate individual or group captions or subcaptions as the  
 59 commissioner may approve.

60 (1) A provision as follows:

61 ENTIRE CONTRACT; CHANGES: This policy, including the  
 62 endorsements and the attached papers, if any, constitutes the  
 63 entire contract of insurance. No change in this policy shall be  
 64 valid until approved by an executive officer of the insurer and  
 65 unless such approval be endorsed hereon or attached hereto. No  
 66 agent has authority to change this policy or to waive any of its  
 67 provisions.

68 (2) A provision as follows:

69 TIME LIMIT ON CERTAIN DEFENSES: (a) After two years from  
 70 the date of issue of this policy no misstatements, except  
 71 fraudulent misstatements, made by the applicant in the  
 72 application for such policy shall be used to void the policy or  
 73 to deny a claim for loss incurred or disability (as defined in  
 74 the policy) commencing after the expiration of such two year  
 75 period.



1 The foregoing policy provision shall not be so construed as  
2 to affect any legal requirement for avoidance of a policy or  
3 denial of a claim during such initial two year period, nor to  
4 limit the application of clauses (1), (2), (3), (4) and (5), of  
5 this subdivision, in the event of misstatement with respect to  
6 age or occupation or other insurance. A policy which the  
7 insured has the right to continue in force subject to its terms  
8 by the timely payment of premium (1) until at least age 50 or,  
9 (2) in the case of a policy issued after age 44, for at least  
10 five years from its date of issue, may contain in lieu of the  
11 foregoing the following provisions (from which the clause in  
12 parentheses may be omitted at the insurer's option) under the  
13 caption "INCONTESTABLE":

14 After this policy has been in force for a period of two  
15 years during the lifetime of the insured (excluding any period  
16 during which the insured is disabled), it shall become  
17 incontestable as to the statements contained in the application.

18 (b) No claim for loss incurred or disability (as defined in  
19 the policy) commencing after two years from the date of issue of  
20 this policy shall be reduced or denied on the ground that a  
21 disease or physical condition not excluded from coverage by name  
22 or specific description effective on the date of loss had  
23 existed prior to the effective date of coverage of this policy.

24 (3) A provision as follows:

25 GRACE PERIOD: A grace period of ..... (insert a number not  
26 less than "7" for weekly premium policies, "10" for monthly  
27 premium policies and "31" for all other policies) days will be  
28 granted for the payment of each premium falling due after the  
29 first premium, during which grace period the policy shall  
30 continue in force.

31 A policy which contains a cancellation provision may add,  
32 at the end of the above provision,

33 subject to the right of the insurer to cancel in accordance  
34 with the cancellation provision hereof.

35 A policy in which the insurer reserves the right to refuse  
36 any renewal shall have, at the beginning of the above provision,

37 Unless not less than five days prior to the premium due  
38 date the insurer has delivered to the insured or has mailed to  
39 ~~his~~ the insured's last address as shown by the records of the  
40 insurer written notice of its intention not to renew this policy  
41 beyond the period for which the premium has been accepted.

42 (4) A provision as follows:

43 REINSTATEMENT: If any renewal premium be not paid within  
44 the time granted the insured for payment, a subsequent  
45 acceptance of premium by the insurer or by any agent duly  
46 authorized by the insurer to accept such premium, without  
47 requiring in connection therewith an application for  
48 reinstatement, shall reinstate the policy. If the insurer or  
49 such agent requires an application for reinstatement and issues  
50 a conditional receipt for the premium tendered, the policy will  
51 be reinstated upon approval of such application by the insurer  
52 or, lacking such approval, upon the forty-fifth day following  
53 the date of such conditional receipt unless the insurer has  
54 previously notified the insured in writing of its disapproval of  
55 such application. The reinstated policy shall cover only loss  
56 resulting from such accidental injury as may be sustained after  
57 the date of reinstatement and loss due to such sickness as may  
58 begin more than ten days after such date. In all other respects  
59 the insured and insurer shall have the same rights thereunder as  
60 they had under the policy immediately before the due date of the  
61 defaulted premium, subject to any provisions endorsed hereon or  
62 attached hereto in connection with the reinstatement. Any  
63 premium accepted in connection with a reinstatement shall be  
64 applied to a period for which premium has not been previously  
65 paid, but not to any period more than 60 days prior to the date  
66 of reinstatement. The last sentence of the above provision may  
67 be omitted from any policy which the insured has the right to  
68 continue in force subject to its terms by the timely payment of  
69 premiums (1) until at least age 50, or, (2) in the case of a  
70 policy issued after age 44, for at least five years from its  
71 date of issue.

72 (5) A provision as follows:

73 NOTICE OF CLAIM: Written notice of claim must be given to  
74 the insurer within 20 days after the occurrence or commencement  
75 of any loss covered by the policy, or as soon thereafter as is  
76 reasonably possible. Notice given by or on behalf of the



1 insured or the beneficiary to the insurer at ..... (insert the  
2 location of such office as the insurer may designate for the  
3 purpose), or to any authorized agent of the insurer, with  
4 information sufficient to identify the insured, shall be deemed  
5 notice to the insurer.

6 In a policy providing a loss-of-time benefit which may be  
7 payable for at least two years, an insurer may at its option  
8 insert the following between the first and second sentences of  
9 the above provision:

10 Subject to the qualifications set forth below, if the  
11 insured suffers loss of time on account of disability for which  
12 indemnity may be payable for at least two years, he the insured \*  
13 shall, at least once in every six months after having given  
14 notice of claim, give to the insurer notice of continuance of  
15 said disability, except in the event of legal incapacity. The  
16 period of six months following any filing of proof by the  
17 insured or any payment by the insurer on account of such claim  
18 or any denial or liability in whole or in part by the insurer  
19 shall be excluded in applying this provision. Delay in the  
20 giving of such notice shall not impair the insured's right to  
21 any indemnity which would otherwise have accrued during the  
22 period of six months preceding the date on which such notice is  
23 actually given.

24 (6) A provision as follows:

25 CLAIM FORMS: The insurer, upon receipt of a notice of  
26 claim, will furnish to the claimant such forms as are usually  
27 furnished by it for filing proofs of loss. If such forms are  
28 not furnished within 15 days after the giving of such notice the  
29 claimant shall be deemed to have complied with the requirements  
30 of this policy as to proof of loss upon submitting, within the  
31 time fixed in the policy for filing proofs of loss, written  
32 proof covering the occurrence, the character and the extent of  
33 the loss for which claim is made.

34 (7) A provision as follows:

35 PROOFS OF LOSS: Written proof of loss must be furnished to  
36 the insurer at its said office in case of claim for loss for  
37 which this policy provides any periodic payment contingent upon  
38 continuing loss within 90 days after the termination of the  
39 period for which the insurer is liable and in case of claim for  
40 any other loss within 90 days after the date of such loss.  
41 Failure to furnish such proof within the time required shall not  
42 invalidate nor reduce any claim if it was not reasonably  
43 possible to give proof within such time, provided such proof is  
44 furnished as soon as reasonably possible and in no event, except  
45 in the absence of legal capacity, later than one year from the  
46 time proof is otherwise required.

47 (8) A provision as follows:

48 TIME OF PAYMENT OF CLAIMS: Indemnities payable under this  
49 policy for any loss other than loss for which this policy  
50 provides periodic payment will be paid immediately upon receipt  
51 of due written proof of such loss. Subject to due written proof  
52 of loss, all accrued indemnities for loss for which this policy  
53 provides periodic payment will be paid ..... (insert period for  
54 payment which must not be less frequently than monthly) and any  
55 balance remaining unpaid upon the termination of liability will  
56 be paid immediately upon receipt of due written proof.

57 (9) A provision as follows:

58 PAYMENT OF CLAIMS: Indemnity for loss of life will be  
59 payable in accordance with the beneficiary designation and the  
60 provisions respecting such payment which may be prescribed  
61 herein and effective at the time of payment. If no such  
62 designation or provision is then effective, such indemnity shall  
63 be payable to the estate of the insured. Any other accrued  
64 indemnities unpaid at the insured's death may, at the option of  
65 the insurer, be paid either to such beneficiary or to such  
66 estate. All other indemnities will be payable to the insured.

67 The following provisions, or either of them, may be  
68 included with the foregoing provision at the option of the  
69 insurer:

70 If any indemnity of this policy shall be payable to the  
71 estate of the insured, or to an insured or beneficiary who is a  
72 minor or otherwise not competent to give a valid release, the  
73 insurer may pay such indemnity, up to an amount not exceeding  
74 \$..... (insert an amount which shall not exceed \$1,000), to any  
75 relative by blood or connection by marriage of the insured or  
76 beneficiary who is deemed by the insurer to be equitably



1 entitled thereto. Any payment made by the insurer in good faith  
2 pursuant to this provision shall fully discharge the insurer to  
3 the extent of such payment.

4 Subject to any written direction of the insured in the  
5 application or otherwise all or a portion of any indemnities  
6 provided by this policy on account of hospital, nursing,  
7 medical, or surgical services may, at the insurer's option and  
8 unless the insured requests otherwise in writing not later than  
9 the time of filing proofs of such loss, be paid directly to the  
10 hospital or person rendering such services; but it is not  
11 required that the service be rendered by a particular hospital  
12 or person.

13 (10) A provision as follows:

14 PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own  
15 expense shall have the right and opportunity to examine the  
16 person of the insured when and as often as it may reasonably  
17 require during the pendency of a claim hereunder and to make an  
18 autopsy in case of death where it is not forbidden by law.

19 (11) A provision as follows:

20 LEGAL ACTIONS: No action at law or in equity shall be  
21 brought to recover on this policy prior to the expiration of 60  
22 days after written proof of loss has been furnished in  
23 accordance with the requirements of this policy. No such action  
24 shall be brought after the expiration of three years after the  
25 time written proof of loss is required to be furnished.

26 (12) A provision as follows:

27 CHANGE OF BENEFICIARY: Unless the insured makes an  
28 irrevocable designation of beneficiary, the right to change of  
29 beneficiary is reserved to the insured and the consent of the  
30 beneficiary or beneficiaries shall not be requisite to surrender  
31 or assignment of this policy or to any change of beneficiary or  
32 beneficiaries, or to any other changes in this policy. The  
33 first clause of this provision, relating to the irrevocable  
34 designation of beneficiary, may be omitted at the insurer's  
35 option.

36 Subd. 3. OPTIONAL PROVISIONS. Except as provided in  
37 subdivision 4, no such policy delivered or issued for delivery  
38 to any person in this state shall contain provisions respecting  
39 the matters set forth below unless such provisions are in the  
40 words in which the same appear in this section. The insurer  
41 may, at its option, use in lieu of any such provision a  
42 corresponding provision of different wording approved by the  
43 commissioner which is not less favorable in any respect to the  
44 insured or the beneficiary. Any such provision contained in the  
45 policy shall be preceded individually by the appropriate caption  
46 appearing in this subdivision or, at the option of the insurer,  
47 by such appropriate individual or group captions or subcaptions  
48 as the commissioner may approve.

49 (1) A provision as follows:

50 CHANGE OF OCCUPATION: If the insured be injured or  
51 contract sickness after having changed ~~his-occupation~~ \*  
52 occupations to one classified by the insurer as more hazardous \*  
53 than that stated in this policy or while doing for compensation  
54 anything pertaining to an occupation so classified, the insurer  
55 will pay only such portion of the indemnities provided in this  
56 policy as the premiums paid would have purchased at the rates  
57 and within the limits fixed by the insurer for such more  
58 hazardous occupation. If the insured changes ~~his-occupation~~ \*  
59 occupations to one classified by the insurer as less hazardous \*  
60 than that stated in this policy, the insurer, upon receipt of  
61 proof of such change of occupation will reduce the premium rate  
62 accordingly, and will return the excess pro-rata unearned  
63 premium from the date of change of occupation or from the policy  
64 anniversary date immediately preceding receipt of such proof,  
65 whichever is the more recent. In applying this provision, the  
66 classification of occupational risk and the premium rates shall  
67 be such as have been last filed by the insurer prior to the  
68 occurrence of the loss for which the insurer is liable or prior  
69 to date of proof of change in occupation with the state official  
70 having supervision of insurance in the state where the insured  
71 resided at the time this policy was issued; but if such filing  
72 was not required, then the classification of occupational risk  
73 and the premium rates shall be those last made effective by the  
74 insurer in such state prior to the occurrence of the loss or  
75 prior to the date of proof of change of occupation.

76 (2) A provision as follows:



1 MISSTATEMENT OF AGE: If the age of the insured has been  
2 misstated, all amounts payable under this policy shall be such  
3 as the premium paid would have purchased at the correct age.

4 (3) A provision as follows:

5 OTHER INSURANCE IN THIS INSURER: If an accident or  
6 sickness or accident and sickness policy or policies previously  
7 issued by the insurer to the insured be in force concurrently  
8 herewith, making the aggregate indemnity for ..... (insert type  
9 of coverage or coverages) in excess of \$..... (insert maximum  
10 limit of indemnity or indemnities) the excess insurance shall be  
11 void and all premiums paid for such excess shall be returned to  
12 the insured or to ~~his~~ the insured's estate, or, in lieu thereof: \*

13 Insurance effective at any one time on the insured under a  
14 like policy or policies in this insurer is limited to the one  
15 such policy elected by the insured, ~~his~~ or the insured's \*  
16 beneficiary or ~~his~~ estate, as the case may be, and the insurer \*  
17 will return all premiums paid for all other such policies.

18 (4) A provision as follows:

19 INSURANCE WITH OTHER INSURERS: If there be other valid  
20 coverage, not with this insurer, providing benefits for the same  
21 loss on a provision of service basis or on an expense incurred  
22 basis and of which this insurer has not been given written  
23 notice prior to the occurrence or commencement of loss, the only  
24 liability under any expense incurred coverage of this policy  
25 shall be for such proportion of the loss as the amount which  
26 would otherwise have been payable hereunder plus the total of  
27 the like amounts under all such other valid coverages for the  
28 same loss of which this insurer had notice bears to the total  
29 like amounts under all valid coverages for such loss, and for  
30 the return of such portion of the premiums paid as shall exceed  
31 the pro-rata portion for the amount so determined. For the  
32 purpose of applying this provision when other coverage is on a  
33 provision of service basis, the "like amount" of such other  
34 coverage shall be taken as the amount which the services  
35 rendered would have cost in the absence of such coverage.

36 If the foregoing policy provision is included in a policy  
37 which also contains the next following policy provision there  
38 shall be added to the caption of the foregoing provision the  
39 phrase "EXPENSE INCURRED BENEFITS". The insurer may, at its  
40 option, include in this provision a definition of "other valid  
41 coverage," approved as to form by the commissioner, which  
42 definition shall be limited in subject matter to coverage  
43 provided by organizations subject to regulation by insurance law  
44 or by insurance authorities of this or any other state of the  
45 United States or any province of Canada, and by hospital or  
46 medical service organizations, and to any other coverage the  
47 inclusion of which may be approved by the commissioner. In the  
48 absence of such definition such term shall not include group  
49 insurance, automobile medical payments insurance, or coverage  
50 provided by hospital or medical service organizations or by  
51 union welfare plans or employer or employee benefit  
52 organizations. For the purpose of applying the foregoing policy  
53 provision with respect to any insured, any amount of benefit  
54 provided for such insured pursuant to any compulsory benefit  
55 statute (including any workers' compensation or employer's  
56 liability statute) whether provided by a governmental agency or  
57 otherwise shall in all cases be deemed to be "other valid  
58 coverage" of which the insurer has had notice. In applying the  
59 foregoing policy provision no third party liability coverage  
60 shall be included as "other valid coverage".

61 (5) A provision as follows:

62 INSURANCE WITH OTHER INSURERS: If there be other valid  
63 coverage, not with this insurer, providing benefits for the same  
64 loss on other than an expense incurred basis and of which this  
65 insurer has not been given written notice prior to the  
66 occurrence or commencement of loss, the only liability for such  
67 benefits under this policy shall be for such proportion of the  
68 indemnities otherwise provided hereunder for such loss as the  
69 like indemnities of which the insurer had notice (including the  
70 indemnities under this policy) bear to the total amount of all  
71 like indemnities for such loss, and for the return of such  
72 portion of the premium paid as shall exceed the pro-rata portion  
73 for the indemnities thus determined.

74 If the foregoing policy provision is included in a policy  
75 which also contains the next preceding policy provision there  
76 shall be added to the caption of the foregoing provision the



1 phrase -- "OTHER BENEFITS". The insurer may, at its option,  
 2 include in this provision a definition of "other valid  
 3 coverage," approved as to form by the commissioner, which  
 4 definition shall be limited in subject matter to coverage  
 5 provided by organizations subject to regulation by insurance law  
 6 or by insurance authorities of this or any other state of the  
 7 United States or any province of Canada, and to any other  
 8 coverage the inclusion of which may be approved by the  
 9 commissioner. In the absence of such definition such term shall  
 10 not include group insurance, or benefits provided by union  
 11 welfare plans or by employer or employee benefit organizations.  
 12 For the purpose of applying the foregoing policy provision with  
 13 respect to any insured, any amount of benefit provided for such  
 14 insured pursuant to any compulsory benefit statute (including  
 15 any workers' compensation or employer's liability statute)  
 16 whether provided by a governmental agency or otherwise shall in  
 17 all cases be deemed to be "other valid coverage" of which the  
 18 insurer has had notice. In applying the foregoing policy  
 19 provision no third party liability coverage shall be included as  
 20 "other valid coverage".

21 (6) A provision as follows:

22 RELATION OF EARNINGS TO INSURANCE: If the total monthly  
 23 amount of loss of time benefits promised for the same loss under  
 24 all valid loss of time coverage upon the insured, whether  
 25 payable on a weekly or monthly basis, shall exceed the monthly  
 26 earnings of the insured at the time disability commenced or his  
 27 the insured's average monthly earnings for the period of two \*  
 28 years immediately preceding a disability for which claim is \*  
 29 made, whichever is the greater, the insurer will be liable only  
 30 for such proportionate amount of such benefits under this policy  
 31 as the amount of such monthly earnings or such average monthly  
 32 earnings of the insured bears to the total amount of monthly  
 33 benefits for the same loss under all such coverage upon the  
 34 insured at the time such disability commences and for the return  
 35 of such part of the premiums paid during such two years as shall  
 36 exceed the pro-rata amount of the premiums for the benefits  
 37 actually paid hereunder; but this shall not operate to reduce  
 38 the total monthly amount of benefits payable under all such  
 39 coverage upon the insured below the sum of \$200 or the sum of  
 40 the monthly benefits specified in such coverages, whichever is  
 41 the lesser, not shall it operate to reduce benefits other than  
 42 those payable for loss of time.

43 The foregoing policy provision may be inserted only in a  
 44 policy which the insured has the right to continue in force  
 45 subject to its terms by the timely payment of premiums (1) until  
 46 at least age 50, or, (2) in the case of a policy issued after  
 47 age 44, for at least five years from its date of issue. The  
 48 insurer may, at its option, include in this provision a  
 49 definition of "valid loss of time coverage," approved as to form  
 50 by the commissioner, which definition shall be limited in  
 51 subject matter to coverage provided by governmental agencies or  
 52 by organizations subject to regulation by insurance law or by  
 53 insurance authorities of this or any other state of the United  
 54 States or any province of Canada, or to any other coverage the  
 55 inclusion of which may be approved by the commissioner or any  
 56 combination of such coverages. In the absence of such  
 57 definition such term shall not include any coverage provided for  
 58 such insured pursuant to any compulsory benefit statute  
 59 (including any workers' compensation or employer's liability  
 60 statute), or benefits provided by union welfare plans or by  
 61 employer or employee benefit organizations.

62 (7) A provision as follows:

63 UNPAID PREMIUM: Upon the payment of a claim under this  
 64 policy, any premium then due and unpaid or covered by any note  
 65 or written order may be deducted therefrom.

66 (8) A provision as follows:

67 CANCELLATION: The insurer may cancel this policy at any  
 68 time by written notice delivered to the insured or mailed to his  
 69 the insured's last address as shown by the records of the \*  
 70 insurer, stating when, not less than five days thereafter, such \*  
 71 cancellation shall be effective; and after the policy has been  
 72 continued beyond its original term the insured may cancel this  
 73 policy at any time by written notice delivered or mailed to the  
 74 insurer, effective upon receipt or on such later date as may be  
 75 specified in such notice. In the event of cancellation, the  
 76 insurer will return promptly the unearned portion of any premium



1 paid. If the insured cancels, the earned premium shall be  
2 computed by the use of the short-rate table last filed with the  
3 state official having supervision of insurance in the state  
4 where the insured resided when the policy was issued. If the  
5 insurer cancels, the earned premium shall be computed pro-rata.  
6 Cancellation shall be without prejudice to any claim originating  
7 prior to the effective date of cancellation.

8 (9) A provision as follows:

9 CONFORMITY WITH STATE STATUTES: Any provision of this  
10 policy which, on its effective date, is in conflict with the  
11 statutes of the state in which the insured resides on such date  
12 is hereby amended to conform to the minimum requirements of such  
13 statutes.

14 (10) A provision as follows:

15 ILLEGAL OCCUPATION: The insurer shall not be liable for  
16 any loss to which a contributing cause was the insured's  
17 commission of or attempt to commit a felony or to which a  
18 contributing cause was the insured's being engaged in an illegal  
19 occupation.

20 (11) A provision as follows:

21 NARCOTICS: The insurer shall not be liable for any loss  
22 sustained or contracted in consequence of the insured's being  
23 under the influence of any narcotic unless administered on the  
24 advice of a physician.

25 No change for subd 4 to 9

062A#06S

26 62A.06 STATEMENTS IN APPLICATION.

27 No change for subd 1

28 Subd. 2. ALTERATIONS. No alteration of any written  
29 application for any such policy shall be made by any person  
30 other than the applicant without his written consent, except \*  
31 that insertions may be made by the insurer, for administrative  
32 purposes only, in such manner as to indicate clearly that such  
33 insertions are not to be ascribed to the applicant.

34 No change for subd 3

062A#10S

35 62A.10 GROUP INSURANCE.

36 No change for subd 1

37 Subd. 2. POLICY FORMS. No policy of group accident  
38 and health insurance may be issued or delivered in this state  
39 unless the same has been approved by the commissioner in  
40 accordance with section 62A.02, subdivisions 1 to 6. These  
41 forms shall contain the standard provisions relating and  
42 applicable to health and accident insurance and shall conform  
43 with the other requirements of law relating to the contents and  
44 terms of policies of accident and sickness insurance in so far  
45 as they may be applicable to group accident and health  
46 insurance, and also the following provisions:

47 (1) ENTIRE CONTRACT. A provision that the policy and  
48 the application of the employer, or executive officer or trustee  
49 of any association, and the individual applications, if any, of  
50 the employees or members insured, shall constitute the entire  
51 contract between the parties, and that all statements made by  
52 the employer or any executive officer or trustee in behalf of  
53 the group to be insured, shall, in the absence of fraud, be  
54 deemed representations and not warranties, and that no such  
55 statement shall be used in defense to a claim under the policy,  
56 unless it is contained in the written application;

57 (2) MASTER POLICY-CERTIFICATES. A provision that the  
58 insurer will issue a master policy to the employer, or to the  
59 executive officer or trustee of the association; and the insurer  
60 shall also issue to the employer or to the executive officer or  
61 trustee of the association, for delivery to the employee or  
62 member who is insured under the policy, an individual  
63 certificate setting forth a statement as to the insurance  
64 protection to which he the employee or member is entitled and to \*  
65 whom payable, together with a statement as to when and where the  
66 master policy, or a copy thereof, may be seen for inspection by  
67 the individual insured; this individual certificate may contain  
68 the names of, and insure the dependents of, the employee or  
69 member, as provided for herein;

70 (3) NEW INSUREDS. A provision that to the group or  
71 class thereof originally insured may be added, from time to  
72 time, all new employees of the employer or members of the  
73 association eligible to and applying for insurance in that group  
74 or class and covered or to be covered by the master policy.



062A#11S

1 62A.11 BLANKET ACCIDENT AND SICKNESS INSURANCE.  
 2 No change for subd 1 to 4  
 3 Subd. 5. BENEFITS. All benefits under any blanket  
 4 accident and sickness policy shall be payable to the person  
 5 insured, or to ~~his~~ a designated beneficiary, or beneficiaries,  
 6 or to ~~his~~ the insured's estate, except that if the person  
 7 insured be a minor, such benefits may be made payable to ~~his~~ the  
 8 insured's parent, guardian, or other person actually  
 9 supporting ~~him~~ the insured. Provided further, however, that the  
 10 policy may provide that all or any portion of any indemnities  
 11 provided by any such policy on account of hospital, nursing,  
 12 medical or surgical services may, at the insurer's option, be  
 13 paid directly to the hospital or person rendering such services;  
 14 but the policy may not require that the services be rendered by  
 15 a particular hospital or person. Payment so made shall  
 16 discharge the insurer's obligation with respect to the amount of  
 17 insurance so paid.  
 18 No change for subd 6

\*  
\*  
\*  
\*  
\*

062A#13S

19 62A.13 COMMERCIAL TRAVELER INSURANCE COMPANIES.  
 20 Any domestic assessment, health or accident association now  
 21 licensed to do business in this state, which confines its  
 22 membership to commercial travelers, ~~professional-men~~  
 23 professionals, and others whose occupation is of such character  
 24 as to be ordinarily classified as no more hazardous than  
 25 commercial travelers, and which does not pay any other  
 26 commissions or compensations, other than prizes to members of  
 27 nominal value in proportion to the membership fees charged for  
 28 securing new members, may issue certificates of membership,  
 29 which, with the application of the member and the bylaws of the  
 30 association, shall constitute the contract between the  
 31 association and the member. A printed copy of the bylaws and a  
 32 copy of the application shall be attached to the membership  
 33 certificate when issued, and a copy of any amendment to the  
 34 bylaws shall be mailed to the members following their adoption.  
 35 Certified copies of certificate, bylaws and amendments shall be  
 36 filed with the commissioner of commerce and subject to ~~his~~ the  
 37 commissioner's approval. The bylaws shall conform to the  
 38 requirements of this chapter, so far as applicable, and wherever  
 39 the word "policy" appears in this chapter, it shall, for the  
 40 purpose of this section, be construed to mean the contract as  
 41 herein defined.

\*  
\*  
\*  
\*  
\*  
\*  
\*

062A#145S

42 62A.145 SURVIVORS; DEFINITION.  
 43 For the purposes of section 62A.146, "survivor" means a  
 44 person who would be entitled to and be dependent upon economic  
 45 support by an insured, subscriber or enrollee if ~~he~~ that person  
 46 were alive; including a spouse, child or children as defined by  
 47 the policy or plan of accident and health protection.

\*

062A#146S

48 62A.146 CONTINUATION OF BENEFITS TO SURVIVORS.  
 49 No policy or plan of accident and health protection issued  
 50 by an insurer, nonprofit health service plan corporation, or  
 51 health maintenance organization, providing coverage of hospital  
 52 or medical expense on either an expense incurred basis or other  
 53 than an expense incurred basis which in addition to coverage of  
 54 the insured, subscriber, or enrollee, also provides coverage to  
 55 ~~his~~ dependents, shall, except upon the written consent of the  
 56 survivor or survivors of the deceased insured, subscriber or  
 57 enrollee, terminate, suspend or otherwise restrict the  
 58 participation in or the receipt of benefits otherwise payable  
 59 under the policy or plan to the survivor or survivors until the  
 60 earlier of the following dates:

\*

- 61 (a) the date of remarriage of the surviving spouse; or
- 62 (b) the date coverage would have terminated under the
- 63 policy or plan had the insured, subscriber, or enrollee lived.
- 64 The survivor or survivors, in order to have the coverage
- 65 and benefits extended, may be required to pay the entire cost of
- 66 the protection. Failure of the survivor to make premium or fee
- 67 payments within 90 days after notice of the requirement to pay
- 68 the premiums or fees shall be a basis for the termination of the
- 69 coverage without written consent. In event of termination by
- 70 reason of the survivor's failure to make required premium or fee
- 71 contributions, written notice of cancellation must be mailed to
- 72 the survivor's last known address at least 30 days before the



1 cancellation. If the coverage is provided under a group policy  
 2 or plan, any required premium or fee contributions for the  
 3 coverage shall be paid by the survivor to the group policyholder  
 4 or contract holder for remittance to the insurer, nonprofit  
 5 health service plan corporation, or health maintenance  
 6 organization.

## 062A#147S

7 62A.147 DISABLED EMPLOYEES' BENEFITS; DEFINITIONS.

8 No change for subd 1

9 Subd. 2. "Covered employee" means any person who, at the  
 10 time ~~he~~ that person suffered an injury resulting in total \*  
 11 disability or became totally disabled by reason of illness, was  
 12 employed by and receiving a salary, commission, hourly wage, or \*  
 13 other remuneration for ~~his~~ services by any employer providing,  
 14 offering or contributing to group insurance coverage or group  
 15 coverage through a health maintenance contract, for that  
 16 employee who was so enrolled for the coverage.

17 Subd. 3. "Total disability" means (a) the inability of an  
 18 injured or ill employee to engage in or perform the duties of  
 19 ~~his~~ the employee's regular occupation or employment within the \*  
 20 first two years of such disability and (b) after the first two  
 21 years of such disability, the inability of the employee to  
 22 engage in any paid employment or work for which ~~he~~ the employee  
 23 may, by ~~his~~ education and training, including rehabilitative \*  
 24 training, be or reasonably become qualified. \*

25 No change for subd 4 to 6

## 062A#149S

26 62A.149 BENEFITS FOR ALCOHOLICS AND DRUG DEPENDENTS.

27 Subdivision 1. The provisions of this section apply to all  
 28 group policies of accident and health insurance and group  
 29 subscriber contracts offered by nonprofit health service plan  
 30 corporations regulated under chapter 62C, and to a plan or  
 31 policy that is individually underwritten or provided for a  
 32 specific individual and ~~the~~ family members ~~of-his-family~~ as a \*  
 33 nongroup policy unless the individual elects in writing to  
 34 refuse benefits under this subdivision in exchange for an  
 35 appropriate reduction in premiums or subscriber charges under  
 36 the policy or plan, when the policies or subscriber contracts  
 37 are issued or delivered in Minnesota or provide benefits to  
 38 Minnesota residents enrolled thereunder.

39 This section does not apply to policies designed primarily  
 40 to provide coverage payable on a per diem, fixed indemnity or  
 41 nonexpense incurred basis or policies that provide accident only  
 42 coverage.

43 Every insurance policy or subscriber contract included  
 44 within the provisions of this subdivision, upon issuance or  
 45 renewal, shall provide for payment of benefits for the treatment  
 46 of alcoholism, chemical dependency or drug addiction to any  
 47 Minnesota resident entitled to coverage thereunder on the same  
 48 basis as coverage for other benefits when treatment is rendered  
 49 in

50 (1) a licensed hospital,

51 (2) a residential treatment program as licensed by the  
 52 state of Minnesota pursuant to diagnosis or recommendation by a  
 53 doctor of medicine,

54 (3) a non-residential treatment program approved or  
 55 licensed by the state of Minnesota.

56 No change for subd 2

## 062A#151S

57 62A.151 HEALTH INSURANCE BENEFITS FOR EMOTIONALLY  
 58 HANDICAPPED CHILDREN.

59 No policy or plan of health, medical, hospitalization, or  
 60 accident and sickness insurance regulated under this chapter, or  
 61 nonprofit health service plan corporation regulated under  
 62 chapter 62C, or health maintenance organization regulated under  
 63 chapter 62D which provides coverage of or reimbursement for  
 64 inpatient hospital and medical expenses shall be delivered,  
 65 issued, executed or renewed in this state, or approved for  
 66 issuance or renewal in this state by the commissioner of  
 67 commerce, after July 1, 1975 unless the policy or plan includes  
 68 and provides health service benefits to any subscriber or other  
 69 person covered thereunder, on the same basis as other benefits,  
 70 for the treatment of emotionally handicapped children in a  
 71 residential treatment facility licensed by the commissioner of  
 72 human services. For purposes of this section "emotionally  
 73 handicapped child" shall have the meaning set forth by the



1 commissioner of human services in the rules and regulations  
 2 relating to residential treatment facilities. The restrictions  
 3 and requirements of this section shall not apply to any plan or  
 4 policy which is individually underwritten or provided for a  
 5 specific individual and the family members of his family as a \*  
 6 nongroup policy. The mandatory coverage under this section  
 7 shall be on the same basis as inpatient hospital medical  
 8 coverage provided under the policy or plan.

062A#17S

9 62A.17 TERMINATION OF OR LAY OFF FROM EMPLOYMENT.

10 Subdivision 1. CONTINUATION OF COVERAGE. Every group  
 11 insurance policy, group subscriber contract, and health care  
 12 plan included within the provisions of section 62A.16, except  
 13 policies, contracts, or health care plans covering employees of  
 14 an agency of the federal government, shall contain a provision  
 15 which permits every eligible employee who is terminated or laid  
 16 off from his employment, if the policy, contract, or health care \*  
 17 plan remains in force for active employees of the employer, to  
 18 elect to continue the coverage for himself the employee and his \*  
 19 dependents.

20 Subd. 2. RESPONSIBILITY OF EMPLOYEE. Every eligible  
 21 employee electing to continue coverage shall pay his the former \*  
 22 employer, on a monthly basis, the cost of the continued  
 23 coverage. If the policy, contract, or health care plan is  
 24 administered by a trust, every eligible employee electing to  
 25 continue coverage shall pay the trust the cost of continued  
 26 coverage according to the eligibility rules established by the  
 27 trust. The employee shall be eligible to continue the coverage  
 28 until he becomes re-employed and eligible for health care \*  
 29 coverage under a group policy, contract, or plan sponsored by  
 30 the same or another employer, or for a period of 12 months after  
 31 the termination of or lay off from employment, whichever is  
 32 shorter.

33 Subd. 3. ELIGIBILITY FOR CONTINUED COVERAGE. An  
 34 employee shall be eligible to make the election for himself the \*  
 35 employee and his dependents provided for in subdivision 1 if: \*

36 (a) In the period preceding the termination of or lay off  
 37 from his employment, he the employee and his dependents were \*  
 38 covered through his employment by a group insurance policy, \*  
 39 subscriber's contract, or health care plan included within the  
 40 provisions of section 62A.16;

41 (b) The termination of or lay off from employment was for  
 42 reasons other than the discontinuance of the business,  
 43 bankruptcy, or the employee's disability or retirement.

44 No change for subd 4

45 Subd. 5. NOTICE OF OPTIONS. Upon the termination of  
 46 or lay off from employment of an eligible employee, the employer  
 47 shall inform the employee within ten days after termination or  
 48 lay off of:

49 (a) his the right to elect to continue the coverage; \*

50 (b) the amount he the employee must pay monthly to the \*  
 51 employer to retain the coverage;

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

54 (d) the time by which the payments to the employer must be  
 55 made to retain coverage.

56 If the policy, contract, or health care plan is  
 57 administered by a trust, the employer is relieved of the  
 58 obligation imposed by clauses (a) to (d). The trust shall  
 59 inform the employee of the information required by clauses (a)  
 60 to (d).

61 Notice may be in writing and sent by first class mail to  
 62 the employee's last known address which the employee has  
 63 provided the employer or trust. If the employer or trust fails  
 64 to so notify the employee who is properly enrolled in the  
 65 program, the employee shall have the option to retain coverage  
 66 if he the employee makes this election within 60 days of the \*  
 67 date he-is terminated or laid off by making the proper payment \*  
 68 to the employer or trust to provide continuous coverage.

69 A notice in substantially the following form shall be  
 70 sufficient. As a terminated or laid off employee, the law  
 71 authorizes you to maintain your group medical insurance for a  
 72 period of up to 12 months. To do so you must notify your former  
 73 employer within ten days of this notice that you intend to  
 74 retain this coverage and must make a monthly payment of  
 75 \$..... to ..... at ..... by the .....



1 of each month.  
2 No change for subd 6

062A#40S

3 62A.40 REPLACEMENT.

4 No insurer or agent shall replace a medicare supplement  
5 plan with another medicare supplement plan of the same category  
6 unless there is a substantial difference in cost favorable to  
7 the policyholder, or the insured has previously demonstrated a  
8 dissatisfaction with the service ~~he-is~~ presently receiving being  
9 received from his the current insurer. An insurer or agent may  
10 replace a medicare supplement plan with a less comprehensive  
11 plan only if the prospective insured signs an acknowledgment  
12 that ~~he-understands~~ it is understood that ~~he~~ the prospective  
13 insured will receive less benefits under the new policy than  
14 under the policy ~~he~~ presently ~~has~~ in force.

\*  
\*  
\*  
\*  
\*

062A#41S

15 62A.41 PENALTIES.

16 Any insurer, general agent, agent, or other person who  
17 knowingly or willfully, either directly or indirectly, makes or  
18 causes to be made or induces or seeks to induce the making of  
19 any false statement or representation of a material fact with  
20 respect to compliance of any policy with the standards and  
21 requirements set forth in this section; falsely assumes or  
22 pretends to be acting, or misrepresents in any way, including a  
23 violation of section 62A.37, that ~~he~~ the person is acting, under  
24 the authority or in association with medicare, or any federal  
25 agency, for the purpose of selling or attempting to sell  
26 insurance, or in such pretended character demands, or obtains  
27 money, paper, documents, or anything of value; or knowingly  
28 sells a health insurance policy to an individual entitled to  
29 benefits under part A or part B of medicare with the knowledge  
30 that such policy substantially duplicates health benefits to  
31 which such individual is otherwise entitled under a requirement  
32 of state or federal law other than under medicare shall be  
33 guilty of a felony and subject to a civil penalty of not more  
34 than \$5,000 per violation, and the commissioner may revoke or  
35 suspend the license of any company, association, society, other  
36 insurer, or agent thereof.

\*

062A#43S

37 62A.43 LIMITATIONS ON SALES.

38 No change for subd 1 to 2

39 Subd. 3. ACTION BY COMMISSIONER. If the commissioner  
40 determines after an investigation that an insurer has issued a  
41 medicare supplement plan to a person who already has one plan,  
42 except as permitted in subdivision 1, the commissioner shall  
43 notify the insurer in writing of ~~his-or-her~~ the determination.  
44 If the insurer thereafter fails to take reasonable action to  
45 prevent overselling, the commissioner may, in the manner  
46 prescribed in chapter 14, revoke or suspend the insurer's  
47 authority to sell accident and health insurance in this state or  
48 impose a civil penalty not to exceed \$10,000, or both.

\*

062B#06S

49 62B.06 PROVISIONS OF POLICIES AND CERTIFICATES OF  
50 INSURANCE; DISCLOSURE TO DEBTORS.

51 No change for subd 1

52 Subd. 2. Each individual policy or group certificate of  
53 credit life insurance, or credit accident and health insurance  
54 shall, in addition to other requirements of law, set forth the  
55 name and home office address of the insurer, the name or names  
56 of the debtor or in the case of a certificate under a group  
57 policy, the identity by name or otherwise of the debtor, the  
58 rate or amount of payment, if any, by the debtor separately for  
59 credit life insurance and credit accident and health insurance,  
60 a description of the amount, term and coverage including any  
61 exceptions, limitations and restrictions, and shall state that  
62 the benefits shall be paid to the creditor to reduce or  
63 extinguish the unpaid indebtedness and, wherever the amount of  
64 insurance may exceed the unpaid indebtedness, that any such  
65 excess shall be payable to a beneficiary, other than the  
66 creditor, named by the debtor or to ~~his~~ the debtor's estate. No  
67 individual or group policy of credit accident and health  
68 insurance issued, amended, renewed, or delivered in this state  
69 on or after January 1, 1976 shall contain any provision  
70 offsetting, or in any other manner reducing any benefit under  
71 the policy by the amount of, or in proportion to, any increase  
72 in disability benefits received or receivable under the federal

\*



1 Social Security Act, as amended subsequent to the date of  
2 commencement of such benefit.

3 No change for subd 3 to 5

062B#07S

4 62B.07 FILING, APPROVAL AND WITHDRAWAL OF FORMS.

5 No change for subd 1 to 2

6 Subd. 3. If the commissioner notifies the insurer that the  
7 form is disapproved, it is unlawful thereafter for the insurer  
8 to issue or use it. In ~~his~~ the notice, the commissioner shall  
9 specify the reason for ~~his~~ disapproval and state that a hearing  
10 will be granted within 20 days after a request in writing by the  
11 insurer. No policy, certificate of insurance, notice of  
12 proposed insurance, nor any application, endorsement or rider,  
13 shall be issued or used until the expiration of 30 days after it  
14 has been filed, unless the commissioner gives ~~his~~ prior written  
15 approval thereto.

\*  
\*  
\*

16 Subd. 4. The commissioner may, at any time after a hearing  
17 held not less than 20 days after written notice to the insurer,  
18 withdraw ~~his~~ approval of a form on any ground set forth in  
19 subdivision 2 above. The written notice of the hearing shall  
20 state the reason for the proposed withdrawal.

\*

21 No change for subd 5 to 7

062B#11S

22 62B.11 EXISTING INSURANCE; CHOICE OF INSURER.

23 When credit life insurance or credit accident and health  
24 insurance is required as additional security for any  
25 indebtedness, the debtor shall, upon request to the creditor,  
26 have the option of furnishing the required amount of insurance  
27 through existing policies of insurance owned or controlled by  
28 ~~him~~ the debtor or of procuring and furnishing the required  
29 coverage through any insurer authorized to transact an insurance  
30 business within this state.

\*

062B#12S

31 62B.12 ENFORCEMENT.

32 The commissioner may, after notice and hearing, issue rules  
33 and regulations ~~he~~ the commissioner deems appropriate for the  
34 supervision of sections 62B.01 to 62B.14. ~~Whenever the~~  
35 ~~commissioner finds~~ On finding that there has been a violation of  
36 sections 62B.01 to 62B.14, or any rules or regulations issued  
37 pursuant thereto, after written notice thereof and hearing given  
38 to the insurer or other person authorized or licensed by the  
39 commissioner, ~~he~~ the commissioner shall set forth the details of  
40 ~~his~~ the findings together with an order for compliance by a  
41 specified date. The order shall be binding on the insurer and  
42 other person authorized or licensed by the commissioner on the  
43 date specified unless sooner withdrawn by the commissioner or a  
44 stay has been ordered by a court of competent jurisdiction. The  
45 provisions of sections 62B.05, 62B.06, 62B.07 and 62B.08, shall  
46 not be operative until 90 days after May 28, 1967, and the  
47 commissioner ~~in his discretion~~ may extend by not more than an  
48 additional 90 days the initial period within which the  
49 provisions of those sections shall not be operative.

\*  
\*  
\*  
\*  
\*  
\*

062B#14S

50 62B.14 PENALTIES.

51 In addition to any other penalty provided by law, any  
52 person, firm or corporation which violates an order of the  
53 commissioner after it has become final, and while it is in  
54 effect, shall, upon proof thereof to the satisfaction of the  
55 court, forfeit and pay to the state a sum not to exceed \$250  
56 which may be recovered in a civil action, except that if the  
57 violation is found to be willful, the amount of the penalty  
58 shall be a sum not to exceed \$1,000. The commissioner ~~in his~~  
59 ~~discretion~~ may revoke or suspend the license or certificate of  
60 authority of the person, firm or corporation guilty of such  
61 violation. Such order for suspension or revocation shall be  
62 upon notice and hearing, and shall be subject to judicial review  
63 as provided in section 62B.13.

\*  
\*

062C#02S

64 62C.02 DEFINITIONS.

65 No change for subd 1

66 Subd. 2. "Commissioner" means the commissioner of commerce  
67 or a person duly designated to act in ~~his~~ the commissioner's  
68 place.

\*

69 No change for subd 3 to 7

70 Subd. 8. "Service agreement" means an agreement, contract  
71 or other arrangement between a service plan corporation and a



1 provider under which the provider agrees that when ~~he provides~~ \*  
 2 health services are provided for a subscriber ~~he the provider~~ \*  
 3 shall not make a direct charge against the subscriber for those  
 4 services or parts of services which are covered by the  
 5 subscriber's contract, but shall look to the service plan  
 6 corporation for the payment for covered services, to the extent  
 7 they are covered.

8 No change for subd 9 to 10

062C#03S

9 62C.03 SERVICE PLAN CORPORATIONS AUTHORIZED.

10 Subdivision 1. A service plan corporation may be organized  
 11 to establish, maintain and operate a service plan providing  
 12 health services in their entirety or in part, according to the  
 13 subscriber contract. No subscriber's contract shall provide for  
 14 payment of cash indemnification by the corporation to the  
 15 subscriber or ~~his~~ the subscriber's estate for death, illness, or \*  
 16 other injury, except as provided by Laws 1971, Chapter 568 as it  
 17 relates to nonparticipating providers. In the event that the  
 18 subscriber compensates the provider for services received ~~he the~~ \*  
 19 subscriber is subrogated to the provider's right against the \*  
 20 service plan.

21 No change for subd 2 to 3

062C#06S

22 62C.06 APPROVAL OF ARTICLES AND BYLAWS.

23 No change for subd 1

24 Subd. 2. Upon approval, the corporation shall file the  
 25 articles or amendment with the secretary of state, together with  
 26 a copy of the order or an affidavit of an officer of the  
 27 corporation that no order has been issued and that more than 30  
 28 days have expired since submission of the proposed articles or  
 29 amendment. When the filing fees and charges have been paid as  
 30 required by law, and the secretary of state determines that the  
 31 articles or amendments are in acceptable form, ~~he the secretary~~ \*  
 32 of state shall record them and take any other action provided \*  
 33 for by chapter 317.

34 No change for subd 3

062C#08S

35 62C.08 CERTIFICATE OF AUTHORITY.

36 No change for subd 1

37 Subd. 2. The commissioner may grant a certificate of  
 38 authority after ~~he has determined~~ determining that the applicant \*  
 39 is in compliance with Laws 1971, Chapter 568 with regard to the  
 40 applicant's stated purpose, its articles and bylaws and its  
 41 financial condition, that it has met the filing requirements of  
 42 Laws 1971, Chapter 568 relating to subscribers' contracts and  
 43 service agreements and that the service plan corporation has  
 44 knowledgeable, responsible management.

45 No change for subd 3 to 4

062C#11S

46 62C.11 FINANCIAL STATEMENTS AND EXAMINATIONS.

47 No change for subd 1

48 Subd. 2. The commissioner shall examine a service plan  
 49 corporation to ascertain its financial condition, its ability to  
 50 fulfill its obligations, and its compliance with Laws 1971,  
 51 Chapter 568, as often as ~~he the commissioner~~ deems expedient for \*  
 52 protection of the public, but not less than once each three \*  
 53 years. ~~He The commissioner~~ shall have access at all reasonable \*  
 54 times to all books and records of the corporation, and may \*  
 55 summon the officers and employees and examine them under oath as  
 56 to any matter pertinent to Laws 1971, Chapter 568.

57 Subd. 3. The commissioner shall visit and examine any  
 58 service plan corporation formed after August 1, 1971 within the  
 59 first six months after it begins doing business, and thereafter  
 60 once during each of the next three years. Thereafter ~~he the~~ \*  
 61 commissioner shall visit and examine the corporation at least \*  
 62 once every three years.

63 No change for subd 4 to 5

062C#12S

64 62C.12 SUSPENSION.

65 A service plan corporation shall be subject to section  
 66 60A.051, relating to the denial, suspension or revocation of a  
 67 certificate of authority, and to chapter 60B. The commissioner  
 68 also may suspend or revoke a certificate for any violation or  
 69 noncompliance with Laws 1971, Chapter 568 following a hearing  
 70 under procedures established by rules and regulations of the  
 71 commissioner. The commissioner may suspend or revoke the



1 certificate of authority of a foreign service plan corporation  
 2 for the same reasons for which a domestic corporation's  
 3 certificate may be suspended or revoked, and further, he may \*  
 4 revoke or suspend the certificate of a foreign service plan  
 5 corporation if its activities outside the state of Minnesota  
 6 impair its solvency or its ability to meet its obligations in  
 7 this state.

062C#14S

8 62C.14 SUBSCRIBER CONTRACTS.

9 No change for subd 1 to 2

10 Subd. 3. Nothing in a subscriber's contract shall deny him \*  
 11 the subscriber free choice of the provider within a particular \*  
 12 class of providers who is to treat the subscriber, and there  
 13 shall be no interference with a provider-subscriber relationship.

14 Subd. 4. Except for group contracts or certificates, a \*  
 15 subscriber's contract or other writing furnished ~~to him~~ with the \*  
 16 contract, shall state the periodic subscription charge, the  
 17 effective date, the expiration date or period of renewal, and  
 18 the terms upon which the contract may be terminated, cancelled,  
 19 continued, or renewed.

20 No change for subd 5 to 5b

21 Subd. 6. A subscriber's contract or certificate shall  
 22 state that it and all riders and endorsements, together with any  
 23 application if signed by the subscriber, identification issued  
 24 ~~to him~~, and the applicable benefit schedules on file at the home \*  
 25 office of the corporation and with the commissioner, shall  
 26 constitute the entire contract between the corporation and the  
 27 subscriber.

28 Subd. 7. No subscriber's contract shall provide for the  
 29 payment of any cash or other material benefit to the subscriber  
 30 or ~~his~~ the subscriber's estate on account of death, illness or \*  
 31 injury, provided that a subscriber's contract may provide for  
 32 the payment for services rendered by a nonparticipating provider  
 33 to the extent such services are covered by the contract. In the  
 34 event that the subscriber compensates the provider for services  
 35 received ~~he~~ the subscriber is subrogated to the provider's right \*  
 36 against the service plan.

37 No change for subd 8

38 Subd. 9. No service plan corporation shall deliver or  
 39 issue for delivery in this state any subscriber contract,  
 40 endorsement, rider, amendment or application until a copy of the  
 41 form thereof has been filed with the commissioner, subject to  
 42 disapproval by the commissioner. Any such form issued or in use  
 43 on August 1, 1971, if filed with the commissioner within 60 days  
 44 after August 1, 1971, shall be deemed filed upon receipt by the  
 45 commissioner. The commissioner also may by regulation exempt  
 46 from filing those subscriber contracts issued to a group of not  
 47 less than 300 subscribers, or to other groups upon such  
 48 reasonable conditions and restrictions as ~~he~~ the commissioner \*  
 49 may require.

50 No change for subd 10

51 Subd. 11. An order of disapproval shall state that a  
 52 hearing will be granted within 20 days upon written request.  
 53 The commissioner shall conduct the hearing within 20 days after  
 54 receipt of the request and shall give not less than ten days'  
 55 written notice of the time and place and matters to be  
 56 considered. Within 15 days after the hearing, the commissioner  
 57 shall affirm, reverse, or modify ~~his~~ the previous action in \*  
 58 writing, specifying ~~his~~ the reasons therefor. Pending the \*  
 59 hearing and decision thereon, the commissioner may postpone the  
 60 effective date of ~~his~~ previous action. \*

61 No change for subd 12 to 15

062C#17S

62 62C.17 LICENSE FOR SOLICITOR OR AGENT.

63 Subdivision 1. No person shall act as a solicitor or agent  
 64 for solicitation of subscribers on behalf of a service plan  
 65 corporation, except an officer of the corporation, until ~~he~~ that \*  
 66 person obtains a license from the commissioner. The license \*  
 67 shall be granted to qualified persons only upon request of the  
 68 service plan corporation. The commissioner may establish by  
 69 rule reasonable standards of qualification.

70 Subd. 2. Applications for license shall be submitted to  
 71 the commissioner on forms provided by ~~him~~ the commissioner. \*  
 72 Except as provided in subdivision 3, the applicant shall pass a  
 73 written examination reasonably designed to determine whether ~~he~~ \*  
 74 the applicant is qualified to be licensed as an agent or \*



1 solicitor. The examination shall be pertinent to the contracts  
 2 and coverage furnished by the corporation and shall be  
 3 comparable to the examination required for a health and accident  
 4 insurance agent's license. Prior to examination or  
 5 re-examination, and prior to issuance or renewal of a license,  
 6 the applicant shall pay to the commissioner the fees required  
 7 for examination or re-examination for, and issuance or renewal  
 8 of, an insurance agent's license for one line of insurance. The  
 9 license shall expire May 31 of each year unless renewed by  
 10 written request with payment of the renewal fee. The license  
 11 shall not authorize a person to act as an insurance agent or  
 12 solicitor.

13 No change for subd 3 to 4

14 Subd. 5. A person shall not be qualified for a license if  
 15 upon examination or re-examination it is determined that ~~he~~ the  
 16 person is incompetent to act as an agent or solicitor, if ~~he~~ the  
 17 person has acted in any manner which would disqualify a person  
 18 to hold a license as an insurance agent or solicitor under  
 19 section 60A.17, subdivision 6, or if ~~he~~ the person fails to  
 20 produce documents subpoenaed by the commissioner, or fails to  
 21 appear at a hearing to which ~~he~~ the person is a party or has  
 22 been subpoenaed, if the production of documents or appearance is  
 23 lawfully required.

\*  
\*  
\*  
\*  
\*

062C#18S

24 62C.18 NO PERSONAL LIABILITY.

25 No change for subd 1

26 Subd. 2. Nothing herein shall affect the rights of a  
 27 nonparticipating provider who gives the subscriber written  
 28 notice prior to rendering service that ~~he~~ the provider will bill  
 29 the subscriber directly for ~~his~~ service, provided that such  
 30 notice shall not be required if (1) the nonparticipating  
 31 provider is not informed by the subscriber and does not  
 32 otherwise have knowledge that such subscriber has a subscriber  
 33 contract covering such services, or (2) under the existing  
 34 circumstances it is impossible or impractical for the  
 35 nonparticipating provider to give such notice, or (3) the  
 36 services are not provided in this state.

\*  
\*

37 No change for subd 3

062D#02S

38 62D.02 DEFINITIONS.

39 No change for subd 1

40 Subd. 2. "Commissioner of commerce" means the commissioner  
 41 of commerce or ~~his~~ a designee.

\*

42 Subd. 3. "Commissioner of health" means the state  
 43 commissioner of health or ~~his~~ a designee.

\*

44 No change for subd 4

45 Subd. 5. "Evidence of coverage" means any certificate,  
 46 agreement or contract issued to an enrollee which sets out the  
 47 coverage to which ~~he~~ the enrollee is entitled under the health  
 48 maintenance contract which covers ~~him~~ the enrollee.

\*  
\*

49 No change for subd 6 to 9

50 Subd. 10. "Consumer" means any person other than a person  
 51 (a) whose occupation involves, or before ~~his~~ retirement  
 52 involved, the administration of health activities or the  
 53 providing of health services; (b) who is, or ever was, employed  
 54 by a health care facility, as a licensed health professional; or  
 55 (c) who has, or ever had, a direct, substantial financial or  
 56 managerial interest in the rendering of health service other  
 57 than the payment of reasonable expense reimbursement or  
 58 compensation as a member of the board of a health maintenance  
 59 organization.

\*

60 No change for subd 11 to 14

062D#04S

61 62D.04 ISSUANCE OF CERTIFICATE AUTHORITY.

62 No change for subd 1

63 Subd. 2. Within 90 days after the receipt of the  
 64 application for a certificate of authority, the commissioner of  
 65 health shall determine whether or not the applicant meets the  
 66 requirements of this section. If the commissioner of health  
 67 determines that the applicant meets the requirements of sections  
 68 62D.01 to 62D.29, ~~he~~ the commissioner shall issue a certificate  
 69 of authority to the applicant. If the commissioner of health  
 70 determines that the applicant is not qualified, ~~he~~ the  
 71 commissioner shall so notify the applicant and shall specify the  
 72 reason or reasons for such disqualification.

\*  
\*  
\*

73 No change for subd 3 to 4



062D#07S

1 62D.07 EVIDENCE OF COVERAGE.  
2 No change for subd 1 to 2  
3 Subd. 3. An evidence of coverage shall contain:  
4 (a) No provisions or statements which are unjust, unfair,  
5 inequitable, misleading, deceptive, or which are untrue,  
6 misleading or deceptive as defined in section 62D.12,  
7 subdivision 1; and  
8 (b) A clear, concise and complete statement of:  
9 (1) The health care services and the insurance or other  
10 benefits, if any, to which the enrollee is entitled under the  
11 health maintenance contract;  
12 (2) Any exclusions or limitations on the services, kind of  
13 services, benefits, or kind of benefits, to be provided,  
14 including any deductible or copayment feature;  
15 (3) Where and in what manner information is available as to  
16 how services, including emergency and out of area services, may  
17 be obtained;  
18 (4) The total amount of payment and copayment, if any, for  
19 health care services and the indemnity or service benefits, if  
20 any, which the enrollee is obligated to pay with respect to  
21 individual contracts, or an indication whether the plan is  
22 contributory or noncontributory with respect to group  
23 certificates; and  
24 (5) A description of the health maintenance organization's  
25 method for resolving enrollee complaints and a statement  
26 identifying the commissioner as an external source with whom  
27 grievances may be registered.  
28 (c) On the cover page of the evidence of coverage, a clear  
29 and complete statement of enrollees' rights as consumers,  
30 including but not limited to a description of each of the  
31 following:  
32 (1) based upon the delivery system of each health  
33 maintenance organization, a statement which describes any type  
34 of health care professional as defined in section 145.61, whose  
35 services may be available only by referral of the health  
36 maintenance organization's participating staff;  
37 (2) the right to available and accessible services which  
38 can be secured as promptly as appropriate for the symptoms  
39 presented, in a manner which assures continuity and, when  
40 medically necessary, the right to emergency services available  
41 24 hours a day and seven days a week;  
42 (3) the consumer's right to be informed of his-or-her  
43 health problems, and to receive information regarding treatment  
44 alternatives and risks which is sufficient to assure informed  
45 choice;  
46 (4) the right to refuse treatment;  
47 (5) the right to privacy of medical and financial records  
48 maintained by the health maintenance organization and its health  
49 care providers, in accordance with existing law;  
50 (6) the right to file a grievance with the health  
51 maintenance organization and the commissioner when experiencing  
52 a problem with the health maintenance organization or its health  
53 care providers;  
54 (7) the right to initiate a legal proceeding when  
55 dissatisfied with the health maintenance organization's final  
56 determination regarding a grievance;  
57 (8) the right of the enrollee and his-or-her dependents to  
58 continue group coverage in the event the enrollee is terminated  
59 or laid off from employment, provided that the cost of such  
60 coverage is paid by the enrollee and furthermore, the right of  
61 the enrollee to convert to an individual contract at the end of  
62 the continuation period;  
63 (9) the right for notification of enrollees regarding the  
64 cancellation or termination of contracts with participating  
65 primary care professionals, and the right to choose from among  
66 remaining participating primary care professionals;  
67 (10) the right to cancel an individual health maintenance  
68 contract within ten days of its receipt and to have premiums  
69 paid refunded if, after examination of the contract, the  
70 individual is not satisfied with it for any reason. The  
71 individual is responsible for repaying the health maintenance  
72 organization for any services rendered or claims paid by the  
73 health maintenance organization during the ten days; and  
74 (11) the right to a grace period of 31 days for the payment  
75 of each premium for an individual health maintenance contract



1 falling due after the first premium during which period the  
2 contract shall continue in force.

3 No change for subd 4 to 6

## 062D#08S

4 62D.08 ANNUAL REPORT.

5 No change for subd 1 to 2

6 Subd. 3. Such report shall be on forms prescribed by the  
7 commissioner of health, and shall include:

8 (a) A financial statement of the organization, including  
9 its balance sheet and receipts and disbursements for the  
10 preceding year certified by an independent certified public  
11 accountant, reflecting at least (1) all prepayment and other  
12 payments received for health care services rendered, (2)  
13 expenditures to all providers, by classes or groups of  
14 providers, and insurance companies or nonprofit health service  
15 plan corporations engaged to fulfill obligations arising out of  
16 the health maintenance contract, and (3) expenditures for  
17 capital improvements, or additions thereto, including but not  
18 limited to construction, renovation or purchase of facilities  
19 and capital equipment;

20 (b) The number of new enrollees enrolled during the year,  
21 the number of enrollees as of the end of the year and the number  
22 of enrollees terminated during the year;

23 (c) A summary of information compiled pursuant to section  
24 62D.04, subdivision 1, clause (c) in such form as may be  
25 required by the commissioner of health;

26 (d) A report of the names and addresses of all persons set  
27 forth in section 62D.03, subdivision 4, clause (c) who were  
28 associated with the health maintenance organization or the major  
29 participating entity during the preceding year, and the amount  
30 of wages, expense reimbursements, or other payments to such  
31 individuals for services to the health maintenance organization  
32 or the major participating entity, as those services relate to  
33 the health maintenance organization, including a full disclosure  
34 of all financial arrangements during the preceding year required  
35 to be disclosed pursuant to section 62D.03, subdivision 4,  
36 clause (d); and

37 (e) Such other information relating to the performance of  
38 the health maintenance organization as is reasonably necessary  
39 to enable the commissioner of health to carry out ~~his~~ the duties \*  
40 under sections 62D.01 to 62D.29.

41 No change for subd 4 to 5

## 062D#11S

42 62D.11 COMPLAINT SYSTEM.

43 Subdivision 1. Every health maintenance organization shall  
44 establish and maintain a complaint system including an impartial  
45 arbitration provision, to provide reasonable procedures for the  
46 resolution of written complaints initiated by enrollees  
47 concerning the provision of health care services. Arbitration  
48 shall be subject to chapter 572, except (a) in the event that an  
49 enrollee elects to litigate ~~his~~ a complaint prior to submission \*  
50 to arbitration, and (b) no medical malpractice damage claim  
51 shall be subject to arbitration unless agreed to by both parties  
52 subsequent to the event giving rise to the claim.

53 No change for subd 2

## 062D#14S

54 62D.14 EXAMINATIONS.

55 No change for subd 1 to 2

56 Subd. 3. In order to accomplish ~~his~~ the duties under this \*  
57 section with respect to the dealings of the participating  
58 entities with the health maintenance organization, the  
59 commissioner of health shall have the right to:

60 (a) inspect or otherwise evaluate the quality,  
61 appropriateness, and timeliness of services performed;

62 (b) audit and inspect any books and records of a health  
63 maintenance organization and a participating entity which  
64 pertain to services performed and determinations of amounts  
65 payable under such contract;

66 (c) require persons or organizations under examination to  
67 be deposed and to answer interrogatories, regardless of whether  
68 an administrative hearing or other civil proceeding has been or  
69 will be initiated; and

70 (d) employ site visits, public hearings, or any other  
71 procedures considered appropriate to obtain the information  
72 necessary to determine the issues.

73 Subd. 4. Any data or information pertaining to the



1 diagnosis, treatment, or health of any enrollee, or any  
 2 application obtained from any person, shall be private as  
 3 defined in chapter 13 and shall not be disclosed to any person  
 4 except (a) to the extent necessary to carry out the purposes of  
 5 sections 62D.01 to 62D.29, the commissioner and ~~his-or-her~~ a \*  
 6 designee shall have access to the above data or information but  
 7 the data removed from the health maintenance organization or  
 8 participating entity shall not identify any particular patient  
 9 or client by name or contain any other unique personal  
 10 identifier; (b) upon the express consent of the enrollee or  
 11 applicant; (c) pursuant to statute or court order for the  
 12 production of evidence or the discovery thereof; or (d) in the  
 13 event of claim or litigation between such person and the  
 14 provider or health maintenance organization wherein such data or  
 15 information is pertinent. In any case involving a suspected  
 16 violation of a law applicable to health maintenance  
 17 organizations in which access to health data maintained by the  
 18 health maintenance organization or participating entity is  
 19 necessary, the commissioner and ~~his-or-her~~ agents, while \*  
 20 maintaining the privacy rights of individuals and families,  
 21 shall be permitted to obtain data that identifies any particular  
 22 patient or client by name. A health maintenance organization  
 23 shall be entitled to claim any statutory privileges against such  
 24 disclosure which the provider who furnished such information to  
 25 the health maintenance organization is entitled to claim.

26 No change for subd 5 to 7

062D#15S

27 62D.15 SUSPENSION OR REVOCATION OF CERTIFICATE OF  
 28 AUTHORITY.

29 Subdivision 1. The commissioner of health may suspend or  
 30 revoke any certificate of authority issued to a health  
 31 maintenance organization under sections 62D.01 to 62D.29 if ~~he~~ \*  
 32 the commissioner finds that: \*

33 (a) The health maintenance organization is operating  
 34 significantly in contravention of its basic organizational  
 35 document, its health maintenance contract, or in a manner  
 36 contrary to that described in and reasonably inferred from any  
 37 other information submitted under section 62D.03, unless  
 38 amendments to such submissions have been filed with and approved  
 39 by the commissioner of health;

40 (b) The health maintenance organization issues evidences of  
 41 coverage which do not comply with the requirements of section  
 42 62D.07;

43 (c) The health maintenance organization is unable to  
 44 fulfill its obligations to furnish comprehensive health  
 45 maintenance services as required under its health maintenance  
 46 contract;

47 (d) The health maintenance organization is no longer  
 48 financially responsible and may reasonably be expected to be  
 49 unable to meet its obligations to enrollees or prospective  
 50 enrollees;

51 (e) The health maintenance organization has failed to  
 52 implement a mechanism affording the enrollees an opportunity to  
 53 participate in matters of policy and operation under section  
 54 62D.06;

55 (f) The health maintenance organization has failed to  
 56 implement the complaint system required by section 62D.11 in a  
 57 manner designed to reasonably resolve valid complaints;

58 (g) The health maintenance organization, or any person  
 59 acting with its sanction, has advertised or merchandised its  
 60 services in an untrue, misrepresentative, misleading, deceptive,  
 61 or unfair manner;

62 (h) The continued operation of the health maintenance  
 63 organization would be hazardous to its enrollees; or

64 (i) The health maintenance organization has otherwise  
 65 failed to substantially comply with sections 62D.01 to 62D.29 or  
 66 with any other statute or administrative rule applicable to  
 67 health maintenance organizations, or has submitted false  
 68 information in any report required hereunder.

69 No change for subd 2 to 3

70 Subd. 4. When the certificate of authority of a health  
 71 maintenance organization is revoked, the organization shall  
 72 proceed, immediately following the effective date of the order  
 73 of revocation, to wind up its affairs, and shall conduct no  
 74 further business except as may be essential to the orderly  
 75 conclusion of the affairs of the organization. It shall engage



1 in no further advertising or solicitation whatsoever. The  
2 commissioner of health may, by written order, permit further  
3 operation of the organization as ~~he~~ the commissioner may find to  
4 be in the best interest of enrollees, to the end that enrollees  
5 will be afforded the greatest practical opportunity to obtain  
6 continuing health care coverage.

## 062D#16S

7 62D.16 DENIAL, SUSPENSION, AND REVOCATION;  
8 ADMINISTRATIVE PROCEDURES.

9 Subdivision 1. When the commissioner of health has cause  
10 to believe that grounds for the denial, suspension or revocation  
11 of a certificate of authority exists, ~~he~~ the commissioner shall  
12 notify the health maintenance organization in writing  
13 specifically stating the grounds for denial, suspension or  
14 revocation and fixing a time of at least 20 days thereafter for  
15 a hearing on the matter, except in summary proceedings as  
16 provided in section 62D.18.

17 No change for subd 2

## 062D#22S

18 62D.22 STATUTORY CONSTRUCTION AND RELATIONSHIP TO OTHER  
19 LAWS.

20 No change for subd 1 to 7

21 Subd. 8. All agents, solicitors, and brokers engaged in  
22 soliciting or dealing with enrollees or prospective enrollees of  
23 a health maintenance organization, whether employees or under  
24 contract to the health maintenance organization, shall be  
25 subject to the provisions of section 60A.17, concerning the  
26 licensure of health insurance agents, solicitors, and brokers,  
27 and lawful regulations thereunder. Medical doctors and others  
28 who merely explain the operation of health maintenance  
29 organizations shall be exempt from the provisions of section  
30 60A.17. Section 60A.17, subdivision 2, clause (2) shall not  
31 apply except as to provide for an examination of an applicant in  
32 ~~his~~ the applicant's knowledge concerning the operations and  
33 benefits of health maintenance organizations and related  
34 insurance matters.

35 Subd. 9. Repealed, 1984 c 464 s 46

36 No change for subd 10

## 062D#24S

37 62D.24 STATE COMMISSIONER OF HEALTH'S AUTHORITY TO  
38 CONTRACT.

39 The commissioner of health, in carrying out ~~his~~ the  
40 obligations under sections 62D.01 to 62D.29, may contract with  
41 the commissioner of commerce or other qualified persons to make  
42 recommendations concerning the determinations required to be  
43 made ~~by him~~. Such recommendations may be accepted in full or in  
44 part by the commissioner of health.

## 062E#02S

45 62E.02 DEFINITIONS.

46 No change for subd 1 to 7

47 Subd. 8. "Employee" means any Minnesota resident who has  
48 entered into the employment of or works under contract or  
49 service or apprenticeship with any employer. "Employee" does not  
50 include a person who has been employed for less than 30 days by  
51 ~~his~~ that person's present employer, nor one who is employed less  
52 than 30 hours per week by ~~his~~ that person's present employer,  
53 nor an independent contractor.

54 No change for subd 9 to 23

## 062E#03S

55 62E.03 DUTIES OF THE EMPLOYER.

56 Subdivision 1. Each employer who provides or makes  
57 available to ~~his~~ employees a plan of health coverage shall make  
58 available to ~~his~~ employees employed in this state a plan or  
59 combination of plans which have been certified by the  
60 commissioner as a number two qualified plan. If the plan of  
61 health coverage does not meet the requirements of section 62E.06  
62 for a number two qualified plan, the employer shall make  
63 available a supplemental plan of health benefits which, when  
64 combined with the existing plan of health benefits, constitutes  
65 a number two coverage plan. The plan or combinations of plans  
66 may be financed from funds contributed solely by the employer or  
67 solely by the employees or any combination thereof. The plans  
68 may consist of self insurance, health maintenance contracts,  
69 group policies or individual policies or any combination thereof.

70 Subd. 2. Repealed, 1Sp1985 c 14 art 1 s 59

## 062E#06S



1 62E.06 MINIMUM BENEFITS OF QUALIFIED PLAN.

2 Subdivision 1. NUMBER THREE PLAN. A plan of health  
3 coverage shall be certified as a number three qualified plan if  
4 it otherwise meets the requirements established by chapters 62A  
5 and 62C, and the other laws of this state, whether or not the  
6 policy is issued in Minnesota, and meets or exceeds the  
7 following minimum standards:

8 (a) The minimum benefits for a covered individual shall,  
9 subject to the other provisions of this subdivision, be equal to  
10 at least 80 percent of the cost of covered services in excess of  
11 an annual deductible which does not exceed \$150 per person. The  
12 coverage shall include a limitation of \$3,000 per person on  
13 total annual out-of-pocket expenses for services covered under  
14 this subdivision. The coverage shall be subject to a maximum  
15 lifetime benefit of not less than \$250,000.

16 The \$3,000 limitation on total annual out-of-pocket  
17 expenses and the \$250,000 maximum lifetime benefit shall not be  
18 subject to change or substitution by use of an actuarially  
19 equivalent benefit.

20 (b) Covered expenses shall be the usual and customary  
21 charges for the following services and articles when prescribed  
22 by a physician:

23 (1) hospital services;

24 (2) professional services for the diagnosis or treatment of  
25 injuries, illnesses, or conditions, other than outpatient mental  
26 or dental, which are rendered by a physician or at ~~his~~ the  
27 physician's direction; \*  
\*

28 (3) drugs requiring a physician's prescription;

29 (4) services of a nursing home for not more than 120 days  
30 in a year if the services would qualify as reimbursable services  
31 under medicare;

32 (5) services of a home health agency if the services would  
33 qualify as reimbursable services under medicare;

34 (6) use of radium or other radioactive materials;

35 (7) oxygen;

36 (8) anesthetics;

37 (9) prostheses other than dental;

38 (10) rental or purchase, as appropriate, of durable medical  
39 equipment other than eyeglasses and hearing aids;

40 (11) diagnostic X-rays and laboratory tests;

41 (12) oral surgery for partially or completely unerupted  
42 impacted teeth, a tooth root without the extraction of the  
43 entire tooth, or the gums and tissues of the mouth when not  
44 performed in connection with the extraction or repair of teeth;

45 (13) services of a physical therapist; and

46 (14) transportation provided by licensed ambulance service  
47 to the nearest facility qualified to treat the condition; or a  
48 reasonable mileage rate for transportation to a kidney dialysis  
49 center for treatment.

50 (c) Covered expenses for the services and articles  
51 specified in this subdivision do not include the following:

52 (1) any charge for care for injury or disease either (i)  
53 arising out of an injury in the course of employment and subject  
54 to a workers' compensation or similar law, (ii) for which  
55 benefits are payable without regard to fault under coverage  
56 statutorily required to be contained in any motor vehicle, or  
57 other liability insurance policy or equivalent self-insurance,  
58 or (iii) for which benefits are payable under another policy of  
59 accident and health insurance, medicare or any other  
60 governmental program except as otherwise provided by law;

61 (2) any charge for treatment for cosmetic purposes other  
62 than for reconstructive surgery when such service is incidental  
63 to or follows surgery resulting from injury, sickness or other  
64 diseases of the involved part or when such service is performed  
65 on a covered dependent child because of congenital disease or  
66 anomaly which has resulted in a functional defect as determined  
67 by the attending physician;

68 (3) care which is primarily for custodial or domiciliary  
69 purposes which would not qualify as eligible services under  
70 medicare;

71 (4) any charge for confinement in a private room to the  
72 extent it is in excess of the institution's charge for its most  
73 common semiprivate room, unless a private room is prescribed as  
74 medically necessary by a physician, provided, however, that if  
75 the institution does not have semiprivate rooms, its most common  
76 semiprivate room charge shall be considered to be 90 percent of



1 its lowest private room charge;  
2 (5) that part of any charge for services or articles  
3 rendered or prescribed by a physician, dentist, or other health  
4 care personnel which exceeds the prevailing charge in the  
5 locality where the service is provided; and  
6 (6) any charge for services or articles the provision of  
7 which is not within the scope of authorized practice of the  
8 institution or individual rendering the services or articles.  
9 (d) The minimum benefits for a qualified plan shall  
10 include, in addition to those benefits specified in clauses (a)  
11 and (e), benefits for well baby care, effective July 1, 1980,  
12 subject to applicable deductibles, coinsurance provisions, and  
13 maximum lifetime benefit limitations.  
14 (e) Effective July 1, 1979, the minimum benefits of a  
15 qualified plan shall include, in addition to those benefits  
16 specified in clause (a), a second opinion from a physician on  
17 all surgical procedures expected to cost a total of \$500 or more  
18 in physician, laboratory and hospital fees, provided that the  
19 coverage need not include the repetition of any diagnostic tests.  
20 (f) Effective August 1, 1985, the minimum benefits of a  
21 qualified plan must include, in addition to the benefits  
22 specified in clauses (a), (d), and (e), coverage for special  
23 dietary treatment for phenylketonuria when recommended by a  
24 physician.

25 No change for subd 2 to 4

062E#11S

26 62E.11 OPERATION OF COMPREHENSIVE PLAN.

27 No change for subd 1 to 7

28 Subd. 8. Any annual fiscal year end or interim assessment  
29 levied against a contributing member may be offset, in an amount  
30 equal to the assessment paid to the association, against the  
31 premium tax payable by that contributing member pursuant to  
32 section 60A.15 for the year in which the annual fiscal year end  
33 or interim assessment is levied. The commissioner of revenue  
34 shall annually, on or before January 15, report to the chairmen  
35 chairs of the senate finance, house appropriations, senate  
36 commerce and house financial institutions and insurance  
37 committees as to the total amount of premium tax offset claimed  
38 by contributing members during the preceding calendar year.

062E#13S

39 62E.13 ADMINISTRATION OF PLAN.

40 No change for subd 1 to 3

41 Subd. 4. The writing carrier shall provide to all eligible  
42 persons enrolled in the plan an individual policy or  
43 certificate, setting forth a statement as to the insurance  
44 protection to which ~~he is~~ they are entitled, with whom claims  
45 are to be filed and to whom benefits are payable. The policy or  
46 certificate shall indicate that coverage was obtained through  
47 the association.

48 No change for subd 5 to 9

062E#16S

49 62E.16 CONVERSION PRIVILEGES.

50 Every program of self-insurance, policy of group accident  
51 and health insurance or contract of coverage by a health  
52 maintenance organization written or renewed in this state, shall  
53 include, in addition to the provisions required by section  
54 62A.17, the right to convert to an individual coverage qualified  
55 plan without the addition of underwriting restrictions if the  
56 individual insured leaves the group regardless of the reason for  
57 leaving the group, or upon cancellation or termination of the  
58 coverage for the group except where uninterrupted and continuous  
59 group coverage is otherwise provided to the group. The required  
60 conversion contract must treat pregnancy the same as any other  
61 covered illness under the conversion contract. The person may  
62 exercise ~~his~~ this right to conversion within 30 days of leaving  
63 the group or within 30 days following ~~his~~ receipt of due notice  
64 of cancellation or termination of coverage of the group and upon  
65 payment of premiums from the date of termination or  
66 cancellation. Due notice of cancellation or termination of  
67 coverage for a group shall be provided to each employee having  
68 coverage in the group by the insurer, self-insurer or health  
69 maintenance organization canceling or terminating the coverage  
70 except where reasonable evidence indicates that uninterrupted  
71 and continuous group coverage is otherwise provided to the  
72 group. Every employer having a policy of group accident and  
73 health insurance, group subscriber or contract of coverage by a



1 health maintenance organization shall, upon request, provide the  
 2 insurer or health maintenance organization a list of the names  
 3 and addresses of covered employees. Plans of health coverage  
 4 shall also include a provision which, upon the death of the  
 5 individual in whose name the contract was issued, permits every  
 6 other individual then covered under the contract to elect,  
 7 within the period specified in the contract, to continue his \*  
 8 coverage under the same or a different contract without the \*  
 9 addition of underwriting restrictions until he the individual \*  
 10 would have ceased to have been entitled to coverage had the  
 11 individual in whose name the contract was issued lived. An  
 12 individual conversion contract issued by a health maintenance  
 13 organization shall not be deemed to be an individual enrollment  
 14 contract for the purposes of section 62D.10.

062E#52S

15 62E.52 DEFINITIONS.

16 No change for subd 1

17 Subd. 2. "Eligible person" means any person who is a  
 18 resident of Minnesota and who, while a resident of Minnesota,  
 19 has been found by the commissioner to have incurred an  
 20 obligation to pay:

21 (1) qualified expenses for himself that person and any \*  
 22 dependents in any 12 consecutive months exceeding:

- 23 (a) 40 percent of his household income up to \$15,000, plus \*  
 24 50 percent of his household income between \$15,000 and \$25,000, \*  
 25 plus 60 percent of his household income in excess of \$25,000; or \*  
 26 (b) \$2,500, whichever is greater; or

27 (2) qualified nursing home expenses for himself that person \*  
 28 and any dependents in any 12 consecutive months exceeding 20 \*  
 29 percent of his household income. \*

30 No change for subd 3 to 4

31 Subd. 5. "Household income" means the gross income of an \*  
 32 eligible person and all his dependents 23 years of age or older \*  
 33 for the calendar year preceding the year in which an application \*  
 34 is filed pursuant to section 62E.53.

35 No change for subd 6 to 7

36 Subd. 8. "Third party" means any person other than the \*  
 37 eligible person or his dependents. \*

062E#53S

38 62E.53 APPLICATION FOR ASSISTANCE.

39 Subdivision 1. Any-person All persons who believes believe \*  
 40 that he-is they are or will become an eligible person may submit \*  
 41 an application for state assistance to the commissioner. The \*  
 42 application shall include a listing of expenses incurred prior \*  
 43 to the date of the application and shall designate the date on \*  
 44 which the 12 month period for computing expenses began.

45 Subd. 2. If the commissioner determines that an applicant \*  
 46 is an eligible person, he the commissioner shall pay \*

47 (1) 90 percent of all qualified expenses of the eligible \*  
 48 person and his dependents in excess of: \*

- 49 (a) 40 percent of his household income under \$15,000, plus \*  
 50 50 percent of his household income between \$15,000 and \$25,000, \*  
 51 plus 60 percent of his household income in excess of \$25,000; or \*  
 52 (b) \$2,500;

53 whichever is greater for the 12 month period in which the \*  
 54 applicant becomes an eligible person and

55 (2) all qualified nursing home expenses of the eligible \*  
 56 person and his dependents in excess of 20 percent of his \*  
 57 household income. Provided, however, that the payment of \*  
 58 qualified nursing home expenses shall not be made until the end \*  
 59 of the fiscal year. If the appropriation for the payment of \*  
 60 qualified nursing home expenses is inadequate to pay all \*  
 61 qualified nursing home expenses, the commissioner shall prorate \*  
 62 the payments among all eligible persons in proportion to their \*  
 63 share of the total of the qualified nursing home expenses of all \*  
 64 eligible persons.

65 Subd. 3. The commissioner shall by rule establish \*  
 66 procedures for determining whether and to what extent qualified \*  
 67 expenses are reasonable charges. Unless otherwise provided for \*  
 68 by rule charges shall be reviewed for reasonableness by the same \*  
 69 procedures used to review and limit reimbursement under the \*  
 70 provisions of chapter 256B. If the commissioner determines that \*  
 71 the charge for a health service is excessive, he the \*  
 72 commissioner may limit his payment to the reasonable charge for \*  
 73 that service. If the commissioner determines that a health \*  
 74 service provided to an eligible person was not medically



1 necessary, he the commissioner may refuse to pay for the \*  
 2 service. The commissioner may contract with a review  
 3 organization as defined in section 145.61, in making any  
 4 determinations as to whether or not a charge is excessive and in  
 5 making any determination as to whether or not a service was  
 6 medically necessary. If the commissioner in accordance with  
 7 this section refuses to pay all or a part of the charge for a  
 8 health service, the unpaid portion of the charge shall be deemed  
 9 to be an unconscionable fee, against the public policy of this  
 10 state, and unenforceable in any action brought for the recovery  
 11 of moneys owed.

12 Subd. 4. No applicant shall be eligible for state  
 13 assistance under sections 62E.51 to 62E.55 unless he the \*  
 14 applicant has authorized the commissioner of human services in \*  
 15 writing to examine all personal medical records developed while  
 16 the applicant received the medical care for which state  
 17 assistance is sought. The commissioner shall use the medical  
 18 records only for the purpose of investigating whether or not a  
 19 health services vendor has submitted a claim for reimbursement,  
 20 a cost report or a rate application which the vendor knows to be  
 21 false in whole or in part, or in order to determine whether or  
 22 not the medical care provided to the applicant was medically  
 23 necessary. This written authorization shall be presented to the  
 24 vendor of medical care before the commissioner gains access to  
 25 the records. The vendor of medical care shall receive  
 26 notification from the commissioner at least 24 hours before the  
 27 commissioner gains access to such records. Notwithstanding any  
 28 other law to the contrary, a vendor of medical care shall not be  
 29 subject to any civil or criminal liability for providing access  
 30 to medical records to the commissioner pursuant to this  
 31 subdivision.

32 Subd. 5. Health services provided outside Minnesota to  
 33 eligible persons are qualified expenses in the following  
 34 situations:

35 (1) When it is general practice for residents of Minnesota  
 36 to use health services beyond the borders of this state; or

37 (2) When the availability of necessary medical care,  
 38 services, or supplementary resources make it necessary for an  
 39 individual to use health services outside the state; or

40 (3) Where an emergency arises from accident or illness and  
 41 the individual is outside the state; or

42 (4) Where the health of the individual would be endangered  
 43 if the care and services were postponed until he the individual \*  
 44 returns to Minnesota; or

45 (5) Where the health of the individual would be endangered \*  
 46 if he the individual attempted to return to Minnesota in order  
 47 to receive medical care.

062E#531S

48 62E.531 THIRD PARTY LIABILITY.

49 Subdivision 1. When the commissioner pays for or becomes  
 50 liable for payments for health services under the provisions of  
 51 sections 62E.51 to 62E.55, the department of human services  
 52 shall have a lien for payments and liabilities for the services  
 53 upon any and all causes of action which accrue to the person to  
 54 whom the services were furnished, or to his the person's legal \*  
 55 representatives, as a result of injuries which directly or  
 56 indirectly led to the incurring of qualified expenses.

57 The department may perfect and enforce its lien by  
 58 following the procedures set forth in sections 514.69, 514.70,  
 59 and 514.71, except that it shall have one year from the date  
 60 when the last item of health service was furnished in which to  
 61 file its verified lien statement. The statement shall be filed  
 62 with the appropriate clerk of court in the county in which the  
 63 recipient of the services resides or in the county in which the  
 64 action was filed.

65 No change for subd 2

66 Subd. 3. Upon furnishing assistance under the provisions  
 67 of sections 62E.51 to 62E.55, the department of human services  
 68 shall be subrogated, to the extent of its payments for health  
 69 services, to any rights the eligible person or his a dependent \*  
 70 may have under the terms of any plan of health coverage as  
 71 defined in section 62E.02, subdivision 9. The right of  
 72 subrogation shall not attach prior to written notice of the  
 73 exercise of subrogation rights to the issuer of the plan of  
 74 health coverage.

75 The attorney general, or the appropriate county attorney,



1 acting upon direction from the attorney general, may institute  
2 or join a civil action against the issuer of the plan of health  
3 coverage to recover under this subdivision.

062F#04S

4 62F.04 AUTHORIZATION TO ISSUE INSURANCE.

5 Subdivision 1. If the commissioner determines after a  
6 hearing that medical malpractice insurance cannot be made  
7 available for either physicians, hospitals or other specific  
8 types of health care providers in the voluntary market, he the \*  
9 commissioner shall authorize the association to issue medical \*  
10 malpractice insurance on a primary basis for physicians,  
11 hospitals or other health care providers. If the commissioner  
12 determines after a hearing that insurance issued by the  
13 association can be made available in the voluntary market, he \*  
14 the commissioner shall revoke the association's authorization to \*  
15 issue that insurance which can be made available.

16 No change for subd 2

062F#05S

17 62F.05 PLAN OF OPERATION.

18 Subdivision 1. Within 45 days following April 14, 1976,  
19 the directors of the association shall submit to the  
20 commissioner for ~~his~~ review, a proposed plan of operation, \*  
21 consistent with the provisions of sections 62F.01 to 62F.14.

22 The plan of operation shall provide for economic, fair and  
23 nondiscriminatory administration and for prompt and efficient  
24 providing of medical malpractice insurance. It may contain  
25 other provisions, including but not limited to preliminary  
26 assessment of all members for initial expenses necessary to  
27 commence operations, establishment of necessary facilities,  
28 management of the association, assessment of members to defray  
29 losses and expenses, commission arrangements, reasonable and  
30 objective underwriting standards, acceptance and cession of  
31 reinsurance, appointment of servicing carriers or other  
32 servicing arrangements and procedures for determining amounts of  
33 insurance to be provided by the association.

34 No change for subd 2 to 3

062F#06S

35 62F.06 POLICY FORMS AND RATES.

36 Subdivision 1. A policy issued by the association shall  
37 provide for a continuous period of coverage beginning with its  
38 effective date and terminating automatically at 12:01 a.m. on  
39 September 1, 1988, or sooner as provided in sections 62F.01 to  
40 62F.14. The policy shall be issued subject to the group  
41 retrospective rating plan and the stabilization reserve fund  
42 authorized by section 62F.09. The policy shall be written to  
43 apply to injury which results from acts or omissions during the  
44 policy period. No policy form shall be used by the association  
45 unless it has been filed with the commissioner, and the  
46 commissioner may disapprove the form within 30 days if he the \*  
47 commissioner determines it is misleading or violates public \*  
48 policy.

49 No change for subd 2 to 4

50 Subd. 5. The commissioner shall examine the business of  
51 the association as often as he the commissioner deems \*  
52 appropriate to insure that the group retrospective rating plan  
53 ~~is~~ operating in a manner consistent with sections 62F.01 to  
54 62F.14. If he the commissioner finds that the operation is \*  
55 deficient or inconsistent with sections 62F.01 to 62F.14, he the \*  
56 commissioner may order the association to take corrective action. \*

57 No change for subd 6 to 7

062F#11S

58 62F.11 PRIVILEGED COMMUNICATIONS.

59 No cause of action of any nature shall arise against the  
60 association, the commissioner or ~~his~~ the commissioner's \*  
61 authorized representatives or any other person or organization,  
62 for any statements made in good faith by them during any  
63 proceedings or concerning any matters within the scope of  
64 sections 62F.01 to 62F.14.

062F#13S

65 62F.13 PUBLIC OFFICERS OR EMPLOYEES.

66 No director of the stabilization reserve fund who is  
67 otherwise a public officer or employee shall forfeit ~~his~~ that \*  
68 person's office or employment or lose the rights and privileges \*  
69 pertaining thereto, by reason of membership on the board of  
70 directors of the stabilization reserve fund.

062G#04S



## 1 62G.04 DEFINITIONS.

2 No change for subd 1 to 7

3 Subd. 8. "Legal service agreement" means an arrangement  
4 between a legal service plan corporation and a provider under  
5 which the provider agrees that when ~~he provides~~ legal services \*  
6 for are provided to a subscriber he the provider shall not make \*  
7 a direct charge against the subscriber for those legal services  
8 or parts of legal services which are covered by the subscribers  
9 contract, but shall look to the legal service plan corporation  
10 for the payment for covered legal services, to the extent they  
11 are covered.

12 No change for subd 9 to 10

## 062G#05S

## 13 62G.05 LEGAL SERVICE PLAN CORPORATION AUTHORIZED.

14 Subdivision 1. A legal service plan corporation may be  
15 organized to establish, maintain and operate a legal service  
16 plan providing legal services in their entirety, or in part,  
17 according to the subscribers contract. No subscribers contract  
18 shall provide for payment of cash indemnification by the  
19 corporation to the subscriber or ~~his~~ the subscriber's estate, \*  
20 except as provided by sections 62G.01 to 62G.25, as they relate \*  
21 to nonparticipating providers. ~~If-the~~ A subscriber who \*  
22 compensates the provider for services received ~~he~~ is subrogated \*  
23 to the provider's right against the legal service plan.

24 No change for subd 2 to 3

## 062G#08S

## 25 62G.08 APPROVAL OF ARTICLES AND BYLAWS.

26 Subdivision 1. Articles of incorporation, bylaws or  
27 amendments thereto must be approved by the commissioner. Failure  
28 of the commissioner to approve or disapprove any article, bylaw  
29 or amendment submitted for approval by an order transmitted to  
30 the legal service plan corporation within 30 days of receipt and  
31 stating the reasons for any disapproval, shall be deemed  
32 approval.

33 Upon approval by the commissioner, the legal service plan  
34 corporation shall file the articles of incorporation or  
35 amendment of articles of incorporation with the secretary of  
36 state, together with a copy of the order or an affidavit of an  
37 officer of the legal service plan corporation that no order has  
38 been issued and that more than 30 days have expired since  
39 submission of the proposed articles of incorporation or  
40 amendment of articles of incorporation. When the filing fees and  
41 charges have been paid as required by law, and the secretary of  
42 state determines that the articles of incorporation or  
43 amendments of articles of incorporation are in acceptable form,  
44 he the secretary of state shall record them and take any other \*  
45 action provided for by chapter 317.

46 No change for subd 2

## 062G#10S

## 47 62G.10 CERTIFICATE OF AUTHORITY.

48 No change for subd 1

49 Subd. 2. The commissioner shall grant a certificate of  
50 authority after ~~he has determined~~ determining that the applicant \*  
51 is in compliance with sections 62G.01 to 62G.25 with regard to \*  
52 the applicant's stated purpose, its articles and bylaws and its  
53 financial condition, that it has met the filing requirements of  
54 sections 62G.01 to 62G.25 relating to subscribers contracts and  
55 service agreements and that the legal service plan corporation  
56 has knowledgeable, responsible management.

57 No change for subd 3 to 4

## 062G#13S

## 58 62G.13 FINANCIAL STATEMENTS AND EXAMINATIONS.

59 No change for subd 1

60 Subd. 2. The commissioner shall examine a legal service  
61 plan corporation to ascertain its financial condition, its  
62 ability to fulfill its obligations, and its compliance with  
63 sections 62G.01 to 62G.25, when expedient for protection of the  
64 public, but not less than once every three years. ~~He~~ The \*  
65 commissioner shall have access at all reasonable times to all \*  
66 books and records of the legal service plan corporation, and may  
67 summon the officers and employees and examine them under oath as  
68 to any matter pertinent to sections 62G.01 to 62G.25.

69 Subd. 3. The commissioner shall visit and examine each  
70 legal service plan corporation within the first six months after  
71 it begins doing business, and thereafter once during each of the  
72 next three years. Thereafter ~~he~~ the commissioner shall visit \*



1 and examine the corporation at least once every three years.

2 No change for subd 4 to 5

062G#14S

3 62G.14 SUSPENSION.

4 A legal service plan corporation is subject to section  
5 60A.051, relating to the denial, suspension or revocation of a  
6 certificate of authority, and to the provisions of chapter 60B.  
7 The commissioner also may suspend or revoke a certificate for  
8 any violation or noncompliance with sections 62G.01 to 62G.25,  
9 following a hearing under procedures established by the rules of  
10 the commissioner. The commissioner may suspend or revoke the  
11 certification of authority of a foreign legal service plan  
12 corporation for the same reasons for which a domestic legal  
13 service corporation's certificate may be suspended or revoked.  
14 ~~He~~ The commissioner may also revoke or suspend the certificate  
15 of a foreign legal service plan if its activities outside the  
16 state of Minnesota impair its solvency or its ability to meet  
17 its obligations in this state.

\*

062G#16S

18 62G.16 SUBSCRIBERS CONTRACTS.

19 No change for subd 1 to 2

20 Subd. 3. Except as provided in section 62G.15, subdivision  
21 4, nothing in the subscribers contract shall deny the subscriber  
22 free choice of the provider within a particular class of  
23 providers who is to serve ~~him~~ the subscriber, and there shall be  
24 no interference with a provider-subscriber relationship.

\*

25 No change for subd 4

26 Subd. 5. A subscribers contract or certificate shall state  
27 that it and all riders and endorsements, together with any  
28 application if signed by the subscriber, identification issued  
29 ~~to him~~, and the applicable benefit schedules on file at the home  
30 office of the legal service plan corporation and with the  
31 commissioner, shall constitute the entire contract between the  
32 legal service plan corporation and the subscriber.

\*

33 Subd. 6. Except as otherwise provided by this subdivision,  
34 no subscribers contract shall provide for the payment of any  
35 cash or other material benefit to the subscriber or ~~his~~ the  
36 subscriber's estate. A subscribers contract may provide for the  
37 payment for legal services rendered or furnished by a  
38 nonparticipating provider to the extent such legal services are  
39 covered by the contract. ~~If the~~ A subscriber compensates who is  
40 compensated by the provider for services received ~~he~~ is  
41 subrogated to the provider's right against the legal service  
42 plan.

\*

\*

\*

\*

43 No change for subd 7

44 Subd. 8. No legal service plan corporation shall deliver  
45 or issue for delivery in this state any subscribers contract,  
46 endorsement, rider, amendment or application until a copy of the  
47 form thereof has been filed with the commissioner, subject to  
48 disapproval by the commissioner. The commissioner also may, by  
49 rule, exempt from filing those subscribers contracts issued to  
50 groups upon such reasonable conditions and restrictions as ~~he~~  
51 the commissioner may require.

\*

\*

52 No change for subd 9

53 Subd. 10. An order of disapproval shall state that a  
54 hearing will be granted within 20 days upon written request. The  
55 commissioner shall conduct the hearing within 20 days after  
56 receipt of the request and shall give not less than ten days  
57 written notice of the time and place and matters to be  
58 considered. Within 15 days after the hearing, the commissioner  
59 shall affirm, reverse, or modify ~~his~~ his previous action in writing,  
60 specifying ~~his~~ the reasons therefor. Pending the hearing and  
61 decision thereon, the commissioner may postpone the effective  
62 date of ~~his~~ the previous action.

\*

\*

\*

63 No change for subd 11 to 12

062G#20S

64 62G.20 LICENSE FOR SOLICITOR OR AGENT.

65 Subdivision 1. No person shall act as a solicitor or agent  
66 for solicitation of subscribers on behalf of a legal service  
67 plan corporation, except an officer of the corporation, ~~until he~~  
68 obtains before obtaining a license from the commissioner. The  
69 license shall be granted to qualified persons only upon request  
70 of the legal service plan corporation. The commissioner may  
71 establish by rule reasonable standards of qualification.

\*

\*

72 Subd. 2. Applications for license shall be submitted to  
73 the commissioner on forms provided ~~by him~~. Except as provided

\*



1 in subdivision 3, the applicant must pass a written examination  
 2 reasonably designed to determine whether ~~he~~ the applicant is \*  
 3 qualified to be licensed as an agent or solicitor. The  
 4 examination shall be pertinent to the contracts and coverage  
 5 furnished by the legal service plan corporation. Prior to  
 6 examination or reexamination, and prior to issuance or renewal  
 7 of a license, the applicant shall pay to the commissioner the  
 8 fees required for examination or reexamination for, and issuance  
 9 or renewal of, an insurance agent's license for one line of  
 10 insurance. The license shall expire May 31 of each year unless  
 11 renewed by written request with payment of the renewal fees.  
 12 The license shall not authorize a person to act as an insurance  
 13 agent or solicitor.

14 No change for subd 3

15 Subd. 4. A person is not qualified for a license if upon  
 16 examination or reexamination it is determined that ~~he~~ the person \*  
 17 is incompetent to act as an agent or solicitor ~~if he~~ has acted \*  
 18 in any manner which would disqualify a person to hold a license  
 19 as an insurance agent or solicitor under section 60A.17,  
 20 subdivision ~~6~~ 7 ~~or if he~~ fails to produce documents lawfully \*  
 21 subpoenaed by the commissioner ~~if~~ or fails to appear at a hearing \*  
 22 to which ~~he~~ that person is a party or has been lawfully \*  
 23 subpoenaed.

062G#24S

24 62G.24 PENALTIES.

25 If a legal service plan corporation violates any provision  
 26 of sections 62G.01 to 62G.25 or other applicable law, the  
 27 commissioner may by ~~his~~ order suspend or revoke its certificate \*  
 28 of authority, and impose a penalty not to exceed \$5,000 for each  
 29 offense. The order shall be subject to the notice, hearing and  
 30 appeal provided as to an order disapproving a subscribers  
 31 contract.

064B#08S

32 64B.08 PERSONAL LIABILITY; INDEMNIFICATION; INSURANCE.

33 No change for subd 1

34 Subd. 2. INDEMNIFICATION. A person may be  
 35 indemnified and reimbursed by a society for expenses reasonably  
 36 incurred by and liabilities imposed upon the person in  
 37 connection with or arising out of any action, suit, or  
 38 proceeding, whether civil, criminal, administrative, or  
 39 investigative, or threat thereof, in which the person may be  
 40 involved by reason of the fact that ~~he or she~~ the person is or \*  
 41 was a director, officer, employee, or agent of the society or of  
 42 any firm, corporation, or organization which ~~he or she~~ the \*  
 43 person served in any capacity at the request of the society. A \*  
 44 person shall not be so indemnified or reimbursed (1) in relation  
 45 to any matter in the action, suit, or proceeding as to which ~~he~~ \*  
 46 ~~or she~~ the person shall finally be adjudged to be or have been \*  
 47 guilty of breach of a duty as a director, officer, employee, or  
 48 agent of the society, or (2) in relation to any matter in the  
 49 action, suit, or proceeding, or threat thereof, which has been  
 50 made the subject of a compromise settlement, unless in either  
 51 such case the person acted in good faith for a purpose the  
 52 person reasonably believed to be in or not opposed to the best  
 53 interests of the society and, in a criminal action or  
 54 proceeding, in addition, had no reasonable cause to believe that  
 55 ~~his or her~~ the person's conduct was unlawful. The determination \*  
 56 whether the conduct of the person met the standard required in  
 57 order to justify indemnification and reimbursement in relation  
 58 to any matter described in clause (1) or (2) may only be made by  
 59 the supreme governing body or board of directors by a majority  
 60 vote of a quorum consisting of persons who were not parties to  
 61 the action, suit, or proceeding or by a court of competent  
 62 jurisdiction. The termination of any action, suit, or  
 63 proceeding by judgment, order, settlement, conviction, or upon a  
 64 plea of no contest, as to the person shall not in itself create  
 65 a conclusive presumption that the person did not meet the  
 66 standard of conduct required in order to justify indemnification  
 67 and reimbursement. The foregoing right of indemnification and  
 68 reimbursement shall not be exclusive of other rights to which  
 69 the person may be entitled as a matter of law and shall inure to  
 70 the benefit of ~~his or her~~ heirs, executors, and administrators. \*

71 Subd. 3. INSURANCE. A society may purchase and  
 72 maintain insurance on behalf of any person who is or was a  
 73 director, officer, employee, or agent of the society, or who is  
 74 or was serving at the request of the society as a director,



1 officer, employee, or agent of any other firm, corporation, or  
 2 organization against any liability asserted against the person  
 3 and incurred ~~by him or her~~ in any such capacity or arising out  
 4 of ~~his or her~~ the person's status as such, whether or not the  
 5 society would have the power to indemnify the person against  
 6 such liability under this section.

064B#25S

7 64B.25 VALUATION.  
 8 No change for subd 1 to 2  
 9 Subd. 3. OTHER STANDARDS. The commissioner may ~~in~~  
 10 ~~his or her discretion,~~ accept other standards for valuation if  
 11 the commissioner finds that the reserves produced thereby will  
 12 not be less in the aggregate than reserves computed in  
 13 accordance with the minimum valuation standard herein  
 14 prescribed. The commissioner may ~~in his or her discretion,~~  
 15 vary the standards of mortality applicable to all benefit  
 16 contracts on substandard lives or other extra hazardous lives by  
 17 any society authorized to do business in this state.  
 18 No change for subd 4

064B#26S

19 64B.26 REPORTS.  
 20 Reports shall be filed in accordance with the provisions of  
 21 this section.  
 22 Every society transacting business in this state shall  
 23 annually, on or before the first day of March, unless for cause  
 24 shown such time has been extended by the commissioner, file with  
 25 the commissioner a true statement of its financial condition,  
 26 transactions, and affairs for the preceding calendar year. The  
 27 statement shall be in general form and context as approved by  
 28 the National Association of Insurance Commissioners for  
 29 fraternal benefit societies and as supplemented by additional  
 30 information required by the commissioner.

31 As part of the annual statement herein required, each  
 32 society shall, on or before the first day of March, file with  
 33 the commissioner a valuation of its certificates in force on  
 34 December 31 last preceding ~~provided.~~ The commissioner of  
 35 insurance may, ~~in his or her discretion~~ for cause shown, extend  
 36 the time for filing the valuation for not more than two calendar  
 37 months. The valuation shall be done in accordance with the  
 38 standards specified in section 64B.25. The valuation and  
 39 underlying data shall be certified by a qualified actuary or, at  
 40 the expense of the society, verified by the actuary of the  
 41 department of insurance of the state of domicile of the society.

42 A society neglecting to file the annual statement in the  
 43 form and within the time provided by this section shall forfeit  
 44 \$100 for each day during which the neglect continues, and, upon  
 45 notice by the commissioner to that effect, its authority to do  
 46 business in this state shall cease while the default continues.

064B#28S

47 64B.28 EXAMINATION OF SOCIETIES; NO ADVERSE PUBLICATIONS.  
 48 Subdivision 1. PROCEDURE. The commissioner, or any  
 49 person ~~he or she~~ the commissioner may appoint, may examine any  
 50 domestic, foreign, or alien society transacting or applying for  
 51 admission to transact business in this state in the same manner  
 52 as authorized for examination of domestic, foreign, or alien  
 53 insurers. Requirements of notice and an opportunity to respond  
 54 before findings are made public as provided in the laws  
 55 regulating insurers shall also be applicable to the examination  
 56 of societies.  
 57 No change for subd 2

064B#30S

58 64B.30 DOMESTIC ASSOCIATIONS; EXAMINATION;  
 59 REHABILITATION; DISSOLUTION.  
 60 Subdivision 1. VISITATION AND EXAMINATION. The  
 61 commissioner, or any person ~~he~~ the commissioner may appoint,  
 62 shall have the power of visitation and examination into the  
 63 affairs of any domestic society. The commissioner shall conduct  
 64 an examination at least once in every three years. ~~He~~ The  
 65 commissioner may:  
 66 (1) employ assistance for the purposes of examination and  
 67 ~~he the commissioner,~~ or any person ~~he the commissioner~~ may  
 68 appoint, shall have free access to any books, papers, and  
 69 documents that relate to the business of the association; and  
 70 (2) summon and qualify as witnesses, under oath, and  
 71 examine its officers, agents, and employees, or other persons,  
 72 in relation to the affairs, transactions, and condition of the



1 association.

2 Subd. 2. CONDITIONS. Wherever the commissioner is  
3 satisfied that any of the conditions exist as stated in chapter  
4 60B, he the commissioner may proceed as provided therein. \*

064B#31S

5 64B.31 SUSPENSION, REVOCATION, OR REFUSAL OF LICENSE OF  
6 FOREIGN OR ALIEN SOCIETY.

7 Subdivision 1. GROUNDS FOR REVOCATION. When the  
8 commissioner upon investigation finds that a foreign or alien  
9 society transacting or applying to transact business in this  
10 state:

11 (1) has exceeded its powers;

12 (2) has failed to comply with any of the provisions of this  
13 chapter;

14 (3) is not fulfilling its contracts in good faith; or

15 (4) is conducting its business fraudulently or in a manner  
16 hazardous to its members or creditors or the public;

17 the commissioner shall notify the society of the deficiency or

18 deficiencies and state in writing the reasons for ~~his-or-her~~ \*  
19 dissatisfaction. The commissioner shall at once issue a written  
20 notice to the society requiring that the deficiency or

21 deficiencies which exist are corrected. After the notice the  
22 society shall have a 30-day period in which to comply with the  
23 commissioner's request for correction, and if the society fails

24 to comply the commissioner shall notify the society of the  
25 findings of noncompliance and require the society to show cause  
26 on a date named why its license should not be suspended,

27 revoked, or refused. If on the date the society does not

28 present good and sufficient reason why its authority to do

29 business in this state should not be suspended, revoked, or

30 refused, the commissioner may suspend or refuse the license of

31 the society to do business in this state until satisfactory

32 evidence is furnished to the commissioner that the suspension or

33 refusal should be withdrawn or the commissioner may revoke the

34 authority of the society to do business in this state.

35 No change for subd 2

064B#38S

36 64B.38 CERTAIN ORGANIZATIONS EXEMPT.

37 No change for subd 1 to 2

38 Subd. 3. INFORMATION FURNISHED COMMISSIONER. The

39 commissioner may require from any association such information

40 as will enable ~~him-or-her~~ the commissioner to determine whether \*  
41 the association is exempt from the provisions of this chapter.

42 No association which is exempt by the provisions of this section

43 from the requirements of this chapter shall give or allow, or

44 promise to give or allow, to any person any compensation for

45 procuring new members.

064B#39S

46 64B.39 BENEFICIARY ASSOCIATIONS.

47 No change for subd 1 to 2

48 Subd. 3. ELIGIBLE BENEFICIARIES. Payments of death

49 benefits shall be made only to the families, heirs, blood

50 relatives, adopted children, fiance or fiancée of the member, or \*  
51 persons dependent upon ~~him-or-her~~ the member, or, when ~~his-or~~ \*  
52 her the certificate of membership may so provide, the executor \*  
53 or administrator of the estate of the member in trust for the

54 person or persons above mentioned as may be designated in the

55 certificate. Any member who, by reason of old age, or other

56 disability, is dependent for ~~his-or-her~~ support, in whole or in \*  
57 part, upon another, whether or not such other stands in the \*  
58 above relationship to ~~him-or-her~~ the member, may, with the \*  
59 consent of the association, and under regulations it prescribes, \*  
60 designate the person upon whom ~~he-or-she~~ the member is so \*  
61 dependent as a beneficiary under ~~his-or-her~~ the certificate; \*

62 and, in that case, the death benefits shall be paid according to

63 this designation.

64 No change for subd 4 to 5

065A#01S

65 65A.01 MINNESOTA STANDARD FIRE INSURANCE POLICY.

66 No change for subd 1 to 2a

67 Subd. 3. POLICY PROVISIONS. On said policy following

68 such matter as provided in subdivisions 1 and 2, printed in the

69 English language in type of such size or sizes and arranged in

70 such manner, as is approved by the commissioner of commerce, the

71 following provisions and subject matter shall be stated in the

72 following words and in the following sequence, but with the



1 convenient placing, if desired, of such matter as will act as a  
2 cover or back for such policy when folded, with the blanks below  
3 indicated being left to be filled in at the time of the issuing  
4 of the policy, to wit:

5 (Space for listing the amounts of insurance, rates and  
6 premiums for the basic coverages provided under the standard  
7 form of policy and for additional coverages or perils provided  
8 under endorsements attached. The description and location of  
9 the property covered and the insurable value(s) of any  
10 building(s) or structure(s) covered by the policy or its  
11 attached endorsements; also in the above space may be stated  
12 whether other insurance is limited and if limited the total  
13 amount permitted.)

14 In consideration of the provisions and stipulations herein  
15 or added hereto and of the premium above specified this company,  
16 for a term of ..... from ..... (At 12:01 a.m. Standard Time) to  
17 ..... (At 12:01 a.m. Standard Time) at location of property  
18 involved, to an amount not exceeding the amount(s) above  
19 specified does insure ..... and legal representatives  
20 .....

21 (In above space may be stated whether other insurance is  
22 limited.) (And if limited the total amount permitted.)

23 Subject to form No.(s) ..... attached hereto.

24 This policy is made and accepted subject to the foregoing  
25 provisions and stipulations and those hereinafter stated, which  
26 are hereby made a part of this policy, together with such  
27 provisions, stipulations and agreements as may be added hereto  
28 as provided in this policy.

29 The insurance effected above is granted against all loss or  
30 damage by fire originating from any cause, except as hereinafter  
31 provided, also any damage by lightning and by removal from  
32 premises endangered by the perils insured against in this  
33 policy, to the property described hereinafter while located or  
34 contained as described in this policy, or pro rata for five days  
35 at each proper place to which any of the property shall  
36 necessarily be removed for preservation from the perils insured  
37 against in this policy, but not elsewhere. The amount of said  
38 loss or damage, except in case of total loss on buildings, to be  
39 estimated according to the actual value of the insured property  
40 at the time when such loss or damage happens.

41 If the insured property shall be exposed to loss or damage  
42 from the perils insured against, the insured shall make all  
43 reasonable exertions to save and protect same.

44 This entire policy shall be void if, whether before a loss,  
45 the insured has willfully, or after a loss, the insured has  
46 willfully and with intent to defraud, concealed or  
47 misrepresented any material fact or circumstance concerning this  
48 insurance or the subject thereof, or the interests of the  
49 insured therein.

50 This policy shall not cover accounts, bills, currency,  
51 deeds, evidences of debt, money or securities; nor, unless  
52 specifically named hereon in writing, bullion, or manuscripts.

53 This company shall not be liable for loss by fire or other  
54 perils insured against in this policy caused, directly or  
55 indirectly by: (a) enemy attack by armed forces, including  
56 action taken by military, naval or air forces in resisting an  
57 actual or immediately impending enemy attack; (b) invasion; (c)  
58 insurrection; (d) rebellion; (e) revolution; (f) civil war; (g)  
59 usurped power; (h) order of any civil authority except acts of  
60 destruction at the time of and for the purpose of preventing the  
61 spread of fire, providing that such fire did not originate from  
62 any of the perils excluded by this policy.

63 Other insurance may be prohibited or the amount of  
64 insurance may be limited by so providing in the policy or an  
65 endorsement, rider or form attached thereto.

66 Unless otherwise provided in writing added hereto this  
67 company shall not be liable for loss occurring:

68 (a) while the hazard is increased by any means within the  
69 control or knowledge of the insured; or

70 (b) while the described premises, whether intended for  
71 occupancy by owner or tenant, are vacant or unoccupied beyond a  
72 period of 60 consecutive days; or

73 (c) as a result of explosion or riot, unless fire ensue,  
74 and in that event for loss by fire only.

75 Any other peril to be insured against or subject of  
76 insurance to be covered in this policy shall be by endorsement



1 in writing hereon or added hereto.

2 The extent of the application of insurance under this  
3 policy and the contributions to be made by this company in case  
4 of loss, and any other provision or agreement not inconsistent  
5 with the provisions of this policy, may be provided for in  
6 writing added hereto, but no provision may be waived except such  
7 as by the terms of this policy is subject to change.

8 No permission affecting this insurance shall exist, or  
9 waiver of any provision be valid, unless granted herein or  
10 expressed in writing added hereto. No provision, stipulation or  
11 forfeiture shall be held to be waived by any requirements or  
12 proceeding on the part of this company relating to appraisal or  
13 to any examination provided for herein.

14 This policy shall be canceled at any time at the request of  
15 the insured, in which case this company shall, upon demand and  
16 surrender of this policy, refund the excess of paid premium  
17 above the customary short rates for the expired time. This  
18 policy may be canceled at any time by this company by giving to  
19 the insured a ten days' written notice of cancellation with or  
20 without tender of the excess of paid premium above the pro rata  
21 premium for the expired time, which excess, if not tendered,  
22 shall be refunded on demand. Notice of cancellation shall state  
23 that said excess premium (if not tendered) will be refunded on  
24 demand.

25 If loss hereunder is made payable, in whole or in part, to  
26 a designated mortgagee not named herein as insured, such  
27 interest in this policy may be canceled by giving to such  
28 mortgagee a ten days' written notice of cancellation.

29 Notwithstanding any other provisions of this policy, if  
30 this policy shall be made payable to a mortgagee of the covered  
31 real estate, no act or default of any person other than such  
32 mortgagee or ~~his~~ the mortgagee's agent or those claiming under  
33 ~~him~~ the mortgagee, whether the same occurs before or during the  
34 term of this policy, shall render this policy void as to such  
35 mortgagee nor affect such mortgagee's right to recover in case  
36 of loss on such real estate; provided, that the mortgagee shall  
37 on demand pay according to the established scale of rates for  
38 any increase of risks not paid for by the insured; and whenever  
39 this company shall be liable to a mortgagee for any sum for loss  
40 under this policy for which no liability exists as to the  
41 mortgagor, or owner, and this company shall elect by itself, or  
42 with others, to pay the mortgagee the full amount secured by  
43 such mortgage, then the mortgagee shall assign and transfer to  
44 the company ~~his~~ the mortgagee's interest, upon such payment, in  
45 the said mortgage together with the note and debts thereby  
46 secured. \*

47 This company shall not be liable for a greater proportion  
48 of any loss than the amount hereby insured shall bear to the  
49 whole insurance covering the property against the peril involved.

50 In case of any loss under this policy the insured shall  
51 give immediate written notice to this company of any loss,  
52 protect the property from further damage, and a statement in  
53 writing, signed and sworn to by the insured, shall within 60  
54 days be rendered to the company, setting forth the value of the  
55 property insured, except in case of total loss on buildings the  
56 value of said buildings need not be stated, the interest of the  
57 insured therein, all other insurance thereon, in detail, the  
58 purposes for which and the persons by whom the building insured,  
59 or containing the property insured, was used, and the time at  
60 which and manner in which the fire originated, so far as known  
61 to the insured.

62 The insured, as often as may be reasonably required, shall  
63 exhibit to any person designated by this company all that  
64 remains of any property herein described, and, after being  
65 informed ~~that he has a~~ of the right to counsel and that ~~his~~ any  
66 answers may be used against ~~him~~ the insured in later civil or  
67 criminal proceedings, the insured shall, within a reasonable  
68 period after demand by this company, submit to examinations  
69 under oath by any person named by this company, and subscribe  
70 the oath. The insured, as often as may be reasonably required,  
71 shall produce for examination all records and documents  
72 reasonably related to the loss, or certified copies thereof if  
73 originals are lost, at a reasonable time and place designated by  
74 this company or its representatives, and shall permit extracts  
75 and copies thereof to be made. \*

76 In case the insured and this company, except in case of



1 total loss on buildings, shall fail to agree as to the actual  
 2 cash value or the amount of loss, then, on the written demand of  
 3 either, each shall select a competent and disinterested  
 4 appraiser and notify the other of the appraiser selected within  
 5 20 days of such demand. In case either fails to select an  
 6 appraiser within the time provided, then a presiding judge of  
 7 the district court of the county wherein the loss occurs may  
 8 appoint such appraiser for such party upon application of the  
 9 other party in writing by giving five days' notice thereof in  
 10 writing to the party failing to appoint. The appraisers shall  
 11 first select a competent and disinterested umpire; and failing  
 12 for 15 days to agree upon such umpire, then a presiding judge of  
 13 the above mentioned court may appoint such an umpire upon  
 14 application of party in writing by giving five days' notice  
 15 thereof in writing to the other party. The appraisers shall  
 16 then appraise the loss, stating separately actual value and loss  
 17 to each item; and, failing to agree, shall submit their  
 18 differences, only, to the umpire. An award in writing, so  
 19 itemized, of any two when filed with this company shall  
 20 determine the amount of actual value and loss. Each appraiser  
 21 shall be paid by the selecting party ~~selecting-him~~, or the party \*  
 22 ~~for whom he was selected~~, and the expense of the appraisal and \*  
 23 umpire shall be paid by the parties equally.

24 It shall be optional with this company to take all of the  
 25 property at the agreed or appraised value, and also to repair,  
 26 rebuild or replace the property destroyed or damaged with other  
 27 of like kind and quality within a reasonable time, on giving  
 28 notice of its intention so to do within 30 days after the  
 29 receipt of the proof of loss herein required.

30 There can be no abandonment to this company of any property.

31 The amount of loss for which this company may be liable  
 32 shall be payable 60 days after proof of loss, as herein  
 33 provided, is received by this company and ascertainment of the  
 34 loss is made either by agreement between the insured and this  
 35 company expressed in writing or by the filing with this company  
 36 of an award as herein provided. It is moreover understood that  
 37 there can be no abandonment of the property insured to the  
 38 company, and that the company will not in any case be liable for  
 39 more than the sum insured, with interest thereon from the time  
 40 when the loss shall become payable, as above provided.

41 No suit or action on this policy for the recovery of any  
 42 claim shall be sustainable in any court of law or equity unless  
 43 all the requirements of this policy have been complied with, and  
 44 unless commenced within two years after inception of the loss.

45 This company is subrogated to, and may require from the  
 46 insured an assignment of all right of recovery against any party  
 47 for loss to the extent that payment therefor is made by this  
 48 company; and the insurer may prosecute therefor in the name of  
 49 the insured retaining such amount as the insurer has paid.

50 Assignment of this policy shall not be valid except with  
 51 the written consent of this company.

52 IN WITNESS WHEREOF, this company has executed and attested  
 53 these presents.

54  
 55 .....  
 56 (Signature) (Signature)  
 57 .....  
 58 (Name of office) (Name of office)

59 No change for subd 3a

60 Subd. 4. ADDITIONAL PROVISIONS PERMITTED.

61 (1) There may be printed in the policy or an endorsement  
 62 attached to the policy, in case the assured desires liability to  
 63 attach to several buildings, divisions or locations under one  
 64 item, a printed form filed with and approved by the commissioner  
 65 of commerce.

66 (2) There may be printed in the policy or an endorsement  
 67 attached to the policy, a printed form in the following words,  
 68 to wit:

69 The insured has relinquished all rights to recover for loss  
 70 or damage by fire from ..... (here insert name of individual,  
 71 partnership, association or corporation).

72 (3) There may be printed upon a policy issued in compliance  
 73 herewith the words "Minnesota Standard Fire Insurance Policy".

74 (4) A company, if incorporated or formed in this state, may  
 75 print in the policy any provisions which it is authorized or  
 76 required by law to insert therein, if not incorporated in this



1 state, it may, with the approval of the commissioner of  
 2 commerce, print in the policy any provision required by its  
 3 charter or deed of settlement, or by the laws of its own state  
 4 or country, not contrary to the laws of this state.

5 (5) Appropriate forms of other contracts or endorsements,  
 6 whereby the property described in such policy shall be insured  
 7 against one or more of the additional perils which the insurer  
 8 is empowered to assume, and forms of provisions or endorsements  
 9 which serve to modify the policy or premium in favor of the  
 10 insured, may be attached to, used in or in connection with the  
 11 Minnesota Standard Fire Insurance Policy when approved by the  
 12 commissioner of commerce. Such forms of other contracts,  
 13 provisions or endorsements attached to or printed thereon may  
 14 contain provisions and stipulations inconsistent with the  
 15 Minnesota Standard Fire Insurance Policy if applicable only to  
 16 such other perils. There may be placed upon the Minnesota  
 17 Standard Fire Insurance Policy, in such manner and form as is  
 18 approved by the commissioner of commerce, such data as may be  
 19 conveniently included for duplication on the daily reports for  
 20 the office records of the company writing the policy.

21 (6) A company may print or use on its policy, printed forms  
 22 covering the maintenance or supervision of watchman's security  
 23 guard's service, automatic sprinkler service or the maintenance  
 24 of a clear space in lumber yards, when approved by the  
 25 commissioner of commerce, but no such clause shall contain any  
 26 provision calling for the lapse or the suspension of the  
 27 insurance coverage.

28 (7) A company may print or use in its policy printed forms  
 29 for insurance against loss of rents and rental value, leasehold  
 30 values, use and occupancy, and indirect or consequential loss or  
 31 damage caused by change of temperature resulting from the  
 32 destruction of refrigeration or cooling apparatus, or any of its  
 33 connections. It may also use a form specifically excluding the  
 34 last mentioned hazard.

35 All contracts of insurance against loss of rents or rental  
 36 values, use and occupancy, shall contain the following  
 37 provisions:

38 The period of indemnity under this contract shall be  
 39 limited to such length of time (commencing with the date of the  
 40 fire or lightning and not limited by the date of the expiration  
 41 of the policy) as would be required through the exercise of due  
 42 diligence and dispatch to rebuild, repair or replace such part  
 43 of the property described in said policy as may be destroyed or  
 44 damaged.

45 (8) There may be printed in the policy in a convenient  
 46 place approved by the commissioner of commerce, or on an  
 47 endorsement attached to the policy, a printed form providing  
 48 that in the case of loss, such loss shall be payable to the  
 49 mortgagee, or other persons, as ~~his, her, its or~~ their interest  
 50 may appear, to wit:

51 Subject to the stipulations, provisions and conditions  
 52 contained in this policy, the loss, if any, is payable to .....,  
 53 mortgagee, as ~~his, her, its or their~~ the mortgagee's interest  
 54 may appear.

55 No change for subd 5 to 6

065A#17S

56 65A.17 ACTION OF STOCKHOLDERS FILED WITH COMMISSIONER.

57 Any such insurance company, desiring to create such funds,  
 58 may do so if such action is authorized by its stockholders, upon  
 59 the adoption of a resolution to that effect by its board of  
 60 directors at a regular meeting of the board, or at any special  
 61 meeting called for that purpose, and filing with the  
 62 commissioner a copy thereof, declaring the intention of the  
 63 company to create these funds and to do business under the  
 64 provisions of sections 65A.16 to 65A.25; and, as soon after the  
 65 filing of a copy of the resolution as convenient, the  
 66 commissioner shall make, or cause to be made, an examination of  
 67 the company, and he shall make a certificate of the result  
 68 thereof, which shall particularly set forth the amount of  
 69 surplus funds held by the company at the date of the  
 70 examination, the whole or any part of which, under the  
 71 provisions of sections 65A.16 to 65A.25, may be equally divided  
 72 between and set apart to constitute guaranty surplus and special  
 73 reserve funds, which certificate shall be recorded in the  
 74 department of commerce.

065A#19S



1 65A.19 EXAMINATION.

2 When the company shall notify the commissioner that it has  
3 fulfilled the requirements already expressed in sections 65A.16  
4 to 65A.25, and that its guaranty surplus fund and its special  
5 reserve fund, taken together, equal its capital stock or amount  
6 to the sum of \$2,000,000, the commissioner shall make an  
7 examination of the company and make a certificate of the result  
8 thereof, and file the same in ~~his~~ the commissioner's office and, \*  
9 if the commissioner shall find that the combined funds shall  
10 equal the capital stock of the company or amount to the sum of  
11 \$2,000,000, thereafter the company may continue, out of any  
12 subsequent profits of its business, to add to these funds;  
13 provided, that when any addition is made to the special reserve  
14 fund, an equal sum shall be carried to the guaranty surplus fund.

065A#23S

15 65A.23 WHEN CLAIMS EXCEED GUARANTY SURPLUS AND CAPITAL  
16 STOCK.

17 (1) When the claims upon the company shall exceed the  
18 amount of its capital stock and of guaranty surplus fund,  
19 provided for by sections 65A.16 to 65A.25, and of its surplus  
20 funds, other than the special reserve fund, the company shall  
21 notify the commissioner of the fact, who shall then make, or  
22 cause to be made, an examination of the company, and issue ~~his~~ a \*  
23 certificate of the result, showing the amounts of capital, of  
24 guaranty surplus fund, of special reserve fund, of reinsurance  
25 liability, and of other assets, and upon ~~his~~ the commissioner's \*  
26 issuing this certificate, in duplicate, one copy to be given to  
27 the company and one to be recorded in the department of  
28 commerce, the special reserve fund shall be immediately held to  
29 protect all policyholders of the company, other than such as are  
30 claimants upon it at the date of the certificate, and the  
31 special reserve fund, together with other assets, certified by  
32 the commissioner as equal in value to the amount of the unearned  
33 premiums of the company, to be ascertained, as hereinbefore  
34 provided, shall constitute the capital and assets of the company  
35 for the protection of policyholders, other than these claimants,  
36 and for the further conduct of its business, and any official  
37 certificate of the commissioner, herein provided for, shall be  
38 binding and conclusive upon all parties interested in the  
39 company, whether as stockholders, creditors, or policyholders,  
40 and upon the payment to claimants who are such at the date of  
41 the certificate, of the full amount of the capital of the  
42 company and of its guaranty surplus fund and of its assets at  
43 that date, excepting only the special reserve fund and an amount  
44 of its assets equal to the liability of the company for unearned  
45 premiums, as so certified by such commissioner of commerce, the  
46 company shall be forever discharged from any and all further  
47 liability to these claimants, and to each of them, and the  
48 commissioner shall, after issuing ~~his~~ a certificate, upon the \*  
49 demand of the company, transfer to it all such securities as \*  
50 shall have been deposited ~~with him~~ by the company as a special  
51 reserve fund and, if the amount of this special reserve fund be  
52 less than 50 percent of the full amount of the capital of the  
53 company, if the capital be \$2,000,000, or less, or if the amount  
54 of the special reserve fund be less than \$1,000,000, if the  
55 capital be over \$2,000,000, a requisition shall be issued by the  
56 commissioner upon the stockholders, to make up the capital to  
57 that proportion of its full amount, not exceeding \$1,000,000;  
58 provided, that any capital so impaired shall be made up at least  
59 to the sum of \$100,000, and in case the company, after this  
60 requisition, shall fail to make up its capital at least to the  
61 sum of \$100,000, as therein directed, the special reserve fund  
62 shall still be held as security and liable for any and all  
63 losses occurring upon policies of the company.

64 (2) IF, after this application of the special reserve fund  
65 and requisition on the stockholders, the par value of  
66 outstanding shares of stock shall exceed the new amount of  
67 capital so established, outstanding shares, to the amount of the  
68 excess, shall be surrendered by the stockholders pro rata.

69 (3) The company shall, in its annual statement to the  
70 commissioner, set forth the amount of the special reserve fund  
71 and of its guaranty surplus fund.

72 (4) IF, in consequence of the payment of losses by fires,  
73 or of the expenses of the business, or of the interest or  
74 dividends payable under the provisions of sections 65A.16 to  
75 65A.25 to stockholders, or from any cause, the guaranty surplus



1 fund shall be reduced in amount below the amount of the special  
 2 reserve fund, the directors of the corporation shall make no  
 3 additions to the special reserve fund until the guaranty surplus  
 4 fund is equal to the special reserve fund.

5 (5) The policy registers, insurance maps, books of record,  
 6 and other books in use by the company in its business, and its  
 7 policy and other blanks, office furniture, fixtures, and  
 8 supplies are not to be considered as assets, but shall be held  
 9 by the company for its use in the protection of its  
 10 policyholders.

11 (6) If any amount greater than a sum equal to one-half of  
 12 its capital stock shall, by the company under the provisions of  
 13 sections 65A.16 to 65A.25, have been deposited with the  
 14 commissioner, ~~he~~ the commissioner shall retain of these \*  
 15 securities an amount equal to one-half of what amount ~~he~~ the \*  
 16 commissioner shall so hold thereof in excess of a sum equal to \*  
 17 such one-half of such capital stock if the capital be  
 18 \$2,000,000, or less, or in excess of \$3,000,000 if the capital  
 19 be over \$2,000,000, and ~~he~~ the commissioner shall transfer the \*  
 20 balance thereof to the company, as herein provided, and the  
 21 amount so transferred to the company shall, from the time of the  
 22 transfer, provided the amount thereof shall not be less than  
 23 \$100,000, constitute the capital stock of the company for the  
 24 further conduct of its business, as hereinbefore provided, and  
 25 the securities so retained shall be regarded as the special  
 26 reserve fund of the company, to which additions may be made, as  
 27 herein provided, and shall be held in the same manner, and for  
 28 the same purpose, and under the same conditions, as the original  
 29 special reserve fund of the company was held. The provisions of  
 30 this section, providing for discharge of the company from  
 31 further liability to existing claimants upon application to the  
 32 payment of such claims of its capital, surplus, and assets,  
 33 excepting the special reserve fund, and an amount equal to the  
 34 liability for unearned premiums, shall not be construed to  
 35 relieve the stockholders of the corporation from any liability  
 36 imposed by the constitution of this state.

065A#24S

37 65A.24 STOCKHOLDERS TO MAKE UP IMPAIRMENT.

38 If, at any time after the special reserve fund shall have  
 39 been accumulated by any company, the directors of the company  
 40 shall present evidence satisfactory to the commissioner that the  
 41 capital of the company has become impaired, ~~he~~ the commissioner \*  
 42 shall order the directors to call upon the stockholders to make  
 43 up this impairment, and the board of directors may thereupon  
 44 require the necessary payment by the stockholders to make good  
 45 the whole of the impairment, or they may apply for that purpose  
 46 the whole or any part of the special reserve fund and require of  
 47 the stockholders payment of such amount as may be necessary to  
 48 make up the balance of the impairment not made up out of the  
 49 special reserve fund. The stock of every stockholder shall be \*  
 50 pledged and liable for the amount assessed ~~upon him~~ to make up \*  
 51 the impairment, either in whole or in part, and in case any  
 52 stockholder refuses to pay the assessment, the stock standing in  
 53 ~~his~~ that person's name may be sold at public auction, after 30 \*  
 54 days notice, in such manner as the directors may provide. If  
 55 the board of directors elect to make good the impairment, or any  
 56 part thereof, out of the special reserve fund, the commissioner  
 57 shall, upon request of the board, transfer to the company so  
 58 much of the special reserve fund as is necessary for the  
 59 purpose. No company doing business under sections 65A.16 to  
 60 65A.25 shall insure any larger amount upon any single risk than  
 61 is permitted by law to a company possessing the same amount of  
 62 capital, irrespective of the fund provided for in sections  
 63 65A.16 to 65A.25.

065A#28S

64 65A.28 DISCLOSURE AND FILING REQUIREMENTS.

65 Subdivision 1. Each insurer writing homeowner's insurance  
 66 for property located in the metropolitan area or a statutory or  
 67 home rule charter city of the first class shall compile and file  
 68 annually with the commissioner on or before May 1 a report for  
 69 the preceding calendar year. This report shall contain the  
 70 following information reported by postal zip code areas for each  
 71 zip code area located in a city of the first class which  
 72 contains property for which the insurer wrote, declined to  
 73 write, or cancelled homeowner's insurance:  
 74 (a) the number of policies written;



- 1 (b) the number of policies cancelled;  
 2 (c) the number of policies nonrenewed; and  
 3 (d) the number of applications for homeowner's insurance  
 4 declined.

5 If the commissioner determines that additional information  
 6 is necessary to effectuate the purposes of sections 65A.27 to  
 7 65A.29 and section 72A.20, subdivision 13, he the commissioner \*  
 8 may require, by rule:

9 (i) that the required information be reported for  
 10 additional areas of the state, or

11 (ii) that additional types of information, including  
 12 premium and claims data, be reported for some or all of the  
 13 areas subject to the reporting requirements.

14 If the commissioner has reason to believe that an  
 15 insurance company or insurance agent has violated section  
 16 72A.20, subdivision 13 or 14, the commissioner may issue an  
 17 order requiring the company or agent to compile and submit  
 18 within a reasonable time information on its homeowner's  
 19 insurance marketing, underwriting, or rating practices for a  
 20 specific geographic area or areas. This information may be in  
 21 addition to the types and categories of information required to  
 22 be reported by this section or rules promulgated under  
 23 subdivision 4.

24 No change for subd 2 to 4

065A#29S

25 65A.29 CANCELLATION; NONRENEWAL; REFUSAL TO WRITE.

26 No change for subd 1 to 8

27 Subd. 9. NOTICE OF RIGHT TO COMPLAIN. A named  
 28 insured who believes a nonrenewal, reduction in the limits of  
 29 coverage, elimination of coverage, or cancellation under section  
 30 65A.01, subdivision 3a, is in violation of the law or the rules  
 31 may, within 30 days after receipt of the notice, file in writing  
 32 an objection to the action with the commissioner.

33 Upon receipt of a written objection, the commissioner shall  
 34 notify the insurer of receipt of the objection and of the right  
 35 of the insurer to file a written response within ten days of  
 36 receipt of the notification. Within 30 days of receipt of  
 37 written objection by an insured, the commissioner shall approve  
 38 or disapprove the insurer's action and shall notify the insured  
 39 and insurer of ~~his~~ the final decision. A decision which \*  
 40 disapproves the insurer's action constitutes a charge that the  
 41 insurer has violated the law or the rules. Either party may  
 42 institute proceedings for judicial review of the commissioner's  
 43 decision. The commissioner's decision is binding pending  
 44 judicial review.

065A#34S

45 65A.34 FAIR PLAN; INSPECTIONS AND REPORTS.

46 No change for subd 1 to 3

47 Subd. 4. During the inspection, the inspector shall point  
 48 out features of structure and occupancy to the applicant or ~~his~~ \*  
 49 the applicant's representative and shall indicate those features \*  
 50 which may result in condition charges if the risk is accepted.  
 51 The inspector shall have no authority to advise whether any  
 52 insurer will provide the coverage.

53 Subd. 5. Within five business days after the inspection, a  
 54 copy of the completed inspection report, and any photograph,  
 55 indicating the pertinent features of building, construction,  
 56 maintenance, occupancy and surrounding property shall be sent to  
 57 the facility. Included with the report shall be a rate make-up  
 58 statement, including any condition charges or aftercharges which  
 59 the inspection reveals to be necessary under any substandard  
 60 rating plan approved by the commissioner. A copy of the  
 61 inspection report shall be made available to the applicant or  
 62 ~~his~~ the applicant's agent upon request. The person requesting \*  
 63 the inspection report may designate the insurer or agency to  
 64 which the inspection report is to be referred.

65 No change for subd 6

065A#35S

66 65A.35 FAIR PLAN BUSINESS; DISTRIBUTION AND PLACEMENT.

67 No change for subd 1 to 2

68 Subd. 3. ORGANIZATION. Within 45 days following  
 69 August 1, 1968, the industry placement facility shall submit to  
 70 the commissioner for ~~his~~ review a proposed plan of operation of \*  
 71 the facility, consistent with the provisions of sections 65A.31  
 72 to 65A.43 and the purpose of the facility, which shall provide  
 73 for the FAIR Plan, the reinsurance arrangement, and the



1 economical and efficient administration of the facility,  
 2 including, but not limited to, management of the facility,  
 3 preliminary assessment of all members for initial expenses  
 4 necessary to commence operations, establishment of necessary  
 5 facilities within this state, assessment of members to defray  
 6 losses and expenses, commission arrangements, reasonable  
 7 underwriting standards, acceptance and cession of reinsurance,  
 8 and procedures for determining amounts of insurance to be  
 9 provided.

10 The plan of operation shall be subject to approval by the  
 11 commissioner and shall take effect ten days after having been  
 12 approved ~~by him~~. If the commissioner disapproves the proposed \*  
 13 plan of operation, the facility shall within 15 days submit for  
 14 review an appropriately revised plan of operation and, if the  
 15 facility fails to do so, or if the revised plan so filed is  
 16 unacceptable, the commissioner shall promulgate a plan of  
 17 operation.

18 No change for subd 4 to 6

065A#36S

19 65A.36 PROCEDURE AFTER INSPECTION AND SUBMISSION.

20 No change for subd 1 to 3

21 Subd. 4. In the event that a risk is declined on the basis  
 22 that it does not meet reasonable underwriting standards, or the  
 23 coverage will be written on condition that the property be  
 24 improved, the insurer or facility shall, within five business  
 25 days, send copies of the inspection and action reports to the  
 26 property owner and the commissioner, and shall advise the  
 27 property owner of ~~his~~ the right to and the procedure for an \*  
 28 appeal to the governing committee and to the commissioner.

29 No change for subd 5

065A#41S

30 65A.41 AGENT'S COOPERATION.

31 No agent or broker shall be permitted to refuse an  
 32 application for basic property insurance within an urban area if  
 33 ~~he is~~ licensed to write and ~~is~~ actively engaged in writing such \*  
 34 insurance.

065A#42S

35 65A.42 PRIVILEGED COMMUNICATIONS.

36 There shall be no liability on the part of, and no cause of  
 37 action of any nature shall arise against insurers, the  
 38 inspection bureau, the industry placement facility, or their  
 39 agents or employees or the commissioner or ~~his~~ the \*  
 40 commissioner's authorized representatives, for any statements \*  
 41 made in good faith by them in any reports or communications  
 42 concerning the property to be insured, or at the time of any  
 43 hearings conducted in connection therewith, or in the findings  
 44 required by the provisions of sections 65A.31 to 65A.43. The  
 45 inspection reports and communications of the inspection bureau  
 46 and the industry placement facility shall not be considered  
 47 public documents.

065B#03S

48 65B.03 GOVERNING COMMITTEE.

49 Subdivision 1. MEMBERSHIP. The commissioner shall  
 50 direct that an election be held among every insurer subject to  
 51 this chapter, for the election of a facility governing committee.  
 52 The governing committee shall be made up of eight individuals  
 53 selected by participating members of the facility and one public  
 54 member appointed by the governor to two-year terms. Each  
 55 insurer member of the governing committee shall be a  
 56 participating member.

57 Each participating member serving on the governing  
 58 committee shall be represented by a salaried employee of that  
 59 participating member, and not more than one participating member  
 60 in a group under the same management shall serve on the  
 61 governing committee at the same time. The commissioner of  
 62 commerce or ~~his~~ a designee shall be an ex officio member of the \*  
 63 governing committee.

64 No change for subd 2

065B#04S

65 65B.04 PLAN OF OPERATION.

66 Subdivision 1. ADOPTION; APPROVAL BY COMMISSIONER.

67 The initial governing committee shall adopt a plan of operation  
 68 by majority vote of the committee and shall submit it to the  
 69 commissioner for approval. If the commissioner finds that the  
 70 plan of operation meets the requirements of this chapter, ~~he~~ the \*  
 71 commissioner shall approve it and it will then be in effect. If \*



1 ~~he~~ the commissioner finds that the plan fails to meet the \*  
 2 requirements of this chapter, the commissioner shall disapprove \*  
 3 the plan, returning it to the governing committee with ~~his~~ a \*  
 4 statement on the deficiencies which have caused ~~him~~ the \*  
 5 commissioner to disapprove the plan, and the governing committee \*  
 6 shall have ten days within which to correct the deficiencies.  
 7 If the plan is not returned for approval within ten days or if,  
 8 on return, the commissioner determines that it still does not  
 9 meet the requirements of this chapter, the commissioner shall  
 10 amend the plan which was submitted by the governing committee to  
 11 comply with this chapter, and shall, by order, effect the plan  
 12 of operation. The action of the commissioner may be appealed in  
 13 accordance with chapter 14.

14 No change for subd 2

15 Subd. 3. AMENDMENTS. The plan of operation may be  
 16 amended by a majority vote of the governing committee, the  
 17 approval of the commissioner and ratification by a majority of  
 18 the participating members. An order by the commissioner  
 19 disapproving an amendment to the plan of operation must be  
 20 issued within 30 days of ~~his~~ receipt by the commissioner of the \*  
 21 proposed amendment, certified by the governing committee as  
 22 having been adopted by that committee by a majority vote, or the  
 23 amendment shall be deemed approved by the commissioner. An  
 24 order of disapproval may be reviewed as provided in subdivision  
 25 1.

26 No change for subd 4

065B#07S

27 65B.07 OTHER PROVISIONS AND FUNCTIONS.

28 No change for subd 1

29 Subd. 2. On any coverage placed through the facility, the  
 30 facility shall allow the use of endorsement, approved by the  
 31 commissioner, to exclude coverage in cases where a named person  
 32 is driving the insured vehicle without a valid drivers' license  
 33 or when ~~his~~ a named person's drivers' license has been revoked \*  
 34 or suspended.

35 No change for subd 3 to 5

065B#09S

36 65B.09 AGENTS.

37 Subdivision 1. AGENTS' RESPONSIBILITY. Every agent  
 38 who is authorized to solicit, negotiate or effect automobile  
 39 insurance on behalf of any participating member shall:

40 (1) Offer to place coverage through the facility for any  
 41 qualified applicant who is ineligible or unacceptable for  
 42 coverage in the insurer or insurers for whom the agent is  
 43 authorized to solicit, negotiate or effect automobile  
 44 insurance. Provided, that the failure of an agent to make such  
 45 an offer to a qualified applicant shall not subject the agent to  
 46 any liability to the applicant;

47 (2) Forward to the facility all applications and any  
 48 deposit premiums which are required by the plan of operation,  
 49 rules and procedures of the facility, if the qualified applicant  
 50 accepts the offer to have ~~his~~ coverage placed through the \*  
 51 facility;

52 (3) Be entitled to receive a commission for placing  
 53 insurance through the facility at the uniform rates of  
 54 commission as provided in the plan of operation, and all  
 55 participating members shall be entitled to pay commissions to  
 56 such agents.

57 No change for subd 2

065B#10S

58 65B.10 ELIGIBILITY.

59 No change for subd 1 to 2

60 Subd. 3. REVIEW OF INSUREDS. At least annually,  
 61 every participating member shall review every applicant which it  
 62 insures through the facility and determine whether or not such  
 63 applicant is acceptable for voluntary insurance at a rate lower  
 64 than the facility rate. If such applicant is acceptable, the  
 65 participating member shall make an offer to insure the applicant \*  
 66 ~~to insure him~~ under voluntary coverage at such lower rate. \*

065B#14S

67 65B.14 CANCELLATION OR NONRENEWAL OF AUTOMOBILE POLICIES;  
68 DEFINITIONS.

69 No change for subd 1 to 3

70 Subd. 4. "Nonpayment of premium" means failure of the  
 71 named insured to discharge when due any ~~of his~~ obligations in \*  
 72 connection with the payment of premiums on a policy of



1 automobile insurance or any installment of such premium, whether  
2 the premium is payable directly to the insurer or its agent or  
3 indirectly under any premium finance plan or extension of credit.

065B#15S

4 65B.15 CANCELLATION OR REDUCTION IN LIMITS DURING POLICY  
5 PERIOD; GROUNDS; NOTICE.

6 Subdivision 1. No cancellation or reduction in the limits  
7 of liability of coverage during the policy period of any policy  
8 shall be effective unless notice thereof is given and unless  
9 based on one or more reasons stated in the policy which shall be  
10 limited to the following:

- 11 1. Nonpayment of premium; or
- 12 2. The policy was obtained through a material  
13 misrepresentation; or
- 14 3. Any insured made a false or fraudulent claim or  
15 knowingly aided or abetted another in the presentation of such a  
16 claim; or

- 17 4. The named insured failed to disclose fully ~~his~~ motor  
18 vehicle accidents and moving traffic violations of the named  
19 insured for the preceding 36 months if called for in ~~his~~ the  
20 written application; or

- 21 5. The named insured failed to disclose in ~~his~~ the written  
22 application any requested information necessary for the  
23 acceptance or proper rating of the risk; or

- 24 6. The named insured knowingly failed to give any required  
25 written notice of loss or notice of lawsuit commenced against  
26 ~~him~~ the named insured, or, when requested, refused to cooperate  
27 in the investigation of a claim or defense of a lawsuit; or

- 28 7. The named insured or any other operator who either  
29 resides in the same household or customarily operates an  
30 automobile insured under such policy:

- 31 (a) has, within the 36 months prior to the notice of  
32 cancellation, had ~~his~~ that person's driver's license under  
33 suspension or revocation; or

- 34 (b) is or becomes subject to epilepsy or heart attacks, and  
35 such individual does not produce a written opinion from a  
36 physician testifying to ~~his~~ that person's medical ability to  
37 operate a motor vehicle safely, such opinion to be based upon a  
38 reasonable medical probability; or

- 39 (c) has an accident record, conviction record (criminal or  
40 traffic), physical condition or mental condition, any one or all  
41 of which are such that ~~his~~ the person's operation of an  
42 automobile might endanger the public safety; or

- 43 (d) has been convicted, or forfeited bail, during the 24  
44 months immediately preceding the notice of cancellation for  
45 criminal negligence in the use or operation of an automobile, or  
46 assault arising out of the operation of a motor vehicle, or  
47 operating a motor vehicle while in an intoxicated condition or  
48 while under the influence of drugs; or leaving the scene of an  
49 accident without stopping to report; or making false statements  
50 in an application for a driver's license, or theft or unlawful  
51 taking of a motor vehicle; or

- 52 (e) has been convicted of, or forfeited bail for, one or  
53 more violations within the 18 months immediately preceding the  
54 notice of cancellation, of any law, ordinance, or regulation  
55 which justify a revocation of a driver's license.

56 8. The insured automobile is:

- 57 (1) so mechanically defective that its operation might  
58 endanger public safety; or

- 59 (2) used in carrying passengers for hire or compensation,  
60 provided however that the use of an automobile for a car pool  
61 shall not be considered use of an automobile for hire or  
62 compensation; or

- 63 (3) used in the business of transportation of flammables or  
64 explosives; or

- 65 (4) an authorized emergency vehicle; or

- 66 (5) subject to an inspection law and has not been inspected  
67 or, if inspected, has failed to qualify within the period  
68 specified under such inspection law; or

- 69 (6) substantially changed in type or condition during the  
70 policy period, increasing the risk substantially, such as  
71 conversion to a commercial type vehicle, a dragster, sports car  
72 or so as to give clear evidence of a use other than the original  
73 use.

74 No change for subd 2

065B#19S



1 65B.19 NOTICE OF CANCELLATION OR NONRENEWAL.

2 No change for subd 1

3 Subd. 2. NOTICE OF RIGHT TO COMPLAIN. When the  
4 insurer notifies the policyholder of nonrenewal, cancellation or  
5 reduction in the limits of liability of coverage under sections  
6 65B.16 or 65B.17, the insurer shall also notify the named  
7 insured of ~~his~~ the right to complain within 30 days of ~~his~~ \*  
8 receipt by the named insured of notice of nonrenewal, \*  
9 cancellation or reduction in the limits of liability to the \*  
10 commissioner of such action and of the nature of and ~~his~~ \*  
11 possible eligibility for insurance through the Minnesota  
12 automobile insurance plan. Such notice shall be included in the  
13 notice of nonrenewal, cancellation or reduction in the limits of  
14 liability of coverage, and shall state that such notice of the  
15 insured's right of complaint to the commissioner and of the  
16 availability of insurance through the Minnesota automobile  
17 insurance plan is given pursuant to sections 65B.14 to 65B.21.

065B#21S

18 65B.21 OBJECTIONS; INVESTIGATION; DETERMINATION.

19 Subdivision 1. Any individual who believes such  
20 nonrenewal, cancellation or reduction in the limits of liability  
21 of coverage of ~~his~~ the individual's policy is arbitrary, \*  
22 capricious or otherwise in violation of this provision, or who  
23 believes such notice of nonrenewal and the reason or reasons  
24 therefor were not given as provided herein, may, within 30 days  
25 after receipt of notice thereof, file in writing an objection to  
26 such action with the commissioner.

27 Subd. 2. Upon receipt of a written objection pursuant to  
28 the provisions herein, the commissioner shall notify the insurer  
29 of receipt of such objection and of the right of the insurer to  
30 file a written response thereto within ten days of receipt of  
31 such notification. The commissioner ~~in-his-discretion~~ may also \*  
32 order an investigation of the objection or complaint, the  
33 submission of additional information by the insured or the  
34 insurer about the action by the insurer or the objections of the  
35 insured, or such other procedure as ~~he~~ the commissioner deems \*  
36 appropriate or necessary. Within 23 days of receipt of such  
37 written objection by an insured the commissioner shall approve  
38 or disapprove the insurer's action and shall notify the insured  
39 and insurer of ~~his~~ the final decision. Either party may \*  
40 institute proceedings for judicial review of the commissioner's  
41 decision; provided, however, that the commissioner's final  
42 decision shall be binding pending judicial review.

065B#43S

43 65B.43 DEFINITIONS.

44 No change for subd 1 to 4

45 Subd. 5. "Insured" means an insured under a plan of  
46 reparation security as provided by sections 65B.41 to 65B.71,  
47 including the named insured and the following persons not  
48 identified by name as an insured while (a) residing in the same  
49 household with the named insured and (b) not identified by name  
50 in any other contract for a plan of reparation security  
51 complying with sections 65B.41 to 65B.71 as an insured:

52 (1) a spouse,

53 (2) other relative of a named insured or

54 (3) a minor in the custody of a named insured or of a  
55 relative residing in the same household with a named insured.

56 A person resides in the same household with the named  
57 insured if that person person's home is usually ~~makes-his-home~~ \*  
58 in the same family unit, even though ~~he~~ temporarily lives living \*  
59 elsewhere.

60 No change for subd 6 to 11

61 Subd. 12. "Commercial vehicle" means:

62 (a) any motor vehicle used as a common carrier,

63 (b) any motor vehicle, other than a passenger vehicle or a  
64 station wagon, as those terms are defined in section 168.011,  
65 subdivisions 7 and 23, which has a curb weight in excess of 5500  
66 pounds apart from cargo capacity, or

67 (c) any motor vehicle while used in the for-hire  
68 transportation of property.

69 Commercial vehicle does not include a "commuter van", which  
70 for purposes of this chapter shall mean a motor vehicle having a  
71 capacity of seven to 16 persons which is used principally to  
72 provide prearranged transportation of persons to or from their  
73 place of employment or to or from a transit stop authorized by a  
74 local transit authority which vehicle is to be operated by a



1 person who does not drive the vehicle ~~for-his~~ as a principal \*  
 2 occupation but is driving it only to or from ~~his~~ the principal \*  
 3 place of employment, to or from a transit stop authorized by a  
 4 local transit authority or for personal use as permitted by the  
 5 owner of the vehicle.

6 No change for subd 13 to 16

7 Subd. 17. "Underinsured motor vehicle" means a motor  
 8 vehicle or motorcycle to which a bodily injury liability policy  
 9 applies at the time of the accident but its limit for bodily  
 10 injury liability is less than the amount needed to compensate  
 11 the insured for ~~his-or-her~~ actual damages. \*

12 No change for subd 18 to 20

065B#44S

13 65B.44 BASIC ECONOMIC LOSS BENEFITS.

14 No change for subd 1 \*

15 Subd. 2. MEDICAL EXPENSE BENEFITS. Medical expense  
 16 benefits shall reimburse all reasonable expenses for necessary  
 17 medical, surgical, x-ray, optical, dental, chiropractic, and  
 18 rehabilitative services, including prosthetic devices,  
 19 prescription drugs, necessary ambulance and all other reasonable  
 20 transportation expenses incurred in traveling to receive covered  
 21 medical benefits, hospital, extended care and nursing services.  
 22 Hospital room and board benefits may be limited, except for  
 23 intensive care facilities, to the regular daily semi-private  
 24 room rates customarily charged by the institution in which the  
 25 recipient of benefits is confined. Such benefits shall also  
 26 include necessary remedial treatment and services recognized and  
 27 permitted under the laws of this state for an injured person who  
 28 relies upon spiritual means through prayer alone for healing in  
 29 accordance with ~~his~~ that person's religious beliefs. Medical \*  
 30 expense loss includes medical expenses accrued prior to the  
 31 death of a person notwithstanding the fact that benefits are  
 32 paid or payable to the decedent's survivors. Medical expense  
 33 benefits for rehabilitative services shall be subject to the  
 34 provisions of section 65B.45.

35 Subd. 3. DISABILITY AND INCOME LOSS BENEFITS.

36 Disability and income loss benefits shall provide compensation  
 37 for 85 percent of the injured person's loss of present and  
 38 future gross income from inability to work proximately caused by  
 39 the nonfatal injury subject to a maximum of \$250 per week. Loss  
 40 of income includes the costs incurred by a self-employed person  
 41 to hire substitute employees to perform tasks which are  
 42 necessary to maintain ~~his~~ the income of the injured person,  
 43 which he are normally performs-himself performed by the injured  
 44 person, and which he cannot perform be performed because of \*  
 45 his the injury. \*

46 If the injured person is unemployed at the time of injury  
 47 and is receiving or is eligible to receive unemployment benefits  
 48 under chapter 268, but the injured person loses ~~his~~ eligibility \*  
 49 for those benefits because of inability to work caused by the  
 50 injury, disability and income loss benefits shall provide  
 51 compensation for the lost benefits in an amount equal to the  
 52 unemployment benefits which otherwise would have been payable,  
 53 subject to a maximum of \$250 per week.

54 Compensation under this subdivision shall be reduced by any  
 55 income from substitute work actually performed by the injured  
 56 person or by income the injured person would have earned in  
 57 available appropriate substitute work which ~~he~~ the injured \*  
 58 person was capable of performing but unreasonably failed to \*  
 59 undertake.

60 For the purposes of this section "inability to work" means  
 61 disability which prevents the injured person from engaging in  
 62 any substantial gainful occupation or employment on a regular  
 63 basis, for wage or profit, for which ~~he~~ the injured person is or \*  
 64 may by training become reasonably qualified. If the injured \*  
 65 person returns to ~~his~~ employment and is unable by reason of ~~his~~ \*  
 66 the injury to work continuously, compensation for lost income \*  
 67 shall be reduced by the income received while ~~he~~ the injured \*  
 68 person is actually able to work. The weekly maximums may not be \*  
 69 prorated to arrive at a daily maximum, even if the injured  
 70 person does not incur loss of income for a full week.

71 No change for subd 4

72 Subd. 5. REPLACEMENT SERVICE AND LOSS. Replacement  
 73 service loss benefits shall reimburse all expenses reasonably  
 74 incurred by or on behalf of the nonfatally injured person in  
 75 obtaining usual and necessary substitute services in lieu of



1 those that, had ~~he~~ the injured person not been injured, the \*  
 2 injured person would have performed not for income but for ~~the~~ \*  
 3 direct personal benefit ~~of-himself~~ or ~~his~~ for the benefit of the \*  
 4 injured person's household; if the nonfatally injured person \*  
 5 normally, as a full time responsibility, provides care and  
 6 maintenance of a home with or without children, the benefit to  
 7 be provided under this subdivision shall be the reasonable value  
 8 of such care and maintenance or the reasonable expenses incurred  
 9 in obtaining usual and necessary substitute care and maintenance  
 10 of the home, whichever is greater. These benefits shall be  
 11 subject to a maximum of \$200 per week. All replacement services  
 12 loss sustained on the date of injury and the first seven days  
 13 thereafter is excluded in calculating replacement services loss.

14 Subd. 6. SURVIVORS ECONOMIC LOSS BENEFITS.

15 Survivors economic loss benefits, in the event of death  
 16 occurring within one year of the date of the accident, caused by  
 17 and arising out of injuries received in the accident, are  
 18 subject to a maximum of \$200 per week and shall cover loss  
 19 accruing after decedent's death of contributions of money or  
 20 tangible things of economic value, not including services, that  
 21 ~~his~~ surviving dependents would have received from the decedent \*  
 22 for their support during their dependency ~~from-the-decedent~~ had \*  
 23 ~~he~~ the decedent not suffered the injury causing death. \*

24 For the purposes of definition under sections 65B.41 to  
 25 65B.71, the following described persons shall be presumed to be  
 26 dependents of a deceased person: (a) a wife is dependent on a  
 27 husband with whom she lives at the time of his death; (b) a  
 28 husband is dependent on a wife with whom he lives at the time of  
 29 her death; (c) any child while under the age of 18 years, or  
 30 while over that age but physically or mentally incapacitated  
 31 from earning, is dependent on the parent with whom ~~he~~ the child \*  
 32 is living or from whom ~~he~~ the child is receiving support \*  
 33 regularly at the time of the death of such parent. Questions of  
 34 the existence and the extent of dependency shall be questions of  
 35 fact, considering the support regularly received from the  
 36 deceased.

37 Payments shall be made to the dependent, except that  
 38 benefits to a dependent who is a child or an incapacitated  
 39 person may be paid to the dependent's surviving parent or  
 40 guardian. Payments shall be terminated whenever the recipient  
 41 ceases to maintain a status which if the decedent were alive  
 42 would be that of dependency.

43 Subd. 7. SURVIVOR'S REPLACEMENT SERVICES LOSS.

44 Survivors replacement services loss benefits shall reimburse  
 45 expenses reasonably incurred by surviving dependents after the  
 46 date of the decedent's death in obtaining ordinary and necessary  
 47 services in lieu of those the deceased would have performed for  
 48 their benefit had ~~he~~ the decedent not suffered the injury \*  
 49 causing death, minus expenses of the survivors avoided by reason \*  
 50 of the decedent's death. These benefits shall be subject to a  
 51 maximum of \$200 per week.

52 No change for subd 8

065B#45S

53 65B.45 REHABILITATION TREATMENT AND OCCUPATIONAL  
 54 TRAINING.

55 No change for subd 1

56 Subd. 2. An injured person who has undertaken a procedure  
 57 or treatment for rehabilitation or a course of rehabilitative  
 58 occupational training, other than medical rehabilitation  
 59 procedure or treatment, shall notify give notice to the \*  
 60 reparation obligor that-he-has of having undertaken the \*  
 61 procedure, treatment, or training within 60 days after a  
 62 rehabilitation expense exceeding \$1,000 has been incurred for  
 63 the procedure, treatment, or training, unless the reparation  
 64 obligor knows or has reason to know of the undertaking. If the  
 65 injured person does not give the required notice within the  
 66 prescribed time, the reparation obligor is responsible only for  
 67 \$1,000 or the expense incurred after the notice is given and  
 68 within the 60 days before the notice, whichever is greater,  
 69 unless failure to give timely notice is the result of excusable  
 70 neglect.

71 Subd. 3. If the injured person notifies the reparation  
 72 obligor of a proposed specified procedure or treatment for  
 73 rehabilitation, or a proposed specified course of rehabilitative  
 74 occupational training, and the reparation obligor does not  
 75 promptly thereafter accept responsibility for its cost, the



1 injured person may make a motion in an action to adjudicate ~~his~~ \*  
 2 the claim, or, if no action is pending, bring an action in the \*  
 3 district court, for a determination that the reparation obligor  
 4 is responsible for its costs. A reparation obligor may make a  
 5 motion in an action to adjudicate the injured person's claim,  
 6 or, if no action is pending, bring an action in the district  
 7 court, for a determination that it is not responsible for the  
 8 cost of a procedure, treatment, or course of training which the  
 9 injured person has undertaken or proposes to undertake. A  
 10 determination by the court that the reparation obligor is not  
 11 responsible for the cost of a procedure, treatment, or course of  
 12 training is not res judicata as to the propriety of any other  
 13 proposal or the injured person's right to other benefits. This  
 14 subdivision does not preclude an action by the reparation  
 15 obligor or the injured person for declaratory relief under any  
 16 other law of this state, nor an action by the injured person to  
 17 recover basic economic loss benefits.

18 Subd. 4. If an injured person unreasonably refuses to  
 19 accept a rehabilitative procedure, treatment, or course of  
 20 occupational training, a reparation obligor may make a motion in  
 21 an action to adjudicate the injured person's claim, or if no  
 22 action is pending, may bring an action in the district court,  
 23 for a determination that future benefits will be reduced or  
 24 terminated to limit recovery of benefits to an amount equal to  
 25 benefits that in reasonable probability would be due if the  
 26 injured person had submitted to the procedure, treatment, or  
 27 training, and for other reasonable orders. In determining  
 28 whether an injured person has reasonable ground for refusal to  
 29 undertake the procedure, treatment, or training, the court shall  
 30 consider all relevant factors, including the risks to the  
 31 injured person, the extent of the probable benefit, the place  
 32 where the procedure, treatment, or training is offered, the  
 33 extent to which the procedure, treatment, or training is  
 34 recognized as standard and customary, and whether the imposition  
 35 of sanctions because of the person's refusal would abridge ~~his~~ \*  
 36 the right to the free exercise of ~~his~~ religion. \*

065B#47S

37 65B.47 PRIORITY OF APPLICABILITY OF SECURITY FOR PAYMENT  
38 OF BASIC ECONOMIC LOSS BENEFITS.

39 No change for subd 1

40 Subd. 2. In case of injury to an employee, or to ~~his~~ the \*  
 41 employee's spouse or other relative residing in the same \*  
 42 household, if the accident causing the injury occurs while the  
 43 injured person is driving or occupying a motor vehicle other  
 44 than a commuter van furnished by the employer, the security for  
 45 payment of basic economic loss benefits is the security covering  
 46 the vehicle or, if none, the security under which the injured  
 47 person is an insured.

48 No change for subd 3 to 4

49 Subd. 5. If two or more obligations to pay basic economic  
 50 loss benefits are applicable to an injury under the priorities  
 51 set out in this section, benefits are payable only once and the  
 52 reparation obligor against whom a claim is asserted shall  
 53 process and pay the claim as if wholly responsible, but ~~he~~ the \*  
 54 reparation obligor is thereafter entitled to recover \*  
 55 contribution pro rata for the basic economic loss benefits paid  
 56 and the costs of processing the claim. Where contribution is  
 57 sought among reparation obligors responsible under subdivision  
 58 4, clause (c), proration shall be based on the number of  
 59 involved motor vehicles.

60 No change for subd 6 to 7

065B#48S

61 65B.48 REPARATION SECURITY COMPULSORY.

62 No change for subd 1 to 4

63 Subd. 5. Every owner of a motorcycle registered or  
 64 required to be registered in this state or operated in this  
 65 state by ~~him~~ the owner or with ~~his~~ the owner's permission shall \*  
 66 provide and maintain security for the payment of tort \*  
 67 liabilities arising out of the maintenance or use of the  
 68 motorcycle in this state. Security may be provided by a  
 69 contract of liability insurance complying with section 65B.49,  
 70 subdivision 3, or by qualifying as a self insurer in the manner  
 71 provided in subdivision 3.

72 No change for subd 6 to 7

065B#49S

73 65B.49 INSURERS.



1 No change for subd 1 to 2  
 2 Subd. 3. RESIDUAL LIABILITY INSURANCE. (1) Each plan  
 3 of reparation security shall also contain stated limits of  
 4 liability, exclusive of interest and costs, with respect to each  
 5 vehicle for which coverage is thereby granted, of not less than  
 6 \$30,000 because of bodily injury to one person in any one  
 7 accident and, subject to said limit for one person, of not less  
 8 than \$60,000 because of injury to two or more persons in any one  
 9 accident, and, if the accident has resulted in injury to or  
 10 destruction of property, of not less than \$10,000 because of  
 11 such injury to or destruction of property of others in any one  
 12 accident.

13 (2) Under residual liability insurance the reparation  
 14 obligor shall be liable to pay, on behalf of the insured, sums  
 15 which the insured is legally obligated to pay as damages because  
 16 of bodily injury and property damage arising out of the  
 17 ownership, maintenance or use of a motor vehicle if the injury  
 18 or damage occurs within this state, the United States of  
 19 America, its territories or possessions, or Canada. A  
 20 reparation obligor shall also be liable to pay sums which  
 21 another reparation obligor is entitled to recover under the  
 22 indemnity provisions of section 65B.53, subdivision 1.

23 (3) Every plan of reparation security shall be subject to  
 24 the following provisions which need not be contained therein:

25 (a) The liability of the reparation obligor with respect to  
 26 the residual liability coverage required by this clause shall  
 27 become absolute whenever injury or damage occurs; such liability  
 28 may not be canceled or annulled by any agreement between the  
 29 reparation obligor and the insured after the occurrence of the  
 30 injury or damage; no statement made by the insured or on ~~his~~ the  
 31 insured's behalf and no violation of said policy shall defeat or  
 32 void said policy. \*  
 \*

33 (b) The satisfaction by the insured of a judgment for such  
 34 injury or damage shall not be a condition precedent to the right  
 35 or duty of the reparation obligor to make payment on account of  
 36 such injury or damage.

37 (c) The reparation obligor shall have the right to settle  
 38 any claim covered by the residual liability insurance policy,  
 39 and if such settlement is made in good faith, the amount thereof  
 40 shall be deductible from the limits of liability for the  
 41 accident out of which such claim arose.

42 No change for subd 3a to 8

065B#51S

43 65B.51 DEDUCTION OF COLLATERAL BENEFITS FROM TORT  
 44 RECOVERY; LIMITATION ON RIGHT TO RECOVER DAMAGES.

45 No change for subd 1 to 2

46 Subd. 3. LIMITATION OF DAMAGES FOR NON-ECONOMIC  
 47 DETRIMENT. In an action described in subdivision 1, no  
 48 person shall recover damages for non-economic detriment unless:

49 (a) The sum of the following exceeds \$4,000:

50 (1) Reasonable medical expense benefits paid, payable or  
 51 payable but for any applicable deductible, plus

52 (2) The value of free medical or surgical care or ordinary  
 53 and necessary nursing services performed by a relative of the  
 54 injured person or a member of ~~his~~ the injured person's  
 55 household, plus \*

56 (3) The amount by which the value of reimbursable medical  
 57 services or products exceeds the amount of benefit paid,  
 58 payable, or payable but for an applicable deductible for those  
 59 services or products if the injured person was charged less than  
 60 the average reasonable amount charged in this state for similar  
 61 services or products, minus

62 (4) The amount of medical expense benefits paid, payable,  
 63 or payable but for an applicable deductible for diagnostic  
 64 X-rays and for a procedure or treatment for rehabilitation and  
 65 not for remedial purposes or a course of rehabilitative  
 66 occupational training; or

67 (b) the injury results in:  
 68 (1) permanent disfigurement;  
 69 (2) permanent injury;  
 70 (3) death; or  
 71 (4) disability for 60 days or more.

72 (c) For the purposes of clause (a) evidence of the  
 73 reasonable value of medical services and products shall be  
 74 admissible in any action brought in this state.

75 For the purposes of this subdivision disability means the



1 inability to engage in substantially all of the injured person's  
2 usual and customary daily activities.

3 Subd. 4. Nothing in this section shall impair or limit the  
4 liability of a person in the business of manufacturing,  
5 distributing, retailing, repairing, servicing or maintaining  
6 motor vehicles arising from a defect in a motor vehicle caused  
7 or not corrected by an act or omission in manufacture,  
8 inspection, repair, servicing or maintenance of a vehicle in the  
9 course of ~~his~~ the business. \*

10 No change for subd 5

065B#54S

11 65B.54 REPARATION OBLIGOR'S DUTY TO RESPOND TO CLAIMS.

12 No change for subd 1 to 3

13 Subd. 4. A reparation obligor may bring an action to  
14 recover benefits which are not payable, but are in fact paid,  
15 because of an intentional misrepresentation of a material fact,  
16 upon which the reparation obligor relies, by the claimant or by  
17 a person providing products or services for which basic economic  
18 loss benefits are payable. The action may be brought only  
19 against the person providing the products or services, unless  
20 the claimant has intentionally misrepresented the facts or knew  
21 of the misrepresentation. A reparation obligor may offset  
22 amounts ~~he~~ the reparation obligor is entitled to recover from \*  
23 the claimant under this subdivision against any basic economic  
24 loss benefits otherwise due ~~him~~ the claimant. \*

25 Subd. 5. A reparation obligor who rejects a claim for  
26 benefits shall give to the claimant prompt written notice of the  
27 rejection, specifying the reason. If a claim is rejected for a  
28 reason other than that the person is not entitled to the basic  
29 economic loss benefits claimed, the written notice shall inform  
30 the claimant that ~~he~~ the claimant may file ~~his~~ the claim with \*  
31 the assigned claims bureau and shall give the name and address  
32 of the bureau.

065B#56S

33 65B.56 COOPERATION OF PERSON CLAIMING BENEFITS.

34 Subdivision 1. MEDICAL EXAMINATIONS AND DISCOVERY OF  
35 CONDITION OF CLAIMANT. Any person with respect to whose  
36 injury benefits are claimed under a plan of reparation security  
37 shall, upon request of the reparation obligor from whom recovery  
38 is sought, submit to a physical examination by a physician or  
39 physicians selected by the obligor as may reasonably be required.

40 The costs of any examinations requested by the obligor  
41 shall be borne entirely by the requesting obligor. Such  
42 examinations shall be conducted within the city, town, or  
43 statutory city of residence of the injured person. If there is  
44 no qualified physician to conduct the examination within the  
45 city, town, or statutory city of residence of the injured  
46 person, then such examination shall be conducted at another  
47 place of the closest proximity to the injured person's  
48 residence. Obligor are authorized to include reasonable  
49 provisions in policies for mental and physical examination of  
50 those injured persons.

51 If requested by the person examined, a party causing an  
52 examination to be made shall deliver to ~~him~~ the examinee a copy \*  
53 of every written report concerning the examination rendered by \*  
54 an examining physician to that person, at least one of which \*  
55 reports must set out in detail the findings and conclusions of  
56 such examining physician.

57 An injured person shall also do all things reasonably  
58 necessary to enable the obligor to obtain medical reports and  
59 other needed information to assist in determining the nature and  
60 extent of the injured person's injuries and loss, and the  
61 medical treatment received ~~by-him~~. If the claimant refuses to \*  
62 cooperate in responding to requests for examination and \*  
63 information as authorized by this section, evidence of such  
64 noncooperation shall be admissible in any suit or arbitration  
65 filed for damages for such personal injuries or for the benefits  
66 provided by sections 65B.41 to 65B.71.

67 The provisions of this section apply before and after the  
68 commencement of suit.

69 Subd. 2. CLAIMANT'S PARTICIPATION IN ARBITRATION

70 BETWEEN OBLIGORS. Any person receiving benefits under  
71 sections 65B.41 to 65B.71 shall participate and cooperate, as  
72 reasonably required under the coverage, in any and all  
73 arbitration proceedings as provided in section 65B.53 by or on  
74 behalf of the obligor paying the benefits, and the obligor may



1 require in the furnishing of proof of loss the claimant's  
 2 statement that he the claimant shall so participate and \*  
 3 cooperate as consideration for the payment of such benefits.  
 4 However, no claimant may be required by any obligor which has  
 5 paid or is obligated to pay benefits as herein provided to  
 6 personally attend an arbitration proceeding which shall take  
 7 place more than 50 miles from the usual residence of the  
 8 claimant; and provided that in no event shall the claimant have  
 9 to attend such an arbitration proceeding if, at the time  
 10 scheduled for that meeting, travel thereto by the claimant is  
 11 not recommended by a physician treating the claimant for his \*  
 12 injuries. Any claimant required to personally attend an  
 13 arbitration proceeding shall be compensated by the reparation  
 14 obligor requiring his attendance for actual income loss and \*  
 15 expenses reasonably incurred. \*

065B#58S

16 65B.58 CONVERTED MOTOR VEHICLES.  
 17 A person who converts a motor vehicle is disqualified from  
 18 basic or optional economic loss benefits, including benefits \*  
 19 otherwise due him as a survivor, from any source other than an  
 20 insurance contract under which the converter is an insured, for \*  
 21 injuries arising from maintenance or use of the converted \*  
 22 vehicle. If the converter dies from the injuries, his survivors \*  
 23 are not entitled to basic or optional economic loss benefits  
 24 from any source other than an insurance contract under which the  
 25 converter is a basic economic loss insured. For the purpose of  
 26 this section, a person is not a converter if he that person uses \*  
 27 the motor vehicle in the good faith belief that he the person is \*  
 28 legally entitled to do so. \*

065B#59S

29 65B.59 RACES.  
 30 A person who is injured in the course of an official racing  
 31 contest, other than a rally held in whole or in part on public  
 32 roads, or in practice or preparation therefor is disqualified  
 33 from basic or optional economic loss benefits. His Survivors \*  
 34 are not entitled to basic or optional economic loss benefits for \*  
 35 loss arising from his the death. \*

065B#60S

36 65B.60 INTENTIONAL INJURIES.  
 37 A person intentionally causing or attempting to cause  
 38 injury to himself self or another person is disqualified from \*  
 39 basic or optional economic loss benefits for injury arising from \*  
 40 his those acts, including benefits otherwise due him the person \*  
 41 as a survivor. If a person dies as a result of intentionally \*  
 42 causing or attempting to cause injury to himself self, his \*  
 43 survivors are not entitled to basic or optional economic loss  
 44 benefits for loss arising from his the death. A person \*  
 45 intentionally causes or attempts to cause injury if he the \*  
 46 person acts or fails to act for the purpose of causing injury or \*  
 47 with knowledge that injury is substantially certain to follow. \*  
 48 A person does not intentionally cause or attempt to cause injury  
 49 (1) merely because his the act or failure to act is intentional \*  
 50 or done with his the realization that it creates a grave risk of \*  
 51 causing injury or (2) if the act or omission causing the injury \*  
 52 is for the purpose of averting bodily harm to himself the person \*  
 53 or another person. \*

065B#63S

54 65B.63 ASSIGNED CLAIMS PLAN.  
 55 Subdivision 1. Reparation obligors providing basic  
 56 economic loss insurance in this state shall organize and  
 57 maintain, subject to approval and regulation by the  
 58 commissioner, an assigned claims bureau and an assigned claims  
 59 plan, and adopt rules for their operation and for the assessment  
 60 of costs on a fair and equitable basis consistent with sections  
 61 65B.41 to 65B.71. The assigned claims bureau shall be managed  
 62 by a governing committee made up of four individuals selected by  
 63 the insurer members, one individual selected by the self-insurer  
 64 members, and two public members appointed by the governor to  
 65 two-year terms. If such obligors do not organize and  
 66 continuously maintain an assigned claims bureau and an assigned  
 67 claims plan in a manner considered by the commissioner of  
 68 commerce to be consistent with sections 65B.41 to 65B.71, he the \*  
 69 commissioner shall organize and maintain an assigned claims \*  
 70 bureau and an assigned claims plan. Each reparation obligor  
 71 providing basic economic loss insurance in this state shall  
 72 participate in the assigned claims bureau and the assigned



1 claims plan. Costs incurred shall be allocated fairly and  
2 equitably among the reparation obligors.

3 Subd. 2. The assigned claims bureau shall promptly assign  
4 each claim and notify the claimant of the identity and address  
5 of the assignee-obligor of the claim. Claims shall be assigned  
6 so as to minimize inconvenience to claimants. The assignee  
7 thereafter has rights and obligations as if ~~he~~ the assignee had \*  
8 issued a policy of basic economic loss insurance complying with  
9 sections 65B.41 to 65B.71 applicable to the injury or, in case  
10 of financial inability of a reparation obligor to perform its  
11 obligations, as if the assignee had written the applicable  
12 reparation insurance, undertaken the self-insurance, or lawfully  
13 obligated itself to pay basic economic loss benefits.

065B#64S

14 65B.64 PERSONS ENTITLED TO PARTICIPATE IN ASSIGNED  
15 CLAIMS PLAN.

16 Subdivision 1. A person entitled to basic economic loss  
17 benefits because of injury covered by sections 65B.41 to 65B.71  
18 may obtain basic economic loss benefits through the assigned  
19 claims plan or bureau established pursuant to section 65B.63 and  
20 in accordance with the provisions for making assigned claims  
21 provided in sections 65B.41 to 65B.71, if:

22 (a) The person is 14 years old or younger and basic  
23 economic loss benefits are not applicable to ~~his~~ the injury \*  
24 because of section 65B.58;

25 (b) Basic economic loss benefits are not applicable to the  
26 injury for some reason other than those specified in sections  
27 65B.58, 65B.59, or 65B.60;

28 (c) The plan of reparation security applicable to the  
29 injury cannot be identified; or

30 (d) A claim for basic economic loss benefits is rejected by  
31 a reparation obligor on some ground other than the person is not  
32 entitled to basic economic loss benefits under sections 65B.41  
33 to 65B.71.

34 No change for subd 2

35 Subd. 3. A person shall not be entitled to basic economic  
36 loss benefits through the assigned claims plan with respect to  
37 injury which was sustained if at the time of such injury the  
38 injured person was the owner of a private passenger motor  
39 vehicle for which security is required under sections 65B.41 to  
40 65B.71 and ~~he~~ that person failed to have such security in effect. \*  
41 Members of the owner's household other than minor children shall  
42 also be disqualified from benefits through the assigned claims  
43 plan.

065B#65S

44 65B.65 TIME FOR PRESENTING CLAIMS UNDER ASSIGNED CLAIMS  
45 PLAN.

46 Subdivision 1. Except as provided in subdivision 2, a  
47 person authorized to obtain basic reparation benefits through  
48 the assigned claims plan shall notify the bureau of ~~his~~ the \*  
49 claim within the time that would have been allowed for  
50 commencing an action for those benefits if there had been  
51 identifiable coverage in effect and applicable to the claim.

52 Subd. 2. If timely action for basic reparation benefits is  
53 commenced against a reparation obligor who is unable to fulfill  
54 ~~his~~ obligations because of financial inability, a person \*  
55 authorized to obtain basic reparation benefits through the  
56 assigned claims plan shall notify the bureau of ~~his~~ the claim \*  
57 within six months after discovery of the financial inability.

065B#67S

58 65B.67 PENALTIES FOR FAILURE TO PROVIDE SECURITY FOR  
59 BASIC REPARATION BENEFITS.

60 No change for subd 1 to 3a

61 Subd. 4. PENALTY. Any operator of a motor vehicle or  
62 motorcycle who is convicted under the terms of this section, is  
63 guilty of a misdemeanor, and shall be sentenced as provided in  
64 section 609.03, clause (3) ~~and shall have his~~. Also, the \*  
65 operator's driver's license shall be revoked for not more than \*  
66 12 months. If the operator is also an owner of the motor  
67 vehicle or motorcycle, the registration of the motor vehicle or  
68 motorcycle shall also be revoked for not more than 12 months.  
69 Before reinstatement of a driver's license or registration, the  
70 operator shall file with the commissioner of public safety the  
71 written certificate of an insurance carrier authorized to do  
72 business in this state stating that security has been provided  
73 by the operator as required by section 65B.48. The commissioner



1 shall include a notice of the penalties contained in this  
2 section on all forms for registration of motor vehicles or  
3 motorcycles required to maintain a plan of reparation security.

4 No change for subd 4a

5 Subd. 5. When a nonresident's operating privilege is  
6 suspended pursuant to this section, the commissioner of public  
7 safety or ~~his~~ a designee shall transmit a copy of the record of \*  
8 the action to the official in charge of the issuance of licenses  
9 in the state in which the nonresident resides.

10 Subd. 6. Upon receipt of notification that the operating  
11 privilege of a resident of this state has been suspended or  
12 revoked in any other state pursuant to a law providing for its  
13 suspension or revocation for failure to deposit security for the  
14 payment of judgments arising out of a motor vehicle or  
15 motorcycle accident, or for failure to provide security covering  
16 a motor vehicle or motorcycle if required by the laws of that  
17 state, the commissioner of public safety shall suspend the  
18 operator's license of the resident until ~~he~~ the resident \*  
19 furnishes evidence of compliance with the laws of this state and  
20 if applicable the laws of the other state.

065B#68S

21 65B.68 RULES OF COMMISSIONER OF PUBLIC SAFETY.

22 Subdivision 1. The commissioner of public safety shall  
23 have the power and perform the duties imposed ~~upon him~~ by \*  
24 sections 65B.41 to 65B.71 and may adopt rules to implement and  
25 provide effective administration of the provisions requiring  
26 security and governing termination of security.

27 Subd. 2. The commissioner of public safety may by rule  
28 provide that motor vehicles and motorcycles owned by certain  
29 persons may not be registered in this state unless satisfactory  
30 evidence is furnished that security has been provided as  
31 required by section 65B.48. If a person who is required to  
32 furnish evidence ceases to maintain security, ~~he~~ the person \*  
33 shall immediately surrender the registration certificate and  
34 license plates for the vehicle. These requirements may be  
35 imposed if:

36 (1) The registrant has not previously registered a motor  
37 vehicle in this state; or

38 (2) An owner or operator of the vehicle has previously  
39 failed to comply with the security requirements of sections  
40 65B.41 to 65B.71 or of prior law; or

41 (3) The driving record of an owner or operator of the  
42 vehicle evidences ~~his~~ a continuing disregard of the laws of this \*  
43 state enacted to protect the public safety; or

44 (4) Other circumstances indicate that action is necessary  
45 to effectuate the purposes of sections 65B.41 to 65B.71.

46 No owner of a boat, snowmobile or utility trailer  
47 registered for a gross weight of 3,000 pounds or less shall be  
48 required by the commissioner of public safety to furnish  
49 evidence that the security required by section 65B.48 has been  
50 provided.

51 Subd. 3. MS1980 Expired

065B#69S

52 65B.69 OBLIGOR'S NOTIFICATION OF LAPSE, CANCELLATION, OR  
53 FAILURE TO RENEW POLICY OF COVERAGE.

54 If the required plan of reparation security of an owner or  
55 named insured is cancelled, and notification of such fact is  
56 given to the insured as required by section 65B.19, a copy of  
57 such notice shall within 30 days after coverage has expired be  
58 sent to the commissioner of public safety. If, on or before the  
59 end of that 30 day period, the insured owner of a motor vehicle  
60 has not presented the commissioner of public safety or ~~his~~ an \*  
61 authorized agent with evidence of required security which shall  
62 have taken effect upon the expiration of the previous coverage,  
63 or if the insured owner or registrant has not instituted an \*  
64 objection to ~~his~~ the obligor's cancellation under section \*  
65 65B.21, within the time limitations therein specified, ~~he~~ the \*  
66 insured owner or registrant shall immediately surrender the  
67 registration certificate and motor vehicle license plates to the  
68 commissioner of public safety and may not operate or permit  
69 operation of the vehicle in this state until security is again  
70 provided and proof of security furnished as required by sections  
71 65B.41 to 65B.71.

065B#70S

72 65B.70 AUTOMOBILE INSURANCE RATES.

73 No change for subd 2



1 Subd. 5. EXCESSIVE RATES. The commissioner shall  
 2 review all automobile coverage rates on an annual basis. If the  
 3 commissioner finds that the rates of any insurer, for coverages  
 4 required or permitted by sections 65B.41 to 65B.71, are  
 5 excessive, applying the standards of chapter 70A, ~~he the~~ \*  
 6 commissioner shall issue such order as ~~he the commissioner~~ \*  
 7 deems appropriate to establish a reasonable competitive rate, and such  
 8 order may include provisions for an appropriate premium  
 9 adjustment or rebate on outstanding policies.

10 Subd. 6. Expired

066A#07S

11 66A.07 MEMBERSHIP; MEETINGS; NOTICES; VOTING.

12 Every policyholder in a mutual insurance company shall be a  
 13 member thereof while ~~his~~ the policy is in force, entitled to one \*  
 14 vote for each policy ~~he holds~~ held, and notified of the time and \*  
 15 place of holding its meetings either personally or by imprint  
 16 upon the back of every policy, or in the premium notice, receipt  
 17 or certificate of renewal, substantially as follows:

18 "NOTICE OF ANNUAL MEETING

19 The policyholder named herein is hereby notified ~~that:~~ \*  
 20 while this policy is in force ~~he is~~ you are by virtue thereof a \*  
 21 member of the (name of company) and that the annual meeting of  
 22 said company is held at its home office at (address) on the  
 23 ..... day of ..... each year at ..... o'clock ..... m".

066A#08S

24 66A.08 REQUIREMENTS.

25 No change for subd 1 to 2

26 Subd. 3. MARINE LINES. (1) REQUIREMENTS.

27 Every mutual marine company, before issuing any policy, shall  
 28 have an agreement duly executed by solvent subscribers to the  
 29 amount of at least \$300,000, substantially as follows: "We, the  
 30 subscribers, severally agree to pay to the (name of company), on  
 31 demand, the whole or such part of the amounts set opposite our  
 32 names, respectively, as may be called, from time to time, for  
 33 its use, to pay losses and expenses not otherwise provided for";  
 34 and this agreement, endorsed with the certificate of the  
 35 president and a majority of the directors that these subscribers  
 36 are known to them and that they believe each to be solvent,  
 37 shall be filed with and approved by the commissioner.

38 When from death or other cause a deficiency exists in the  
 39 subscription fund, the same shall be made good by new  
 40 subscriptions certified in the same manner as the original.  
 41 Subscribers shall be entitled to annual dividends of two percent  
 42 upon the amount of their subscriptions from the profits of the  
 43 company and reimbursed from future profits for all money they  
 44 shall pay to the company for its uses under their agreement,  
 45 with interest thereon.

46 (2) DIVIDENDS AND RETIREMENT OF SUBSCRIPTIONS. The  
 47 net profits or dividend surplus of every such company shall be  
 48 annually divided among the insured whose policies terminated  
 49 during the year, in proportion to their contribution thereto.  
 50 These dividends shall be made only in scrip certificates payable  
 51 out of the accumulated profits or surplus, and this accumulation  
 52 shall be kept and invested as a separate fund in trust for the  
 53 redemption of these certificates and for losses and expenses, as  
 54 herein provided. Until redeemed, these certificates shall be  
 55 subject to future losses and expenses and reduced in case the  
 56 redemption fund is drawn upon for payment of these losses and  
 57 expenses, but no part of this fund shall be used for payment of  
 58 losses or expenses, except when and to the extent that the cash  
 59 assets are insufficient therefor; and when any portion thereof  
 60 is so used the outstanding certificates shall be reduced  
 61 proportionately so that the fund shall at all times equal the  
 62 unredeemed certificates. The net income of the redemption fund  
 63 shall be divided annually among the holders of its certificates,  
 64 or it may make such certificates with a special rate of interest  
 65 payable from the income of its invested funds. As these profits  
 66 accumulate and are invested, subscriptions of an equal amount  
 67 shall be canceled. The maximum of accumulations and profits  
 68 shall be \$300,000 and all excess of profits beyond that amount  
 69 shall be applied annually to the payment of the certificates in  
 70 the order of their issue. The certificates shall be forthwith  
 71 payable when the company ceases to issue policies and the fund  
 72 is no longer liable to be drawn upon for the payment of losses.

73 (3) GOVERNMENT; LIABILITY OF OFFICERS AND DIRECTORS.

74 Every domestic mutual marine company shall be governed by the



1 provisions applicable to mutual fire companies and each  
 2 subscriber to the subscription fund shall be a member during the  
 3 term of ~~his~~ subscription and entitled to one vote. If a  
 4 subscriber fails to pay ~~his~~ the subscription or any assessment  
 5 thereon and it is shown that any director or officer knowingly  
 6 certified falsely as to ~~him~~ that subscriber, the person so  
 7 certifying shall be liable for the amount thereof. If any such  
 8 company is at any time liable for losses beyond the amount of  
 9 its net assets, the president and directors shall be personally  
 10 liable for all losses on insurance effected while the company  
 11 remains in such condition.

\*  
\*  
\*

12 Subd. 4. EMPLOYERS' LIABILITY AND WORKERS'  
 13 COMPENSATION. (1) ORGANIZATION. (a) SUBSCRIBERS AND  
 14 ARTICLES OF INCORPORATION. Twenty or more persons may form an  
 15 incorporated mutual employers' liability insurance association  
 16 for the purpose of insuring themselves and such other persons,  
 17 firms, or corporations as may become subscribers to the  
 18 association against liability for compensation payable under the  
 19 terms of the workers' compensation law and for the purpose of  
 20 insuring against loss or damage by the sickness, bodily injury,  
 21 or death by accident of any person employed by the insured or  
 22 for whose injury or death the insured is responsible.

23 They shall subscribe and acknowledge a certificate  
 24 specifying:  
 25 (aa) the name, general nature of its business, and the  
 26 principal place of transacting the same; (such name shall  
 27 distinguish it from all other corporations, domestic or foreign,  
 28 authorized to do business in this state and end with "company,"  
 29 "corporation," "association," or the word "incorporated");  
 30 (bb) the period of its duration;  
 31 (cc) the names and places of residence of the incorporators;  
 32 (dd) in what board its management shall be vested and the  
 33 names and addresses of those composing the board until the first  
 34 election, a majority of whom shall always be residents of the  
 35 state;  
 36 (ee) the highest amount of indebtedness or liability to  
 37 which the corporation shall at any time be subject; and  
 38 (ff) the territory within which the association may do  
 39 business.

40 It may contain any other lawful provisions defining and  
 41 regulating the powers or business of the corporation, its  
 42 officers, directors, trustees, and members.

43 The certificate of incorporation of every such corporation  
 44 shall be submitted to the commissioner for ~~his~~ approval and, if  
 45 ~~he approves the same~~ approved, one copy thereof shall be filed  
 46 with the secretary of state and one copy with the commissioner.

\*  
\*

47 (b) BYLAWS AND SEAL. Such association shall have the  
 48 power to make bylaws for the government of its officers and the  
 49 conduct of its affairs, to alter and amend the same, and to  
 50 adopt a common seal.

51 (c) ANNUAL MEETING; VOTING RIGHTS. The annual meeting  
 52 for the election of directors shall be held at such time as the  
 53 bylaws of the association may direct. Of the time and place of  
 54 the meeting at least 30 days previous written or printed notice  
 55 shall be given to the subscribers, or the notice may be given by  
 56 publication, not less than three times, in at least two daily or  
 57 weekly newspapers published in the city or county wherein the  
 58 association has its principal office and in the legal  
 59 periodical, if any, designated by the rules of court of the  
 60 proper county for the publication of legal notices. Subscribers  
 61 who, during the preceding calendar year, have paid into the  
 62 treasury of the association premiums amounting to more than  
 63 one-half of the total premiums received by it during that year,  
 64 shall constitute a quorum. At this annual meeting the  
 65 subscribers shall elect, by ballot, from their own number, not  
 66 less than five directors, a majority of whom shall be residents  
 67 of this state, to serve for at least one year and until their  
 68 successors are duly chosen. The association may provide in its  
 69 bylaws for the division of its board of directors into two,  
 70 three, or four classes, and for the election thereof at its  
 71 annual meetings in such manner that the members of one class  
 72 only shall retire and their successors be chosen each year.  
 73 Vacancies may be filled by election by the board until the next  
 74 annual meeting. In the choice of directors and in all meetings  
 75 of the association, each subscriber shall be entitled to one  
 76 vote for every \$100, or any fraction thereof, paid by ~~him~~ the

\*



1 subscriber in premiums into the treasury of the association \*  
2 during the preceding calendar year. Subscribers may vote by  
3 proxy and the record of all votes shall be made by the secretary  
4 and show whether the same were cast in person or by proxy and  
5 shall be evidence of all these elections. Not less than three  
6 directors shall constitute a quorum. The directors shall  
7 annually choose by ballot a president, who shall be a member of  
8 the board; a secretary; a treasurer, who may be either the  
9 president or secretary; and such other officers as the bylaws  
10 may provide; and fix the salaries of the president and the  
11 secretary, as well as the salaries or compensation of such other  
12 officers and agents as the bylaws prescribe. Vacancies in any  
13 office may be filled by the directors or by the subscribers, as  
14 the bylaws shall prescribe.

15 (2) REQUIREMENTS. (a) NUMBER OF RISKS TO QUALIFY.

16 These associations shall not begin to issue policies until a  
17 list of subscribers with the number of employees of each which,  
18 in the aggregate, must number not less than 5,000, together with  
19 such other information as the commissioner may require, shall  
20 have been filed at the department of commerce, nor until the  
21 president and secretary of the association shall have certified  
22 under oath that every subscription in the list so filed is  
23 genuine and made with an agreement of all the subscribers that  
24 they will take the policies subscribed for within 30 days of the  
25 granting of a license by the commissioner. In case of  
26 associations organized exclusively for the purpose of insuring  
27 creameries, cheese factories, and livestock shipping  
28 associations, these associations may begin to issue policies  
29 when the number of employees insured aggregates 300.

30 Upon the filing of the certificate provided for in this  
31 section, the commissioner shall make such investigations as he \*  
32 ~~may deem~~ deemed proper and, if ~~his~~ the findings warrant it, \*  
33 grant a license to the association to issue policies.

34 (b) NUMBER OF RISKS REQUIRED TO CONTINUE IN BUSINESS.

35 If at any time the number of subscribers falls below 20, or the  
36 number of subscribers' employees within the state falls below  
37 5,000, no further policies shall be issued until the total  
38 number of subscribers amounts to not less than 20, whose  
39 employees within the state are not less than 5,000. In case of  
40 associations organized for the purpose of insuring creameries,  
41 cheese factories, and livestock shipping associations, the  
42 number of subscribers must not fall below 200, nor the number of  
43 subscribers' employees within the state below 300.

44 (3) ADDITIONAL POWERS. (a) MAY WRITE AUTOMOBILE

45 INSURANCE. Any such company authorized to write workers'  
46 compensation or liability insurance under this subdivision, when  
47 its articles of incorporation so provide, shall be permitted to  
48 insure against loss or damage to automobiles or other vehicles  
49 and their contents by collision, fire, burglary, or theft, and  
50 other perils of operation, and against liability for damage to  
51 persons or property of others by collision with such vehicles,  
52 and to insure against any loss or hazard incident to the  
53 ownership, operation, or use of motor or other vehicles, as  
54 specified in section 60A.06, subdivision 1, clause (12).

55 (b) MAY WRITE GLASS INSURANCE. Any company authorized  
56 to write workers' compensation or liability insurance under this  
57 subdivision when its articles of incorporation so provide shall  
58 be permitted to insure against loss or damage by breakage of  
59 glass located or in transit.

60 (c) SPECIAL POWERS. Any company organized under this  
61 subdivision which, for 15 years prior to the passage of Laws  
62 1935, chapter 136, has exclusively insured creameries, cheese  
63 factories, and livestock shipping associations, and which has  
64 assets of \$100,000 or more, may write public liability and  
65 compensation insurance coverage of creameries, cheese factories,  
66 shipping associations, farmers' elevators, cooperatively owned  
67 warehouses, cooperative filling stations, cooperative oil  
68 companies and all cooperatively owned or organized enterprises.

69 (4) INTERNAL OPERATION. (a) POLICIES. Policies  
70 of insurance issued by any such association may be made either  
71 with or without the seal thereof and they shall be signed by the  
72 president, or such other officers as may be designated by the  
73 directors for that purpose, and attested by the secretary.

74 (b) CLASSIFICATION OF RISKS. The board of directors  
75 may divide the subscribers into groups in accordance with the  
76 nature of their business and the probable risk of injury



1 therein. In such case they shall fix all premiums, make all  
2 assessments, and determine and pay all dividends by and for each  
3 group in accordance with the experience thereof, but all funds  
4 of the association and the contingent liability of all  
5 subscribers shall be available for the payment of any claim  
6 against the association; provided, that (as between the  
7 association and its subscribers) until the whole of the  
8 contingent liability of the members of any group shall be  
9 exhausted, the general funds of the association and the  
10 contingent liability of the members of other groups shall not be  
11 available for the payment of losses and expenses incurred by  
12 such group in excess of the earned premiums paid by the members  
13 thereof.

14 (c) CLASSIFICATION TO BE FILED. A statement of any  
15 proposed distribution of subscribers into groups shall be filed  
16 with the department of commerce.

17 (d) RATES. The board of directors shall determine the  
18 amount of premiums which the subscribers of the association  
19 shall pay for their insurance in accordance with the nature of  
20 the business in which the subscribers are engaged and the  
21 probable risk of injury to their employees under existing  
22 conditions, and it shall fix premiums at such amounts as in its  
23 judgment shall be sufficient to enable the association to pay to  
24 its subscribers all sums which may become due and payable to  
25 their employees under provisions of law and the expenses of  
26 conducting the business of the association. In fixing the  
27 premium payable by any subscriber, the board of directors may  
28 take into account the condition of the plant, workroom, shop,  
29 farm, or premises of the subscriber in respect to the safety of  
30 those employed therein as shown by the report of any inspector  
31 appointed by the board and it may from time to time change the  
32 amount of premiums payable by any of the subscribers as  
33 circumstances may require and the condition of the plant,  
34 workroom, shop, farm, or premises of the subscribers in respect  
35 to the safety of their employees may justify and may increase  
36 the premiums of any subscriber neglecting to provide safety  
37 devices required by law, or disobeying the rules or regulations  
38 made by the board of directors in accordance with the provisions  
39 of clause (4)(g).

40 (e) PREMIUMS; CONTINGENT LIABILITY. Every such  
41 company shall charge and collect on each policy a premium equal  
42 to one year's premium on the policy issued and state in the  
43 policy the estimated annual premium and provide in its bylaws  
44 for the determination of the actual premium and for the payment  
45 of same when determined. The premium thus determined shall be  
46 known as the annual premium on the policy. The company shall  
47 provide in its bylaws and specify in its policies the maximum  
48 contingent mutual liability of its members for the payment of  
49 losses and expenses not provided for by its cash fund. The  
50 contingent liability of a member shall not be less than a sum  
51 equal and in addition to one annual premium, nor more than a sum  
52 equal to five times the amount of the annual premium or, in case  
53 of a policy written for less than one year, the contingent  
54 liability shall not be less than the proportionate fractional  
55 part of the annual premium, nor more than five times the  
56 proportionate fractional part of the annual premium. The  
57 contingent liability of the policyholder shall be plainly and  
58 legibly stated in each policy as follows: "The maximum  
59 contingent liability of the policyholder under this policy shall  
60 be a sum equal to ..... annual premium (or premiums)."

61 (f) ASSESSMENTS. When the liabilities, including  
62 unearned premiums and such other reserves as are or may be  
63 required by law and the commissioner, are in excess of the  
64 admitted assets computed on the basis allowed for its annual  
65 statement, it shall make an assessment upon its policyholders  
66 based upon the amount of one annual premium as written in the  
67 policy and not to exceed the amount of five annual premiums.

68 If it becomes necessary to levy the assessment, as provided  
69 by this section, no policies shall be issued until the admitted  
70 assets of the association are in excess of its liabilities.

71 (g) POWER OF BOARD OF DIRECTORS. The board of  
72 directors shall be entitled to inspect the plant, workroom,  
73 shop, farm, or premises of any subscriber and for this purpose  
74 to appoint inspectors, who shall have free access to all such  
75 premises during regular working hours, and the board of  
76 directors shall likewise from time to time be entitled to



1 examine by their auditor or other agent the books, records, and  
2 payrolls of any subscribers for the purpose of determining the  
3 amount of premium chargeable to the subscriber.

4 The board of directors shall make reasonable rules and  
5 regulations for the prevention of injuries upon the premises of  
6 subscribers; and may refuse to insure, or may terminate the  
7 insurance of, any subscriber who refuses to permit these  
8 examinations and disregards such rules or regulations, and  
9 forfeit all premiums previously paid ~~by him~~, but the termination  
10 of the insurance of any subscriber shall not release him the  
11 subscriber from liability for the payment of assessments then or  
12 thereafter made by the board of directors to make up  
13 deficiencies existing at the termination of ~~his~~ the insurance. \*

14 (h) INVESTMENTS. The association shall invest and  
15 keep invested all its funds of every description, excepting such  
16 cash as may be required in the transaction of its business, in  
17 accordance with the laws of this state or relating to the  
18 investment of funds of domestic insurance companies.

19 No such association shall purchase, hold, or convey real  
20 estate except as provided by section 60A.11, subdivision 6.

21 (i) WITHDRAWAL OF SUBSCRIBER. Any subscriber of the  
22 association who has complied with all its rules and regulations  
23 may withdraw therefrom by written notice to that effect sent by  
24 the subscriber by certified mail to the association and this  
25 withdrawal shall become effective on the first day of the month  
26 immediately following the tenth day after the receipt of the  
27 notice, but the withdrawal shall not release the subscriber from  
28 liability for the payment of assessments thereafter made by the  
29 board of directors to make up deficiencies existing at the date  
30 of ~~his~~ withdrawal and the subscriber shall be entitled to ~~his~~  
31 the subscriber's share of any dividends earned at the date  
32 of ~~his~~ withdrawal. \*

33 (5) MISCELLANEOUS. (a) PERJURY BY OFFICER. ~~If~~  
34 Any officer of the association who shall falsely make oath to  
35 any certificate required to be filed with the commissioner, ~~he~~  
36 shall be guilty of perjury. \*

37 (b) FOREIGN MUTUAL EMPLOYERS' LIABILITY ASSOCIATION.  
38 Any mutual employers' liability insurance association of another  
39 state, upon compliance with all laws governing such corporations  
40 in general and the provisions of this subdivision may be  
41 admitted to transact business in this state. These associations  
42 shall pay to the department of commerce the fees prescribed by  
43 section 60A.14, subdivision 1.

44 (c) WINDING UP AFFAIRS. When the contracts of  
45 insurance issued by these associations shall cover in the  
46 aggregate less than 5,000 employees or, in the case of  
47 associations organized for the purpose of insuring creameries,  
48 cheese factories, and livestock shipping associations, less than  
49 300 employees, the association shall forthwith notify the  
50 commissioner of that fact and if, at the expiration of six  
51 months from the notice, the aggregate number of employees  
52 covered by the contracts of insurance shall be less than 5,000,  
53 or, in the case of associations organized for the purpose of  
54 insuring creameries, cheese factories, and livestock shipping  
55 associations, less than 300 employees, the commissioner shall  
56 proceed under the provisions of chapter 60B.

066A#15S

57 66A.15 ASSESSMENTS.

58 Subdivision 1. MUTUAL FIRE INSURANCE COMPANIES.  
59 When the net assets of any mutual insurance company are  
60 insufficient for the payment of incurred losses and expenses  
61 above its unearned premium reserve, as provided by law, it shall  
62 make an assessment for the amount required ratably upon its  
63 members liable thereto. The order for assessment shall be duly  
64 entered upon its records, with a statement of its condition at  
65 the date thereof, including all cash assets, deposit notes, and  
66 contingent amount liable to the assessment, the amount of the  
67 assessment, and the particular losses or other liabilities for  
68 which it is made. This record shall be signed by each director  
69 voting for the order before any part of the assessment is  
70 collected and any person liable thereto may inspect and take a  
71 copy thereof.

72 The commissioner may by written order relieve the company  
73 from an assessment or other proceedings to restore the assets  
74 during the time fixed in the order, when the deficiency does not  
75 exceed ten percent of its admitted assets.



1 When, by reason of depreciation, loss, or otherwise, the  
2 net assets, after providing for other debts, are less than the  
3 required premium reserve upon policies the deficiency shall be  
4 restored by assessment, as provided in this subdivision, notice  
5 of which shall be filed with the commissioner. When the board  
6 of directors or the commissioner shall be of the opinion that  
7 the insolvency of any company is probable, the board or, upon  
8 its failure so to do, the commissioner may order two assessments  
9 made, the first to determine what each policyholder should  
10 equitably pay or receive in case of withdrawal from the company  
11 and cancellation of ~~his~~ the policy; the second, such further sum \*  
12 as each should pay to reinsure the unexpired term at the same  
13 rate as the first insurance. The directors shall forthwith  
14 cause written notice and demand of payment to be served  
15 personally or by mail upon each policyholder subject thereto.

16 After adjustment of the first assessment, every policy upon  
17 which the second assessment shall not be paid shall be canceled;  
18 but in no case shall there be credited upon a policy more than  
19 if canceled by the board of directors under the bylaws. If,  
20 within two months after the last assessment is payable, the  
21 amount of the policies whose holders have paid the same is less  
22 than \$500,000, all other policies shall be void and the company  
23 shall continue only for the purpose of adjusting the deficiency  
24 or excess of premiums and settling outstanding claims. No  
25 assessment shall be valid against a policyholder who has not  
26 been duly notified thereof in writing within one year after the  
27 expiration or cancellation of ~~his~~ the policy. \*

28 No change for subd 2

066A#16S

29 66A.16 GUARANTY FUNDS.

30 Subdivision 1. MUTUAL FIRE INSURANCE COMPANIES. A  
31 mutual fire insurance company may be formed with, or an existing  
32 fire insurance company may establish, a guaranty fund divided  
33 into certificates of \$10 each, or multiples thereof, and this  
34 guaranty fund shall be invested in the same manner as is  
35 provided for the investment of capital stock of insurance  
36 companies. The certificate holders of the guaranty fund shall  
37 be entitled to an annual dividend of not more than ten percent  
38 on their respective certificates, if the net profits or unused  
39 premiums left after all losses, expenses, or liabilities then  
40 incurred, with reserves for reinsurance, are provided for shall  
41 be sufficient to pay the same; and, if the dividends in any one  
42 year are less than ten percent, the difference may be made up in  
43 any subsequent year or years from the net profits.

44 The guaranty fund shall be applied to the payment of losses  
45 and expenses when necessary and, if the guaranty fund be  
46 impaired, the directors may make good the whole or any part of  
47 the impairment from future profits of the company, but no  
48 dividend shall be paid on guaranty fund certificates while the  
49 guaranty fund is impaired.

50 The holder of the guaranty fund certificate shall not be  
51 liable for any more than the amount of ~~his~~ the certificate which \*  
52 has not been paid in and this amount shall be plainly and  
53 legibly stated on the face of the certificate.

54 Each certificate holder of record shall be entitled to one  
55 vote in person or by proxy in any meeting of the members of the  
56 company for each \$10 investment ~~by him~~ in guaranty fund \*  
57 certificates. The guaranty fund may be reduced or retired by  
58 vote of the policyholders of the company and the assent of the  
59 commissioner, if the net assets of the company above its  
60 reinsurance reserve and all other claims and obligations and the  
61 amount of its guaranty fund certificates and interest thereon  
62 for two years last preceding and including the date of its last  
63 annual statement shall not be less than 50 percent of the  
64 premiums in force.

65 Due notice of this proposed action on the part of the  
66 company shall be mailed to each policyholder of the company not  
67 less than 30 days before the meeting when the action may be  
68 taken.

69 In mutual fire insurance companies with a guaranty fund,  
70 the certificate holders shall be entitled to choose and elect  
71 from among their own number or from among the policyholders at  
72 least one-half of the total number of directors.

73 If any mutual fire insurance company with a guaranty fund  
74 ceases to do business, it shall not divide among its certificate  
75 holders any part of its assets or guaranty fund until all its



1 debts and obligations have been paid or canceled.

2 Foreign mutual fire insurance companies having a guaranty  
3 fund shall not be required to make their certificate of guaranty  
4 fund conform to the provisions of this section, but when the  
5 certificates do not conform therewith the amount thereof shall  
6 be charged as a liability.

7 No change for subd 2

8 Subdivision 1 shall not apply to this guaranty fund except  
9 that the guaranty fund of the company shall be invested in the  
10 same manner as is provided by law for the investment of its  
11 other funds. Every such company shall in its annual statement  
12 show as separate items the amount of the guaranty fund and the  
13 remaining divisible surplus, and the aggregate of these items  
14 shall be shown as surplus to policyholders.

15 A guaranty fund may be created, in whole or in part, in  
16 either or both of the following ways:

17 (1) Where an existing mutual company has a surplus, the  
18 members of the company may at any regular or special meeting set  
19 aside from and out of its surplus such sum as shall be fixed by  
20 resolution to be transferred to and thereafter constitute, in  
21 whole or in part, the guaranty fund of the company; or

22 (2) By the issuance of guaranty fund certificates, as  
23 specified in this subdivision, the same to be issued upon the  
24 conditions and subject to the rights and obligations specified  
25 in this subdivision.

26 Any such company establishing a guaranty fund, as provided  
27 in this subdivision, may, subject to the restrictions and  
28 limitations imposed by law as to a like stock insurance company,  
29 amend its articles to provide for the doing by it of one or more  
30 of the kinds of insurance business specified in section 60A.06,  
31 subdivision 1, clauses (1) to (15).

32 The policy liability of any such mutual company issuing  
33 policies without a contingent liability shall, as to these  
34 policies, be computed upon the same basis as is applicable to  
35 like policies issued by stock insurance companies. Where any  
36 such company shall issue five-year term policies, wherein the  
37 premiums shall be payable in annual or biennial installments and  
38 no premium note is taken by the company as payment of the full  
39 term premium, the company then shall be required to maintain a  
40 reserve fund on only the portion of premiums actually collected  
41 from time to time under these term policies and no company so  
42 creating a guaranty fund shall issue policies without a  
43 contingent liability after the guaranty fund shall be impaired  
44 or reduced below the capital required of a like stock insurance  
45 company doing the same kind or kinds of insurance. Any company  
46 having a guaranty fund may insure, without a contingent  
47 liability, any kind or class of property which a like stock  
48 company may insure.

49 Any director, officer, or member of any mutual insurance  
50 company, or any other person, may advance to the company any sum  
51 of money necessary for the purposes of its business or to enable  
52 it to comply with any of the requirements of the law, including  
53 the creation, in whole or in part, of a guaranty fund to enable  
54 it to do one or more of the kinds of business specified in this  
55 subdivision, and for the creation by a company issuing policies  
56 with a contingent liability of a guaranty fund, in such amount  
57 as the board of directors shall determine, for the protection of  
58 policyholders of the company, and the moneys, together with the  
59 interest thereon as may have been agreed upon, not exceeding ten  
60 percent per annum, shall be repaid only out of the surplus  
61 remaining after providing for all reserves, if any, and other  
62 liability, and which shall not otherwise be a liability or claim  
63 against the company or any of its assets. No commission or  
64 promotion expenses shall be paid in connection with the advance  
65 of any money to the company, and the amount of the advance  
66 remaining unpaid shall be reported in each annual statement.

67 The company shall issue to each person advancing money for  
68 the creation of a guaranty fund a certificate or certificates  
69 specifying the amount advanced. These certificates may be  
70 assigned by the holder and the transfer recorded upon the books  
71 of the company. The holders of the guaranty fund certificates  
72 shall be entitled to annual interest thereon at the rate agreed  
73 upon, if the net profits of the company, after all losses,  
74 expenses, liabilities, and legal reserves, if any, have been  
75 paid or provided for, are sufficient to pay the same. If the  
76 net profits of the company in any year are insufficient to pay



1 the full amount of interest agreed upon, the difference may be  
2 paid in any subsequent year from the net profits of the  
3 subsequent years.

4 The guaranty fund shall be applied to the payment of losses  
5 and expenses when necessary and, if the guaranty fund be  
6 impaired, the directors may make good the whole or any part of  
7 the impairment from future net profits of the company or by the  
8 issue and sale of additional guaranty fund certificates, but no  
9 interest shall be paid on the guaranty fund certificates while  
10 the guaranty fund is impaired. No certificate shall be issued  
11 except for money actually paid to the company, which amount  
12 shall be plainly and legibly stated therein. The company shall  
13 issue certificates only in sums of \$10, or multiples thereof; it  
14 shall keep a record of the name and address of the person to  
15 whom issued and of all assignments thereof. Upon surrender of a  
16 certificate duly assigned in writing, the company shall cancel  
17 the same and issue a new certificate to the assignee.

18 Each certificate holder of record shall be entitled to one  
19 vote in person or by proxy at any meeting of the members of the  
20 company, for each \$10 investment ~~by him~~ in the guaranty fund  
21 certificates. \*

22 The guaranty fund may be reduced or retired by vote of the  
23 board of directors of the company, if the net assets of the  
24 company, above its legal reserves, if any, and all other claims  
25 and obligations are sufficient therefor. The certificate  
26 holders shall be entitled to choose and elect from among their  
27 own members or from among the policyholders at least one-half of  
28 the total number of directors.

29 In case the members of any company by resolution adopted at  
30 any regular meeting or special meeting called for that purpose  
31 shall determine to wind up and liquidate the business of any  
32 such company, the assets thereof shall be applied (1) to the  
33 payment of the expense of the liquidation; (2) to the payment of  
34 any accrued liability, including losses, if any; (3) to the  
35 payment of any unearned premiums on policies in force at the  
36 time of the liquidation; (4) to the payment of guaranty fund  
37 certificates, if any, together with accrued interest thereon, if  
38 any; and (5) the residue shall be distributed according to the  
39 provisions of chapter 60B.

40 No change for subd 3 to 4

066A#17S

41 66A.17 MUTUAL FIRE INSURANCE COMPANIES; PROVISIONS AS TO  
42 POLICIES LAPSING.

43 Any mutual company insuring property may provide by its  
44 certificate or bylaws that upon failure by any member for 60  
45 days after notification thereof to pay any premium or assessment  
46 made upon ~~his~~ the member's policy such policy shall lapse and  
47 become void without notice or further act by or on behalf of the  
48 company. The condition shall be plainly and legibly specified  
49 in each policy. Whereupon the company may recover the amount of  
50 earned premium or assessment, or both, but no more. Nothing  
51 herein contained shall prevent the reinstatement of the lapsed  
52 policy by voluntary acceptance of any delinquent assessment  
53 before suit. \*

066A#21S

54 66A.21 DOMESTIC MUTUAL INSURANCE COMPANIES, SEPARATION  
55 OF ASSESSABLE AND NON-ASSESSABLE BUSINESSES.

56 No change for subd 1

57 Subd. 2. EXISTING DOMESTIC MUTUAL INSURANCE COMPANIES,  
58 JOINT AGREEMENT; APPROVAL. The separation can be effected  
59 only as a result of a joint agreement entered into, approved and  
60 filed as follows:

61 (1) The board of directors of the ceding and assuming  
62 corporations shall, by majority vote, enter into a joint  
63 agreement, prescribing the terms and conditions of the  
64 separation and the mode of carrying the same into effect, with  
65 such other details and provisions as they deem necessary. The  
66 agreement shall provide for an adjustment of final figures as  
67 may be necessary after a verifying examination of the  
68 corporation by the commissioner of commerce as hereinafter  
69 provided.

70 (2) The agreement shall be submitted to the members of the  
71 ceding corporation, at a special meeting duly called for the  
72 purpose of considering and acting upon the agreement. Notice  
73 for such special meeting shall be deemed sufficient if mailed to  
74 the policyholders' last known address as shown on the policy



1 records of the corporation. If the holders of two-thirds of the  
 2 voting power of the members present or represented at the  
 3 meeting shall vote for the adoption of the agreement, then that  
 4 fact shall be certified on the agreement by the secretary of the  
 5 corporation and the agreement so adopted and certified shall be  
 6 signed and acknowledged by the president and secretary of both  
 7 the ceding and assuming corporations.

8 (3) The agreement so adopted, certified and acknowledged  
 9 shall be delivered to the commissioner of commerce. It shall be  
 10 the duty of the commissioner to determine, after a verifying  
 11 examination, if the provisions thereof are fair and equitable to  
 12 all concerned and to verify the reasonableness and accuracy of  
 13 the apportionment of assets, liabilities, and surplus provided  
 14 for in the agreement.

15 If the commissioner is satisfied that the agreement is fair  
 16 and reasonable and that its provisions relating to transfers of  
 17 assets and assumption of liabilities are equitable to claimants  
 18 and policyholders, he the commissioner shall place his a \*  
 19 certificate of approval on the agreement and shall file it in \*  
 20 his the commissioner's office. A copy of the agreement,  
 21 certified by the commissioner of commerce shall be filed for  
 22 record in the office of the secretary of state and in the office  
 23 of the county recorder of the counties in this state in which  
 24 any of the corporate parties to the agreement have their home  
 25 offices and of any counties in which any of the corporate  
 26 parties have land, title to which will be transferred under the  
 27 terms of the agreement.

28 Subd. 3. NEW DOMESTIC MUTUAL COMPANIES; JOINT AGREEMENT;  
 29 APPROVAL. (1) If the joint agreement provides for a new  
 30 domestic mutual insurance corporation to be formed to assume the  
 31 business ceded, the articles of incorporation for such new  
 32 corporation shall be prepared and delivered to the commissioner  
 33 of commerce for his approval, together with the agreement as \*  
 34 provided in subdivision 2.

35 (2) Such articles shall be prepared, executed, approved,  
 36 filed and recorded in the form and manner prescribed in, or  
 37 applicable to, the particular law or laws under which the new  
 38 insurance corporation is to be formed.

39 (3) The department of commerce shall grant and the  
 40 commissioner of commerce shall issue to such new corporation a  
 41 certificate of authority immediately upon its assumption of the  
 42 business ceded and upon its making the deposit of securities  
 43 with the commissioner of commerce, as required by law.

44 No change for subd 4

066A#22S

45 66A.22 ORGANIZATION.

46 No change for subd 1

47 Subd. 2. LIABILITY FOR RATABLE ASSESSMENTS. In  
 48 addition to the premium, every policyholder, in its hail  
 49 department, shall be liable to a ratable assessment for all  
 50 losses and expenses incurred while a member in a sum equal to  
 51 such premium but not exceeding in any one year five percent of  
 52 his the policyholder's insurance, if notified thereof within 90 \*  
 53 days after the expiration or cancellation of his the policy; or \*  
 54 if such policy be for more than one year, within 90 days after  
 55 the expiration of the year in which assessment is made  
 56 thereunder.

066A#23S

57 66A.23 ASSESSMENTS; NOTICE; PAYMENTS; COLLECTION.

58 When any assessment has been completed the secretary shall  
 59 immediately notify each member by mail directed to his the \*  
 60 member's last known address of the purpose and amount of such \*  
 61 assessment and of his the member's share thereof, and the person \*  
 62 to whom and the time when such payment must be made, which shall  
 63 not be less than 30, nor more than 90, days thereafter; and such  
 64 person, if the bylaws so provide, may collect a commission of  
 65 not more than two percent of each amount in addition thereto.

066A#28S

66 66A.28 REPORTS; DELINQUENCY; POWERS OF COMMISSIONER.

67 The commissioner shall demand a report of any such company  
 68 when in his the commissioner's judgment the interest of the \*  
 69 public or policyholders so require; and the proper officers of  
 70 the company shall make prompt reply to the demand and answer  
 71 fully all interrogations regarding its business methods,  
 72 financial condition, and other matters pertaining to its  
 73 business. The provisions of chapter 60B shall apply to such



1 companies.

067A#02S

2 67A.02 CERTIFICATE OF INCORPORATION.

3 No change for subd 1

4 Subd. 2. APPROVAL OF COMMISSIONER REQUIRED; FILING.

5 The certificate of every such corporation shall be presented to  
6 the commissioner for ~~his~~ approval and, ~~if he approves on~~  
7 approving the same, ~~he~~ the commissioner shall endorse thereon  
8 ~~his~~ the approval and the certificate shall then be filed in ~~his~~  
9 the commissioner's office and recorded in a book kept therein  
10 for that purpose. Upon the approval of the certificate and the  
11 filing of the same with the commissioner, the corporate  
12 organization of the incorporation shall be complete.

\*  
\*  
\*

067A#11S

13 67A.11 ANNUAL MEETING.

14 No change for subd 1 to 3

15 Subd. 4. OTHER STATEMENTS MAY BE REQUIRED BY  
16 COMMISSIONER. The commissioner may at other times require  
17 any further statement that ~~he~~ the commissioner may deem  
18 necessary to be made relating to the business of the company.

\*

19 No change for subd 5

067A#12S

20 67A.12 APPLICATIONS.

21 No change for subd 1 to 2

22 Subd. 4. POLICY FEE, PREMIUM AND ASSESSMENT. Before  
23 the delivery of any policy, the company may collect regular cash  
24 premium and policy fee and shall take the written agreement of  
25 the insured of even date therewith, which shall be embodied in  
26 ~~his~~ the application, to pay a pro rata share of losses or  
27 damages sustained by any member.

\*

28 No change for subd 5

067A#161S

29 67A.161 ARBITRATION OF DISPUTED LOSSES.

30 If a township mutual fire insurance company and an insured  
31 fail to agree on the actual cash value of an item or amount of a  
32 loss, on written demand by either party, the insured and the  
33 company shall each, within 20 days of the demand, select a  
34 competent and disinterested appraiser and notify the other party  
35 of ~~his~~ the appraiser's identity. If either party fails to  
36 select an appraiser within the time provided, the presiding  
37 judge of the district court in the county in which the loss  
38 occurred shall appoint an appraiser to represent that party.  
39 The appointment shall be made upon application to the court by  
40 the party not failing to make the required selection and upon  
41 five days written notice to the other party. The appraisers  
42 appointed pursuant to this section shall make a good faith  
43 effort to select a competent and disinterested umpire. If the  
44 appraisers fail to agree upon an umpire within 15 days of their  
45 appointment, the presiding judge of the district court in the  
46 county in which the loss occurred shall appoint an umpire upon  
47 application by either party and five days written notice to the  
48 other party. The appraisers shall appraise the loss, stating  
49 separately actual value and loss to each item. If the  
50 appraisers fail to agree, they shall submit their differences to  
51 the umpire, whose decision shall control to the extent of the  
52 differences between the appraisers. An award in writing,  
53 approved by the appraisers or by an appraiser and the umpire,  
54 upon being filed with the company shall be conclusive evidence  
55 of the actual value and loss to an item. An appraiser shall be  
56 paid by the party ~~he represents~~ represented, and the expenses of  
57 the appraisal and the umpire shall be paid in equal shares by  
58 the two parties.

\*

\*

067A#17S

59 67A.17 ASSESSMENTS.

60 Subdivision 1. DETERMINATION. When any loss shall  
61 be ascertained which exceeds in amount the cash funds of the  
62 company, the secretary, or, in ~~his~~ the secretary's absence, the  
63 president, shall convene the directors, who shall levy an  
64 assessment upon each policyholder for the proportionate  
65 amount ~~which he should pay~~ to be paid to cover this excess; or  
66 the company may borrow not to exceed two mills on each dollar of  
67 insurance written by it and then in force, and from this fund  
68 pay these losses, and afterwards levy assessments to pay the  
69 loans.

\*

\*

70 If the fund for the payment of expenses is insufficient,  
71 the amount of the deficiency may be added to any assessment.



1 No change for subd 1a  
 2 Subd. 2. SECRETARY'S DUTIES. It shall be the duty  
 3 of the secretary, when the assessment shall have been completed,  
 4 to immediately notify every person composing the company, by  
 5 letter sent to ~~his~~ the person's usual post-office address, of  
 6 the amount of the loss, and the sum due ~~from-him~~ as ~~his~~ the  
 7 person's share thereof, and of the time when and to whom the  
 8 payment is to be made, but this time shall not be less than 60,  
 9 nor more than 90, days from the date of the notice, and every  
 10 person designated to receive this money may demand and receive  
 11 two percent in addition to the amount due on the assessment, as  
 12 aforesaid, for ~~his~~ fees in receiving and paying over the same.

\*  
\*  
\*  
\*

13 Subd. 3. MEMBER SUBJECT TO SUIT AND DIRECTORS'  
 14 LIABILITY. Suits at law may be brought against any member of  
 15 the company who shall refuse or neglect to pay any assessment  
 16 ~~made-upon-him~~. The directors of any company so formed who shall  
 17 wilfully neglect or refuse to perform the duties imposed upon  
 18 them by law shall be liable in their individual capacities to  
 19 the person sustaining the loss.

\*

067A#18S

20 67A.18 TERMINATION.  
 21 Subdivision 1. BY MEMBER. Any member may terminate  
 22 ~~his~~ membership in the company by giving written notice or  
 23 returning ~~his~~ the member's policy to the secretary and paying  
 24 the withdrawing member's share of all existing claims.

\*  
\*

25 No change for subd 2

067A#21S

26 67A.21 CONSOLIDATION, MERGER.  
 27 Two or more township mutual fire insurance companies which  
 28 have been or may hereafter be authorized to transact the  
 29 business of insurance upon insurable property as herein  
 30 authorized may consolidate or merge as provided herein.

31 To effect this consolidation or merger, it shall be  
 32 necessary:

33 (1) That the board of directors or managing body of each of  
 34 the corporations pass a resolution to the effect that the  
 35 consolidation or merger is advisable and containing the proposed  
 36 name of the corporation, as consolidated or merged, its  
 37 principal office, and the names of its first board of directors  
 38 and officers;

39 (2) That a special meeting of the policyholders of each of  
 40 the corporations shall be held, a notice of which meeting shall  
 41 be mailed to each of the policyholders thereof at least 30 days  
 42 prior to the holding thereof, and which notice shall embody the  
 43 resolution adopted by the board of directors, as provided in  
 44 clause (1);

45 (3) That a majority of the policyholders of each of the  
 46 corporations present or represented at these special meetings  
 47 shall, by resolution, approve and ratify the action of the  
 48 directors, as provided for in clause (1); and

49 (4) That the proceedings and resolutions be filed with, and  
 50 approved of by, the commissioner ~~and-approved-of-by-him~~.

\*  
\*

51 When full copies of these proceedings have been filed with  
 52 the commissioner, which copies shall be certified by the  
 53 president and secretary of the respective corporations and duly  
 54 verified by these officers, and approved of by ~~him~~ the  
 55 commissioner, the consolidation or merger of these corporations  
 56 shall be deemed to be complete, and the company so continuing  
 57 the business shall be deemed to have fully assumed all of the  
 58 obligations, liabilities, and risks and to be the owner of all  
 59 the assets of the companies so consolidating or merging.

\*  
\*

60 If this consolidation or merger is made under any new name,  
 61 the filing of these proceedings and the approval of same by the  
 62 commissioner shall be sufficient to constitute the consolidated  
 63 or merged company a corporation, with all the powers and  
 64 privileges, and subject to all the limitations, of a township  
 65 mutual fire insurance company under the laws of this state.

067A#241S

66 67A.241 RECORDKEEPING; EXAMINATION; REMEDIES.

67 No change for subd 1 to 3

68 Subd. 4. REMEDIES: When, after examination by the  
 69 commissioner or independent public accountant, auditor, or  
 70 certified financial examiner, the commissioner is satisfied that  
 71 a township mutual insurance company has failed to comply with  
 72 provisions of sections 67A.01 to 67A.26; is exceeding its power;  
 73 is not carrying out its contracts in good faith; is transacting



1 business fraudulently; or is in such condition as to render  
 2 further proceedings hazardous to the public or to its  
 3 policyholders, ~~he~~ the commissioner may take action deemed  
 4 necessary or proceed under the provisions of chapter 60B. \*

## 067A#25S

5 67A.25 REFERENCE TO LAWS 1909, CHAPTER 411.

6 Subdivision 1. WHAT COMPANIES MAY COME UNDER LAWS 1909,  
 7 CHAPTER 411. Any township mutual fire insurance company  
 8 heretofore organized may exercise, after the passage of Laws  
 9 1909, chapter 411, all of the rights conferred thereby that are  
 10 within the powers and privileges of its certificate or articles  
 11 of incorporation, or it may be reincorporated thereunder. No  
 12 such company already organized shall be required to  
 13 reincorporate thereunder in order to avail itself of the  
 14 privileges thereof.

15 Every township mutual fire insurance company now doing  
 16 business in this state shall have the right to continue  
 17 transacting such business until the first day of March  
 18 succeeding the passage thereof; and, ~~if~~ if the commissioner ~~is~~, if  
 19 satisfied that the company is transacting its business in  
 20 accordance therewith, ~~he~~ shall on the first day of each  
 21 succeeding June issue a license to the company authorizing it to  
 22 transact business until the May 31 following the date of the  
 23 license. \*

24 No change for subd 2 \*

## 067A#26S

25 67A.26 PENALTIES.

26 Subdivision 1. FRAUDULENT STATEMENTS. Any person,  
 27 officer, or member who shall knowingly or wilfully make any  
 28 false or fraudulent statement or representation in reference to  
 29 any application for membership under sections 67A.01 to 67A.26,  
 30 or any false or fraudulent statement as to the transactions or  
 31 condition of the company of which ~~he~~ the person is a member or  
 32 officer, shall be guilty of a misdemeanor. \*

33 No change for subd 2 \*

## 067A#29S

34 67A.29 GOVERNMENT.

35 No change for subd 1 to 2

36 Subd. 3. INVESTMENTS. The directors may authorize  
 37 the treasurer to loan on first real estate securities such sums  
 38 of money ~~in-his-hands~~ on hand as they may determine, or  
 39 ~~authorize-him~~ to deposit any or all sums of money ~~in-his-hands~~  
 40 ~~as-such-treasurer~~ on hand in such banks as they may designate. \*

## 067A#30S

41 67A.30 APPLICATIONS AND BINDERS.

42 No change for subd 1

43 Subd. 3. CASH PREMIUM AND AGREEMENT TO ASSESSMENT.

44 Before the delivery of any policy the company shall collect the  
 45 regular cash premium and policy fee and take the written  
 46 agreement of the insured, of even date therewith, which shall be  
 47 embodied in ~~his~~ the application, to pay a pro rata share of  
 48 losses or damages sustained by any member. The same shall be  
 49 kept on file with the secretary. \*

## 067A#36S

50 67A.36 LOSSES.

51 Subdivision 1. PROCEDURE IN CASE OF LOSS. Every  
 52 member sustaining loss or damage by named perils shall  
 53 immediately notify the secretary, who, if the claim exceeds  
 54 \$300, may forthwith convene the directors. The directors shall  
 55 appoint a committee of three members, of which the secretary  
 56 shall be one, to ascertain the amount of the loss, with  
 57 authority to examine witnesses, to whom the secretary is hereby  
 58 authorized to administer oaths. When the bylaws so provide, ~~he~~  
 59 the secretary may act in place of, and with all the authority  
 60 of, the committee; and when the claim does not exceed \$300, the  
 61 loss may be ascertained by the president and secretary, or  
 62 either, with like authority. \*

63 No change for subd 2 \*

64 Subd. 3. ASSESSMENTS. When any loss shall be  
 65 ascertained which exceeds in amount the cash funds of the  
 66 company, the secretary, or, in ~~his~~ the secretary's absence, the  
 67 president, shall convene the directors, who shall levy an  
 68 assessment upon each policyholder for the proportionate  
 69 amount ~~which-he-should-pay~~ to be paid to cover this excess; or  
 70 the company may borrow not to exceed two mills on each dollar of  
 71 insurance written by it and then in force, and from that fund \*



1 pay these losses, and afterwards levy assessments to pay the  
 2 loans. If the fund for the payment of expenses is insufficient,  
 3 the amount of the deficiency may be added to any assessment.

067A#40S

4 67A.40 ORGANIZATION AND POWERS.

5 No change for subd 1 to 5

6 Subd. 6. BYLAWS. The board of directors at its  
 7 first meeting shall adopt bylaws, which shall be filed with the  
 8 commissioner and shall not be effective until approved by ~~him~~  
 9 the commissioner.

\*  
\*

067A#43S

10 67A.43 COMMISSIONER OF COMMERCE.

11 No change for subd 1 to 2

12 Subd. 3. FEES TO BE PAID. There shall be paid by  
 13 the association to the commissioner ~~and-by-him~~ to be accounted  
 14 for and paid into the state treasury the following fees:

\*

15 (1) For filing certificate of incorporation or amendments  
 16 thereto, \$5;

17 (2) For filing annual statements, \$7.50;

18 (3) For each annual certificate of authority, \$7.50;

19 (4) For filing bylaws and amendments thereto, \$5.

067A#44S

20 67A.44 COMMISSIONER DEFINED.

21 As used in all parts of this chapter the word  
 22 "commissioner" shall mean the commissioner of commerce of the  
 23 state of Minnesota and, in ~~his~~ the commissioner's absence or  
 24 disability, ~~his~~ a deputy or other person duly designated to  
 25 act ~~in-his-place~~ for the commissioner.

\*  
\*  
\*

068A#01S

26 68A.01 REAL ESTATE TITLE INSURANCE COMPANIES.

27 No change for subd 2

28 Subd. 3. DEPOSIT OF GUARANTY FUND. The securities  
 29 in which the guaranty fund is invested shall be duly deposited  
 30 with the commissioner in accordance with section 60A.10,  
 31 subdivision 4, and ~~his~~ the commissioner's certificate thereof  
 32 procured, as provided by law. This deposit shall be maintained  
 33 unimpaired and the principal of the fund shall be applied only  
 34 to the payments of losses and expenses by reason of its guaranty  
 35 and insurance contracts, with the right to the company to  
 36 collect the income thereof and to substitute other like  
 37 securities of equal amount and value from time to time. In the  
 38 case of a foreign insurer, the deposit may be made with the  
 39 commissioner of the domicile state of such foreign insurer  
 40 and ~~his~~ that commissioner's certificate thereof shall be  
 41 accepted by the commissioner.

\*

\*

42 No change for subd 4 to 5

069\*#011S

43 69.011 QUALIFYING FOR STATE AID.

44 No change for subd 1

45 Subd. 2. QUALIFICATION FOR FIRE OR POLICE STATE AID.

46 (a) In order to qualify to receive fire state aid, on or before  
 47 June 1, annually, in conjunction with the financial report  
 48 required pursuant to section 69.051, subdivision 1 or 3, the  
 49 clerk of each municipality having a duly organized fire  
 50 department as provided in subdivision 4, or the secretary of  
 51 each independent nonprofit firefighting corporation having a  
 52 subsidiary incorporated firefighter's relief association  
 53 whichever is applicable, and the secretary and the treasurer of  
 54 the firefighter's relief association, shall jointly certify the  
 55 existence of the municipal fire department or of the independent  
 56 nonprofit firefighting corporation, whichever is applicable,  
 57 which meets the minimum qualification requirements set forth in  
 58 this subdivision, and the fire personnel and equipment of the  
 59 municipal fire department or the independent nonprofit  
 60 firefighting corporation as of the preceding December 31.  
 61 Certification shall be made to the commissioner on a form  
 62 prescribed by the commissioner and shall include any other facts  
 63 the commissioner may require. The certification shall be made  
 64 to the commissioner in duplicate. Each copy of the certificate  
 65 shall be duly executed and deemed an original. The commissioner  
 66 shall forward one copy to the auditor of the county wherein the  
 67 fire department is located and retain one copy.

68 (b) On or before June 1 annually the clerk of each  
 69 municipality having a duly organized police department and  
 70 having a duly incorporated relief association shall certify that  
 71 fact to the county auditor of the county where the police



1 department is located and to the commissioner on a form  
2 prescribed by ~~him~~ the commissioner together with the other facts \*  
3 the commissioner or auditor may require.

4 On or before June 1 annually, the clerk of each  
5 municipality and the auditor of each county employing one or  
6 more peace officers as defined in subdivision 1, clause (h),  
7 shall certify the number of such peace officers to the  
8 commissioner on forms prescribed by ~~him~~ the commissioner. \*  
9 Credit for officers employed less than a full year shall be  
10 apportioned. Each full month of employment of a qualifying  
11 officer during the calendar year shall entitle the employing  
12 municipality or county to credit for one-twelfth of the payment  
13 for employment of a peace officer for the entire year. For  
14 purposes of sections 69.011 to 69.051, employment of a peace  
15 officer shall commence when the peace officer is entered on the  
16 payroll of the respective municipal police department or county  
17 sheriff's department. No peace officer shall be included in the  
18 certification of the number of peace officers by more than one  
19 municipality or county for the same month.

20 No change for subd 3 to 4

21 Subd. 5. FIRE DEPARTMENTS TO BE INSPECTED BY STATE FIRE  
22 MARSHAL. It shall be the duty of the state fire marshal or  
23 ~~his~~ an appointed deputy or designated assistants to inspect, or \*  
24 cause to be inspected, at the time other public buildings are  
25 inspected, the fire department of any municipality or nonprofit  
26 fire fighting corporations in this state; and, for that purpose,  
27 ~~he~~ the fire marshal or any of ~~his~~ the fire marshal's deputies or \*  
28 designated assistants shall have the right to enter or have  
29 access thereto at any reasonable hour. When upon inspection, it  
30 is found that the fire department inspected does not conform to  
31 the requirements of subdivision 4 ~~he~~ the fire marshal shall make \*  
32 a report of the fact and the commissioner shall disqualify the  
33 municipality or nonprofit fire fighting corporation from  
34 participation in the state aid apportionment provided for in  
35 chapters 69 and 424.

069\*#021S

36 69.021 REPORTING PREMIUMS; CALCULATION OF AID.

37 Subdivision 1. MINNESOTA FIRETOWN PREMIUM REPORT AND  
38 MINNESOTA AID TO POLICE PREMIUM REPORT. The commissioner of  
39 revenue shall, at the time ~~he mails~~ of mailing annual statement \*  
40 and tax forms, send blank copies of the Minnesota Firetown  
41 Premium Report and when applicable the Minnesota Aid to Police  
42 Premium Report to each insurer, including township and farmers  
43 mutual insurance companies licensed to write insurance as  
44 described in section 69.011, subdivision 1, clauses (c) and (f)  
45 in this state. These reports shall contain space for the  
46 insurers name, address, gross premiums less return premiums,  
47 dividends, net premiums, certification and other facts the  
48 commissioner may require.

49 No change for subd 2

50 Subd. 3. PENALTY FOR FRAUDULENT, INCORRECT, INCOMPLETE  
51 RETURNS AND LATE FILING OF REPORT WITH THE COMMISSIONER OF  
52 COMMERCE. When it appears to the commissioner of commerce  
53 that any insurer has made an incomplete or inaccurate report the  
54 commissioner of commerce shall return the report and demand that  
55 a complete and accurate report be filed. If the insurer fails  
56 to file a report by March 1, annually, or within 30 days after  
57 demand by the commissioner of commerce, the insurer shall be  
58 liable and shall pay \$25 for each seven days delinquent or  
59 fraction thereof.

60 Any insurer who knowingly makes and files an inaccurate or  
61 false report shall be liable to a fine of not less than \$25 nor  
62 more than \$1,000 and the commissioner of commerce may revoke the  
63 insurer's certificate of authority.

64 ~~If~~ Any person whose duty it is to make the report who fails \*  
65 or refuses to make it within 30 days after notification by the  
66 commissioner of commerce ~~he~~ shall be fined not more than \$1,000. \*  
67 Failure of the insurer to receive a reporting form shall not  
68 excuse the insurer from filing the report.

69 No change for subd 3a to 6

70 Subd. 7. APPORTIONMENT OF AID TO MUNICIPALITIES AND  
71 FIREFIGHTER'S RELIEF ASSOCIATIONS BY COUNTY AUDITOR. (1) The  
72 county auditor shall apportion the state aid received by ~~him~~ the \*  
73 auditor relative to the premiums reported on the Minnesota \*  
74 Firetown Premium Reports filed pursuant to this chapter to each  
75 municipality and/or firefighter's relief association certified



1 to ~~him~~ the auditor by the commissioner in the same manner that \*  
2 state aid is apportioned to the counties, one-half in proportion  
3 to the population and one-half in proportion to the assessed  
4 property valuation of the fire towns in the county for which aid  
5 is proportioned. Necessary adjustments shall be made to  
6 subsequent apportionments.

7 In the case of municipalities or independent fire  
8 departments qualifying for the aid the county auditor shall  
9 calculate the state aid for the municipality or relief  
10 association on the basis of the population and the property  
11 valuation of the area furnished fire protection service by the  
12 fire department as evidenced by duly executed and valid fire  
13 service agreements filed with ~~him~~ the auditor. If one or more \*  
14 fire departments are furnishing contracted fire service to a  
15 city, town or township only the population and valuation of the  
16 area served by each fire department shall be considered in  
17 calculating the state aid and the fire departments furnishing  
18 service shall enter into an agreement apportioning among  
19 themselves the percent of the population and the assessed  
20 property valuation of each service area. Agreement shall be in  
21 writing and filed with the commissioner in duplicate. The  
22 commissioner shall forward one copy of the agreement to the  
23 county auditor of the county wherein the fire department is  
24 located and retain one copy.

25 In the case of cities of the first and second class the  
26 state aid calculated shall be paid directly to the treasurer of  
27 the relief association. In the case of all other municipalities  
28 and independent fire department relief associations or  
29 retirement plans the aid shall be paid to the treasurer of the  
30 municipality where the fire department is located and the  
31 treasurer of the municipality shall within 30 days transmit the  
32 aid to the relief association if the relief association has  
33 filed a financial report with the treasurer of the municipality  
34 and has met all other statutory provisions pertaining to the aid  
35 apportionment.

36 The county auditor and commissioner are hereby empowered to  
37 make rules and regulations to permit the administration of the  
38 provisions of this section.

39 (2) The county auditor shall apportion the state police aid  
40 received ~~by him~~ to each municipality and to the county in the \*  
41 following manner:

42 (a) For all municipalities maintaining police departments  
43 and the county, the state aid shall be distributed by the county  
44 auditor in proportion to the total number of peace officers, as  
45 determined pursuant to section 69.011, subdivision 1, clause  
46 (g), and subdivision 2, clause (b), employed by each  
47 municipality and by the county for 12 calendar months and the  
48 proportional or fractional number who were employed less than 12  
49 months;

50 (b) For each municipality which contracts with the county  
51 for police service, a proportionate amount of the state aid  
52 distributed to the county based on the full time equivalent  
53 number of peace officers providing contract service shall be  
54 credited against the municipality's contract obligation;

55 (c) For each municipality which contracts with another  
56 municipality for police service, a proportionate amount of the  
57 state aid distributed to the municipality providing contract  
58 service based on the full time equivalent number of peace  
59 officers providing contract service on a full time equivalent  
60 basis shall be credited against the contract obligation of the  
61 municipality receiving contract service;

62 (d) No municipality entitled to receive police state aid  
63 shall be apportioned less police state aid for any year under  
64 Laws 1976, Chapter 315, than the amount which was apportioned to  
65 it for calendar year 1975 based on premiums reported to the  
66 commissioner for calendar year 1974; provided, the amount of  
67 police state aid to other municipalities within the county and  
68 to the county shall be adjusted in proportion to the total  
69 number of peace officers in the municipalities and the county,  
70 so that the amount of police state aid apportioned shall not  
71 exceed the amount of police state aid available for  
72 apportionment.

73 The county auditor and commissioner are hereby empowered to  
74 make rules and regulations to permit the administration of the  
75 provisions of this section.

76 No change for subd 8 to 9



069\*#031S

1 69.031 COMMISSIONER OF FINANCE'S WARRANT, APPROPRIATION,  
2 PAYMENT AND ADMINISTRATION.

3 Subdivision 1. COMMISSIONER OF FINANCE'S WARRANT.

4 The commissioner of finance shall issue to the auditor of each  
5 county certified to ~~him~~ the commissioner of finance by the \*  
6 commissioner ~~his~~ a warrant for an amount equal to the amount \*  
7 certified to by the commissioner pursuant to section 69.021.  
8 The amount due to a county and not paid by September 1 accrues  
9 interest at the rate of one percent for each month or part of a  
10 month the amount remains unpaid, beginning the preceding June 1.

11 Subd. 2. Repealed, 1Sp1985 c 13 s 376

12 No change for subd 3

13 Subd. 4. COUNTY AUDITOR DUTIES. When the county  
14 auditor receives the state aid provided for in subdivision 1, ~~he~~ \*  
15 the auditor shall immediately deposit that portion received on \*  
16 account of insurance premiums reported on the Minnesota Firetown  
17 Premium Report in a special fund for fire departments and  
18 firefighter's relief associations and within 30 days calculate  
19 and disburse the funds to the municipalities having fire  
20 departments and firefighter's relief associations who have  
21 qualified for aid within the county. ~~He~~ The auditor shall \*  
22 deposit the portion of such state aid received on account or  
23 insurance premiums reported on the Minnesota Aid to Police  
24 Premium Report in a special fund for police departments and  
25 police retirement funds and as soon as possible, annually  
26 calculate and disburse the funds to qualifying municipalities.

27 Subd. 5. DEPOSIT OF STATE AID. (1) The municipal  
28 treasurer, ~~when the fire state aid is received by him on~~ \*  
29 receiving the fire state aid, shall within 30 days after receipt \*  
30 transmit it to the treasurer of the duly incorporated  
31 firefighter's relief association if there is one organized and  
32 the association has filed a financial report with the  
33 municipality; but if there is no relief association organized,  
34 or if any association dissolve, be removed, or has heretofore  
35 dissolved, or has been removed as trustees of state aid, then  
36 the treasurer of the municipality shall keep the money in the  
37 municipal treasury as provided for in section 424A.08 and shall  
38 be disbursed only for the purposes and in the manner set forth  
39 in that section.

40 (2) The municipal treasurer, upon receipt of the police  
41 state aid, shall disburse the police state aid in the following  
42 manner:

43 (a) For a municipality in which a local police relief  
44 association exists and all peace officers are members of the  
45 association, the total state aid shall be transmitted to the  
46 treasurer of the relief association within 30 days of the date  
47 of receipt, and the treasurer of the relief association shall  
48 immediately deposit the total state aid in the special fund of  
49 the relief association;

50 (b) For a municipality in which police retirement coverage  
51 is provided by the public employees police and fire fund and all  
52 peace officers are members of the fund, the total state aid  
53 shall be applied toward the municipality's employer contribution  
54 to the public employees police and fire fund pursuant to section  
55 353.65, subdivision 3, and any state aid in excess of the amount  
56 required to meet the employer's contribution pursuant to section  
57 353.65, subdivision 3, shall also be contributed to the public  
58 employees police and fire fund and credited in the manner to be  
59 specified by the board of trustees of the public employees  
60 retirement association; or

61 (c) For a municipality in which both a police relief  
62 association exists and police retirement coverage is provided in  
63 part by the public employees police and fire fund, the  
64 municipality may elect at its option to transmit the total state  
65 aid to the treasurer of the relief association as provided in  
66 clause (a), to use the total state aid to apply toward the  
67 municipality's employer contribution to the public employees  
68 police and fire fund subject to all the provisions set forth in  
69 clause (b), or to allot the total state aid proportionately to  
70 be transmitted to the police relief association as provided in  
71 this subdivision and to apply toward the municipality's employer  
72 contribution to the public employees police and fire fund  
73 subject to the provisions of clause (b) on the basis of the  
74 respective number of active full time peace officers, as defined  
75 in section 69.011, subdivision 1, clause (g).



1 (3) The county treasurer, upon receipt of the police state  
 2 aid for the county, shall apply the total state aid toward the  
 3 county's employer contribution to the public employees police  
 4 and fire fund pursuant to section 353.65, subdivision 3, and any  
 5 state aid in excess of the amount required to meet the  
 6 employer's contribution pursuant to section 353.65, subdivision  
 7 3, shall also be contributed to the public employees police and  
 8 fire fund and credited in the manner to be specified by the  
 9 board of trustees of the public employees retirement association.

10 Subd. 6. Repealed, 1984 c 592 s 94; 1984 c 655 art 2 s  
 11 12 subd 1

12 NOTE: Subdivision 6 was also amended by Laws 1984, chapter  
 13 558, article 1, section 9, to read as follows:

14 "Subd. 6. ADMINISTRATION. The staff of the  
 15 statistical-tax audit section, department of revenue, shall be  
 16 under the direction of the incumbent senior auditor, who shall  
 17 be director of the police and fire state aid programs. Under  
 18 the supervision of the director of the police and fire state aid  
 19 programs shall be an auditor, a senior account clerk, a clerk  
 20 typist and other personnel and equipment the director may from  
 21 time to time require to carry out the provisions of the law  
 22 relating to the collection, apportionment and regulation of the  
 23 police and fire state aid programs for fire departments,  
 24 firefighter's relief and pension."

069\*#051S

25 69.051 FINANCIAL REPORT, BOND, EXAMINATION.

26 No change for subd 1

27 Subd. 2. TREASURERS BOND. No treasurer of a relief  
 28 association shall enter upon ~~his~~ duties ~~until he has~~ without  
 29 having given the association a good and sufficient bond in an  
 30 amount set by the association for the faithful discharge of ~~his~~  
 31 duty ~~duties~~ according to law. \*

32 No change for subd 3

33 Subd. 4. EXAMINATION BY COMMISSIONER AND STATE  
 34 AUDITOR. The detailed financial report of relief  
 35 associations and municipal financial reports for fire protection  
 36 may be examined by the commissioner, and ~~when he finds on~~  
 37 finding that it appears the money, or any part thereof, paid  
 38 under the provisions of this chapter or chapter 424 has been or  
 39 is being expended for an unauthorized purpose, ~~he the~~  
 40 commissioner shall notify the state auditor of the fact. The  
 41 state auditor may examine the financial reports and records of  
 42 the firefighter's relief association and municipality and ~~when~~  
 43 ~~he finds on finding~~ that the money, or any part thereof, paid  
 44 under the provisions of this chapter or chapter 424, has been or  
 45 is being expended for an unauthorized purpose ~~he the state~~  
 46 auditor shall order the funds restored and take whatever  
 47 ~~steps he the auditor~~ deems necessary to assure restoration. No  
 48 further aid shall be paid to the municipality until the funds  
 49 are restored. The relief association shall be liable to the  
 50 state for the total cost and expenses of such examination. \*

069\*#27S

51 69.27 MEMBERS.

52 A firefighter under sections 69.25 to 69.53 is one who is  
 53 regularly entered on the payroll of one of the fire departments  
 54 serving on active duty with a designated fire company thereon or  
 55 having charge of one or more of the companies and engaged in the  
 56 hazards of fire fighting; and shall include all members of the  
 57 electrical and mechanical divisions of these fire departments  
 58 and all others who are subject to like hazards. Substitutes and  
 59 persons employed irregularly from time to time shall not be  
 60 included.

61 All persons who are members of such relief associations on  
 62 April 8, 1933, whether their status is embraced within the  
 63 definition of a firefighter herein contained or otherwise, shall  
 64 have the right to continue as members of their respective  
 65 associations and be entitled to all benefits pertaining thereto,  
 66 and any member included under the definition of firefighter  
 67 shall have the right to retain ~~his~~ membership on promotion or  
 68 appointment to other positions to which the firefighter may be  
 69 subject. \*

70 Sections 69.25 to 69.53 shall not affect any pensions or  
 71 other benefits which have been allowed or which are being paid  
 72 by any such relief association under or in accordance with any  
 73 prior act on April 8, 1933. Payment of these pensions and  
 74 benefits shall be continued by the respective associations and



1 shall be subject only to the provisions of section 69.42.

069\*#28S

2 69.28 ELIGIBILITY.

3 Every firefighter shall apply for membership in the relief  
4 association in the city in which ~~he-is~~ employed within the time \*  
5 and in the manner hereinafter set forth. Any such firefighter \*  
6 shall, not later than 90 days from the time ~~he~~ the firefighter  
7 is regularly entered on the payrolls of the fire department,  
8 make written application for membership in the relief  
9 association on forms supplied by the association, accompanied by  
10 one or more physician's certificates required by the bylaws of  
11 the association. After the application has been filed the board  
12 of examiners of the association shall make a thorough  
13 investigation thereof and file its report with the secretary of  
14 the association. The application must be acted upon by the  
15 association within six months from the date applicant was  
16 entered on the payroll of the fire department. No firefighter,  
17 who is more than 35 years of age when ~~his~~ the firefighter's \*  
18 application is filed, can become a member of the relief  
19 association, except that such age limitation of 35 years shall  
20 not apply on application for reinstatement in the association.

21 Any member of the fire department in any city of the first  
22 class on January 1, 1941, may be eligible to membership in a  
23 firefighter's relief association. Such member shall make  
24 application within 90 days from and after April 21, 1953. ~~His~~ \*  
25 The application must be acted upon by the association within six \*  
26 months thereafter.

27 Upon the acceptance of the application, the membership of  
28 the applicant shall become effective as of the date ~~when-he-was~~ \*  
29 entered of entrance on the payroll of the department, provided \*  
30 the applicant shall make up all dues which he would have been \*  
31 paid had he the applicant been a member of the firefighter's \*  
32 relief association from the date ~~he-entered of entrance~~ upon the \*  
33 payroll of the department. All payments, benefits, and \*  
34 privileges to which these firefighters are entitled as members \*  
35 of that fund shall be governed by sections 69.25 and 69.61.

069\*#30S

36 69.30 OFFICERS, DUTIES, BONDS.

37 The officers of a relief association shall be a president,  
38 one or more vice-presidents, a secretary, and a treasurer. The  
39 offices of assistant secretary and assistant treasurer may be  
40 created by the bylaws of any such association. The affairs of  
41 such association shall be managed by a board of trustees elected  
42 in the manner prescribed by the articles of incorporation of the  
43 association.

44 The secretary and the treasurer of each such relief  
45 association shall each furnish a corporate bond to the \*  
46 association for the faithful performance of ~~his~~ duties in such \*  
47 amount as the association from time to time may determine. Each \*  
48 relief association shall, and it is hereby authorized to, pay \*  
49 the premiums on these bonds from its general fund.

069\*#32S

50 69.32 CITY CLERK TO FILE REPORT WITH COMMISSIONER.

51 The clerk of each city of the first class having a  
52 firefighter's relief association shall, on or before March 1  
53 each year, make and file with the county auditor and the  
54 commissioner of commerce ~~his~~ a certificate stating the existence \*  
55 of the firefighter's relief association and any other \*  
56 information the commissioner or auditor may require.

069\*#33S

57 69.33 NAMES OF ASSOCIATIONS REPORTED TO INSURANCE  
58 COMPANIES.

59 The commissioner shall enclose in ~~his~~ the annual statement \*  
60 blank sent ~~by-him~~ to all fire insurance companies doing business \*  
61 in this state a blank form containing the names of all  
62 firefighter's relief associations in all cities of the first  
63 class and the names of the cities and require these companies,  
64 at the time of making their annual statements to the  
65 commissioner, to state on these blanks the amount of premiums  
66 received by them upon properties insured within the corporate  
67 limits of the cities named thereon during the year ending  
68 December 31st last past. Thereafter, before July first each  
69 year, the commissioner shall certify to the commissioner of  
70 finance the information thus obtained, together with the amount  
71 of the tax for the benefit of the relief association paid in  
72 such year by these companies upon these insurance premiums.



069\*#37S

1 69.37 COUNTY TREASURER TO PAY OVER MONEYS COLLECTED.  
 2 As soon as practicable after the first days of June and  
 3 November, each year, the treasurer of each such county shall pay  
 4 to the treasurer of each relief association within the county  
 5 the amount of the tax then collected and payable to the  
 6 association, together with all interest and penalties so  
 7 collected, and all interest paid thereon between the time of  
 8 collection and the time of payment to the relief association.  
 9 The treasurer of the city, ~~in-the-event-that~~ if paid the tax, or  
 10 any part thereof, ~~is-paid-to-him~~, shall likewise pay the same to  
 11 the treasurer of the relief association in the city as soon as  
 12 the same has been collected, together with all interest and  
 13 penalties collected thereon.

\*  
\*

069\*#43S

14 69.43 PERSONS ENTITLED TO RELIEF.  
 15 A member of the association who, by reason of sickness or  
 16 accident, becomes disabled from performing ~~his-assignment~~  
 17 of assigned duties on the fire department shall be entitled to  
 18 such relief as the bylaws of the association may provide.  
 19 No allowances for such disabilities shall be made unless  
 20 notice of the disability and application for benefits on account  
 21 thereof shall be made by, or on behalf of, the disabled member  
 22 to the secretary of the association within 30 days after the  
 23 beginning of the disability.

\*  
\*

069\*#44S

24 69.44 DISABILITY BENEFITS, AMOUNT.  
 25 A member of any such relief association entitled to  
 26 disability benefits as herein defined, shall receive the same  
 27 from ~~his~~ the association for such periods of time, at such  
 28 times, and in such amounts, not to exceed 40 units per month, as  
 29 the bylaws of said association provide.

\*

069\*#45S

30 69.45 RETIREMENT PENSION.  
 31 A member of such association who has completed a period, or  
 32 periods of service on the fire department equal to 20 years or  
 33 more, shall, after ~~he-has-arrived~~ arriving at the age of 50  
 34 years, or more, and has retired from the payroll of the fire  
 35 department, be entitled to a basic pension of not less than 20  
 36 units and not more than 32 units per month for ~~his-natural~~ life  
 37 in conformity to the bylaws of each association. Any and all  
 38 leaves of absence of more than 90 days, except such as are  
 39 granted to a member because of ~~his~~ disability due to sickness or  
 40 accident, shall be excluded in computing said period of service;  
 41 and all periods of time during which a member received a  
 42 disability pension shall be excluded in such computation. No  
 43 deductions shall be made for a leave of absence granted to a  
 44 member to enable ~~him~~ the member to accept an appointive position  
 45 in said fire department. No member shall be entitled to draw  
 46 both a disability and a service pension.  
 47 Such monthly basic payments may be increased by adding to  
 48 said basic pension the sum of one unit per month, or any portion  
 49 thereof, for each year of active duty over 20 and not more than  
 50 35 years.

\*

\*

\*

\*

51 The bylaws of each association may provide for these  
 52 increases, or any portion thereof; provided, that in no event  
 53 the total pension exceed the sum of 40 units per month.

54 A unit shall be 1/80th of the maximum monthly salary of a  
 55 first grade firefighter on the first day of the month in which  
 56 the pensions provided for in sections 69.25 to 69.53 are paid.

069\*#46S

57 69.46 MEMBER MAY BE ON DEFERRED PENSION LIST.  
 58 A member of the association who has performed service on  
 59 the fire department for 20 years or more but has not reached the  
 60 age of 50 years shall have the right to retire from the  
 61 department without forfeiting ~~his~~ the right to a service pension.  
 62 ~~He~~ The member shall, upon application, be placed on the deferred  
 63 pension roll of the association and, after ~~he~~ the member has  
 64 reached the age of 50 years, the association shall, upon ~~his~~  
 65 application therefor, pay ~~his~~ the member's pension from the date  
 66 the application is approved by the association. Any person  
 67 making this application thereby waives all other rights, claims,  
 68 or demands against ~~his~~ the association for any cause that may  
 69 have arisen from, or that may be attributable to, ~~his~~ the  
 70 person's service in the fire department.

\*

\*

\*

\*

\*

\*

\*

\*

069\*#47S



## 1 69.47 WAR SERVICE INCLUDED IN PERIOD OF SERVICE.

2 Any applicant for a service pension who subsequent to ~~his~~ \*  
 3 entry into the service of such fire department leaves the active  
 4 service of such fire department to serve in the military forces  
 5 of the United States in any war or national emergency, or having  
 6 during such war or emergency left the active service of such  
 7 fire department to enter the employment of the government of the  
 8 United States and in such service rendered fire prevention  
 9 services during such war or emergency and has returned after ~~his~~ \*  
 10 honorable discharge from such service, and, within six months,  
 11 after such discharge, either applied for reinstatement in or \*  
 12 resumed active duty in said fire department, the period of ~~his~~ \*  
 13 absence in such service of the United States shall be counted in  
 14 computing the period of service hereinbefore provided for, but  
 15 during such period of military or fire prevention service ~~he the~~ \*  
 16 applicant shall not be considered as an active member of ~~his the~~ \*  
 17 association.

## 069\*#50S

## 18 69.50 STATE AUDITOR TO EXAMINE BOOKS.

19 The state auditor of this state shall, each year, examine  
 20 the books and accounts of the secretary and the treasurer of  
 21 each such relief association. ~~If he finds~~ On finding that any \*  
 22 money has been expended for purposes not authorized by sections  
 23 69.25 to 69.53, ~~he the state auditor~~ shall report the same to \*  
 24 the governor, who shall thereupon direct the commissioner of  
 25 finance not to issue any further warrants to the association  
 26 until the state auditor shall report that money unlawfully  
 27 expended has been replaced. The governor may also take such  
 28 further action as the emergency may demand.

## 069\*#55S

## 29 69.55 WARRANT ON STATE TREASURER.

30 The commissioner of finance semiannually after July 31,  
 31 1934, shall issue and deliver to the treasurer of the relief  
 32 association in such city ~~his a~~ warrant upon the state treasurer \*  
 33 for an amount equal to the total amount of the surcharge on the  
 34 premiums within the city theretofore so collected and  
 35 transmitted to the state treasurer by these insurance  
 36 companies. There is hereby appropriated out of any moneys in  
 37 the general fund in the state treasury not otherwise  
 38 appropriated such sums as may, from time to time, be necessary  
 39 to pay these warrants.

## 069\*#56S

## 40 69.56 STATE TREASURER TO PAY WARRANT.

41 The state treasurer shall, upon presentation ~~to him~~ of the \*  
 42 warrant of the commissioner of finance specified in section  
 43 69.55, pay out of the general fund of the state the amount  
 44 thereof to the treasurer of the relief association presenting  
 45 the warrant. The treasurer of the relief association shall \*  
 46 place the money received ~~by him~~ in payment of any such warrant  
 47 in the special fund of the relief association.

## 069\*#58S

48 69.58 INSURING IN UNAUTHORIZED COMPANIES; DUES;  
49 STATEMENT.

50 The owner of any property situated in any municipality  
 51 having an organized fire department, or a partly paid or  
 52 volunteer department, who carries insurance in a company not  
 53 licensed by this state shall furnish to the commissioner of  
 54 revenue, on a form prescribed and furnished by the commissioner,  
 55 a statement, verified by affidavit, showing the description and  
 56 location of the property, the amount of insurance, in companies  
 57 not licensed by this state, ~~he the owner~~ has effected against \*  
 58 loss or damage by fire, the number of the policy, the name and  
 59 location of the company issuing the policy, and the premiums  
 60 paid. This statement shall be furnished by those property  
 61 owners carrying insurance in companies not licensed by this  
 62 state not more than 30 days after the issuance of the policy of  
 63 insurance, upon demand of the commissioner, or, if no demand is  
 64 made, then on or before January 31st, each year. Every such  
 65 property owner whose duty it is to make this statement who shall  
 66 wilfully make a false statement, or who shall, for 30 days after  
 67 the demand neglect to render the statement, shall be guilty of a  
 68 misdemeanor and fined \$50, one-half of which fine shall be  
 69 transmitted to ~~the commissioner~~, and disbursed by ~~him, the~~ \*  
 70 commissioner as other sums collected under the terms of sections \*  
 71 69.58 to 69.61 are disbursed.

## 069\*#59S



1 69.59 COLLECTION OF PERCENTAGE ON PREMIUM; RECOVERY.  
 2 If the insurance has been effected in any company not  
 3 authorized to do business in this state the commissioner of  
 4 revenue shall, ~~and he is hereby authorized and empowered to,~~ \*  
 5 collect from the property owner such taxes as would equal the  
 6 taxes on the annual premium which authorized insurance companies  
 7 would have charged for insuring the property. If not paid upon  
 8 demand, this percent may be recovered in a civil action brought  
 9 in the name of the state. Penalties and interest as provided in  
 10 section 290.53 shall be imposed.

069\*#61S

11 69.61 EXEMPT PROPERTY.  
 12 Sections 69.58 to 69.61 shall not apply to property owned  
 13 and occupied exclusively as a homestead, nor to exempt property  
 14 specified in section 550.37 and upon which homestead or exempt  
 15 property the owner carries ~~his own~~ insurance. \*

070A#02S

16 70A.02 SCOPE OF APPLICATION.

17 No change for subd 1

18 Subd. 2. NONAPPLICATION OF CHAPTER. This chapter  
 19 shall not apply to:

20 (1) Insurance written by township or farmers' mutual  
 21 insurance companies subject to the provisions of chapter 67A;  
 22 insurance written by companies organized pursuant to section  
 23 66A.20, or to tornado, cyclone, or hurricane insurance, the  
 24 consideration for which, except for policy, membership or survey  
 25 fees, is paid entirely by assessments on policyholders;

26 (2) Reinsurance, other than joint reinsurance to the extent  
 27 stated in section 70A.16;

28 (3) Accident and health insurance;

29 (4) Insurance against loss of or damage to aircraft, used  
 30 in scheduled airline operations, including their accessories and  
 31 equipment, or against liability arising out of the ownership,  
 32 maintenance, or use of aircraft;

33 (5) Insurance of vessels or craft, their cargoes, marine  
 34 builders' risks, marine protection and indemnity, or other risks  
 35 commonly insured under marine, as distinguished from inland  
 36 marine, insurance policies;

37 (6) Workers' compensation insurance;

38 (7) Insurance covering any of the liability of an employer  
 39 exempted from insuring ~~his~~ the employer's liability for \*  
 40 compensation as provided in section 176.181; and

41 (8) Disability and double indemnity insurance issued as  
 42 part of a life insurance contract.

43 Subd. 3. EXEMPTIONS. The commissioner may exempt  
 44 from any or all of the provisions of this chapter, if and to the  
 45 extent that ~~he~~ the commissioner finds their application \*  
 46 unnecessary to achieve the purposes of this chapter;

47 (1) Any specified person by order, or class of persons by  
 48 rule; and

49 (2) Any specified risk by order, or any line or kind of  
 50 insurance or subdivision thereof or class of risks or  
 51 combination of classes by rule.

070A#06S

52 70A.06 FILING REQUIREMENTS.

53 No change for subd 1

54 Subd. 2. No policy form shall be delivered or issued for  
 55 delivery unless it has been filed with the commissioner and  
 56 either (i) ~~he~~ the commissioner has approved it or (ii) 30 days \*  
 57 have elapsed and ~~he~~ the commissioner has not disapproved it as \*  
 58 misleading or violative of public policy, which period may be  
 59 extended by the commissioner for an additional period not to  
 60 exceed 30 days.

61 Subd. 3. Subdivisions 1 and 2 shall not apply to policies  
 62 or rates for inland marine risks which by general custom of the  
 63 business are not written according to manual rates or rating  
 64 plans, except that subdivisions 1 and 2 shall apply to policies  
 65 insuring the personal property purchased under a credit  
 66 transaction or a credit transaction involving a debtor pledging  
 67 personal property as collateral. For purposes of this  
 68 subdivision the personal property insured in credit transactions  
 69 or credit transactions involving a debtor pledging personal  
 70 property as collateral shall refer only to such personal  
 71 property of the debtor used for ~~his~~ personal use and not used in \*  
 72 any business, trade or profession of the debtor.

73 Subd. 4. The commissioner may, ~~when he deems~~ on deeming it \*



1 necessary, require any insurer or rate service organization to  
 2 furnish ~~him~~ with explanatory information in connection with \*  
 3 rates and changes and amendments of rates made or recommended by  
 4 it for use in this state. So far as practicable, such  
 5 information shall be submitted to the commissioner within 30  
 6 days after ~~his~~ the request. \*

7 No change for subd 5

## 070A#10S

8 70A.10 DELAYED EFFECT OF RATES.

9 Subdivision 1. RULE INSTITUTING DELAYED EFFECT. IF  
 10 the commissioner finds, after a hearing, that competition is not  
 11 an effective regulator of the rates charged or that a  
 12 substantial number of companies are competing irresponsibly  
 13 through the rates charged, or that there are widespread  
 14 violations of this chapter, in any kind or line of insurance or  
 15 subdivision thereof or in any rating class or rating territory,  
 16 ~~he~~ the commissioner may issue a rule requiring that in the kind \*  
 17 or line of insurance or subdivision thereof or rating class or  
 18 rating territory comprehended by the finding any subsequent  
 19 changes in the rates or supplementary rate information be  
 20 filed ~~with him~~ at least 30 days before they become \*  
 21 effective. ~~He~~ The commissioner may extend the waiting period \*  
 22 for not to exceed 15 additional days by written notice to the  
 23 filer before the 30 day period expires.

24 Subd. 2. SUPPORTING DATA. In the rule issued under  
 25 subdivision 1 or in any supplementary rule, the commissioner may  
 26 require the filing of supporting data as to any or all kinds or  
 27 lines of insurance or subdivisions thereof or classes of risks  
 28 or combinations thereof as ~~he~~ the commissioner deems necessary \*  
 29 for the proper functioning of the rate monitoring and regulating  
 30 process. The supporting data shall include:

31 (a) The experience and judgment of the filer, and, to the  
 32 extent it wishes or the commissioner requires, of other insurers  
 33 or rate service organizations;

34 (b) Its interpretation of any statistical data relied upon;

35 (c) Descriptions of the actuarial and statistical methods  
 36 employed; and

37 (d) Any other matters deemed relevant by the commissioner  
 38 or the filer.

39 No change for subd 3

40 Subd. 4. SUPPORTING INFORMATION. Whenever a filing  
 41 is not accompanied by such information as the commissioner has  
 42 required under subdivision 2, ~~he~~ the commissioner may so inform \*  
 43 the insurer and the filing shall be deemed to be made when the  
 44 information is furnished.

## 070A#11S

45 70A.11 DISAPPROVAL OF RATES.

46 Subdivision 1. ORDER IN EVENT OF VIOLATION. If the  
 47 commissioner finds after a hearing that a rate is not in  
 48 compliance with section 70A.04, ~~he~~ the commissioner shall order \*  
 49 that its use is to be discontinued on a date not less than 30  
 50 days after the order.

51 No change for subd 2 to 3

## 070A#12S

52 70A.12 SPECIAL RESTRICTIONS ON INDIVIDUAL INSURERS.

53 The commissioner may by order require that a particular  
 54 insurer shall file any or all of its rates and supplementary  
 55 rate information 30 days prior to their effective date, if and  
 56 to the extent that ~~he~~ the commissioner finds after a hearing \*  
 57 that the protection of the interests of its insureds and the  
 58 public in this state requires closer supervision of its rates  
 59 because of the insurer's financial condition or rating  
 60 practices. ~~He~~ The commissioner may extend the waiting period \*  
 61 for any filing for not to exceed 15 additional days by written  
 62 notice to the insurer before the 30 day period expires. A  
 63 filing not disapproved before the expiration of the waiting  
 64 period shall be deemed to meet the requirements of this chapter,  
 65 subject to the possibility of subsequent disapproval under  
 66 section 70A.11.

## 070A#14S

67 70A.14 LICENSING.

68 No change for subd 1 to 2

69 Subd. 3. GRANTING A LICENSE. If the commissioner  
 70 finds that the applicant and the natural persons through whom it  
 71 acts are competent, trustworthy, and technically qualified to  
 72 provide the services proposed, and that all requirements of law



1 are met, ~~he~~ the commissioner shall issue a license specifying \*  
 2 the authorized activity of the applicant. ~~He~~ The commissioner \*  
 3 shall not issue a license if the proposed activity would tend to  
 4 create a monopoly or to lessen or destroy price competition.  
 5 No change for subd 4 to 5

## 070A#16S

6 70A.16 JOINT UNDERWRITING OR JOINT REINSURANCE.  
 7 No change for subd 1 to 2  
 8 Subd. 3. UNFAIR OR UNREASONABLE PRACTICE. If, after  
 9 a hearing, the commissioner finds that any activity or practice  
 10 of any group, association or other organization referred to in  
 11 subdivision 1 or 2 is unfair, unreasonable, or otherwise  
 12 inconsistent with the provisions of this chapter, ~~he~~ the \*  
 13 commissioner shall issue a written order specifying in what \*  
 14 respects that activity or practice is unfair, unreasonable or  
 15 otherwise inconsistent with the provisions of this chapter, and  
 16 requiring the discontinuance of the activity or practice.

## 070A#17S

17 70A.17 RECORDING AND REPORTING OF EXPERIENCE.  
 18 Subdivision 1. The commissioner shall promulgate and may  
 19 modify reasonable rules and statistical plans, reasonably  
 20 adapted to each of the rating systems used, and which shall  
 21 thereafter be used by each insurer in the recording and  
 22 reporting of its loss and countrywide expense experience, in  
 23 order that the experience of all insurers may be made available  
 24 at least annually in such form and detail as may be necessary to  
 25 aid ~~him~~ in determining whether rates comply with the applicable \*  
 26 standards of this chapter. Such rules and plans may also  
 27 provide for the recording and reporting of expense experience  
 28 items which are specially applicable to this state and are not  
 29 susceptible of determination by a prorating of countrywide  
 30 expense practice.

31 No change for subd 2

32 Subd. 3. The commissioner may designate one or more rating  
 33 organizations or other agencies to assist ~~him~~ in gathering such \*  
 34 experience and making compilations thereof, and such  
 35 compilations shall be made available, subject to reasonable  
 36 rules promulgated by the commissioner, to insurers and rating  
 37 organizations.

## 070A#18S

38 70A.18 EXAMINATIONS.  
 39 Whenever ~~he~~ the commissioner deems it necessary in order to \*  
 40 ~~inform-himself~~ become informed about any matter related to the \*  
 41 enforcement of this chapter the commissioner may examine or  
 42 cause to be examined any rate service organization subject to  
 43 section 70A.13, subdivision 1, any insurer and any group,  
 44 association or other organization referred to in section  
 45 70A.16. The reasonable costs of any such examination shall be  
 46 paid by the rate service organization, insurer, or group,  
 47 association or other organization examined, upon presentation to  
 48 it of a detailed account of such costs. The officers, manager,  
 49 agents and employees of any such rate service organization,  
 50 insurer, or group, association or other organization may be  
 51 examined at any time under oath and shall exhibit all books,  
 52 records, account, documents, or agreements governing its method  
 53 of operation. In lieu of any such examination the commissioner  
 54 may accept the report of an examination made by the insurance  
 55 supervisory official of another state, pursuant to the laws of  
 56 such state.

## 070A#19S

57 70A.19 INFORMATION TO BE FURNISHED INSUREDS; HEARING AND  
 58 APPEALS OF INSUREDS.

59 Every rate service organization and every insurer which  
 60 makes its own rates shall, within a reasonable time after  
 61 receiving written request therefor, furnish to any insured  
 62 affected by a rate made by it, or to the authorized  
 63 representative of that insured, all pertinent information as to  
 64 that rate. Every rate service organization and every insurer  
 65 which makes its own rates shall provide within this state  
 66 reasonable means whereby any person aggrieved by the application  
 67 of its rating system may be heard, in person or by ~~his~~ an \*  
 68 authorized representative, on ~~his~~ a written request to review \*  
 69 the manner in which that rating system has been applied in  
 70 connection with the insurance afforded ~~him~~. If the rate service \*  
 71 organization or insurer fails to grant or reject any such  
 72 request within 30 days after it is made, the applicant may



1 proceed in the same manner as if ~~his~~ the application had been \*  
 2 rejected. Any party affected by the action of a rate service  
 3 organization or insurer on any such request may, within 30 days  
 4 after written notice of such action, appeal to the commissioner  
 5 who, after a hearing held upon not less than 10 days written  
 6 notice to the appellant and to the rate service organization or  
 7 insurer, may affirm or reverse its action.

070A#21S

8 70A.21 PENALTIES.

9 Subdivision 1. VIOLATION; WILLFUL VIOLATION. The  
 10 commissioner may, if ~~he~~ the commissioner finds that any person \*  
 11 or organization has violated any provisions of this chapter,  
 12 impose a penalty of not more than \$50 for each violation, and  
 13 if ~~he~~ the commissioner finds such violation to be willful ~~he~~ the \*  
 14 commissioner may impose a penalty of not more than \$500 \*  
 15 therefor. Such penalties may be in addition to any other  
 16 penalty provided by law.

17 Subd. 2. SUSPENSION OF LICENSE. The commissioner  
 18 may suspend the license of any rate service organization or  
 19 insurer which fails to comply with any order ~~made-by-him~~ within \*  
 20 the time limited by such order, or any extension thereof which  
 21 ~~he~~ the commissioner may grant. ~~He~~ The commissioner shall not \*  
 22 suspend the license of any rate service organization or insurer  
 23 for failure to comply with an order until the time prescribed  
 24 for an appeal therefrom has expired or, if an appeal has been  
 25 taken, until the order has been affirmed. ~~He~~ The commissioner \*  
 26 may determine when a suspension of license shall become  
 27 effective and that suspension shall remain in effect for the  
 28 period fixed ~~by-him~~, unless ~~he~~ the commissioner modifies or \*  
 29 rescinds it, or until the order upon which it is based is  
 30 modified, rescinded or reversed.

31 Subd. 3. PENALTY IMPOSED BY WRITTEN ORDER. No  
 32 penalty shall be imposed, and no license shall be suspended or  
 33 revoked, except upon a written order of the commissioner,  
 34 stating ~~his~~ the findings made after a hearing held upon not less \*  
 35 than ten days written notice to the person or organization to be  
 36 affected thereby, specifying the alleged violation or ground of  
 37 suspension or revocation.

070A#22S

38 70A.22 HEARINGS, PROCEDURE, AND JUDICIAL REVIEW.

39 Subdivision 1. REQUEST FOR HEARING; HEARING; ORDER  
 40 THEREON. Any insurer or rate service organization aggrieved  
 41 by any order or decision of the commissioner made without a  
 42 hearing, may, within 30 days after notice of the order to it,  
 43 make written request to the commissioner for a hearing thereon.  
 44 The commissioner shall hear the party or parties within 20 days  
 45 after receipt of the request and shall give not less than ten  
 46 days written notice of the time and place of the hearing.  
 47 Within 15 days after hearing the commissioner shall affirm,  
 48 reverse or modify ~~his~~ the previous action, specifying ~~his~~ the \*  
 49 reasons therefor. Pending the hearing and decision thereon the  
 50 commissioner may suspend or postpone the effective date of ~~his~~ \*  
 51 the previous action. \*

52 No change for subd 2 to 3

070A#23S

53 70A.23 TRANSITION PROVISIONS.

54 On September 1, 1969, all rates on file with the  
 55 commissioner and not disapproved ~~by-him~~ may be used without \*  
 56 further delay, subject to the provisions of this chapter.

071A#02S

57 71A.02 REQUIREMENTS; LIMITATIONS.

58 No change for subd 1 to 2a

59 Subd. 3. COMMISSIONER AS AGENT FOR SERVICE.

60 Concurrently with the filing of the declaration provided for by  
 61 the terms of subdivision 2, the attorney shall execute and file \*  
 62 with the commissioner an instrument in writing ~~executed-by-him~~ \*  
 63 for the subscribers, conditioned that upon the issuance of the  
 64 certificate of authority provided for in subdivision 1, service  
 65 of process may be had upon the commissioner in all suits in this  
 66 state arising out of these policies, contracts, or agreements,  
 67 which service shall be valid and binding upon all subscribers  
 68 exchanging at any time reciprocal or interinsurance contracts  
 69 through such attorney. Three copies of the process shall be  
 70 served and the commissioner shall file one copy, forward one  
 71 copy to the attorney, and return one copy with ~~his~~ an admission \*  
 72 of service.



1 Subd. 4. MAXIMUM INDEMNITY. There shall be filed  
 2 with the commissioner by such attorney a statement under his \*  
 3 oath showing the maximum amount of indemnity upon any single  
 4 risk, and such attorney shall, when and as often as the same  
 5 shall be required, file with the commissioner a statement  
 6 verified by his oath to the effect that he the attorney has \*  
 7 examined the commercial rating of these subscribers, as shown by  
 8 the reference book of a commercial agency having at least  
 9 100,000 subscribers, and that from this examination or from  
 10 other information in his the attorney's possession it appears \*  
 11 that no subscriber has assumed on any single risk an amount  
 12 greater than ten percent of the net worth of the subscriber.

071A#04S

13 71A.04 TAXES.

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

21 No change for subd 2

072A#03S

22 72A.03 AGENT OF INSURER; PROCURING PREMIUMS BY FRAUD.

23 Every insurance agent who acts for another in negotiating a  
 24 contract of insurance by an insurance company shall be held to  
 25 be the company's agent for the purpose of collecting or securing  
 26 the premiums therefor, whatever conditions or stipulations may  
 27 be contained in the contract or policy. ~~When~~ Any such agent who \*  
 28 by fraudulent representations procures payment, or an obligation  
 29 for the payment, of an insurance premium he shall be guilty, for \*  
 30 the first offense, of a misdemeanor, and for each subsequent  
 31 offense, of a gross misdemeanor.

072A#061S

32 72A.061 MANDATORY FILINGS; FAILURE TO COMPLY; PENALTIES.

33 No change for subd 1 to 4

34 Subd. 5. EXTENSIONS. The commissioner may grant an  
 35 extension of any filing deadline or requirement specified by  
 36 this section, ~~if he receives~~ on receiving, not less than ten \*  
 37 days before the date of default, satisfactory evidence of  
 38 imminent hardship to the company.

39 No change for subd 6

072A#08S

40 72A.08 LAWS AGAINST REBATE.

41 No change for subd 1

42 Subd. 2. INSURED PROHIBITED FROM RECEIVING REBATES.

43 No person shall receive or accept from any such company or  
 44 association, or from any of its officers, agents, subagents,  
 45 solicitors, employees, intermediaries, or representatives, or  
 46 any other person any such rebate of premium payable on the  
 47 policy, or any special favor or advantage in the dividends or  
 48 other financial profits accrued, or to accrue, thereon, or any  
 49 valuable consideration or inducement not specified in the policy  
 50 of insurance. No person shall be excused from testifying, or  
 51 from producing any books, papers, contracts, agreements, or  
 52 documents, at the trial of any other person, copartnership,  
 53 association, or company charged with violation of any provision  
 54 of this section on the ground that the testimony or evidence may  
 55 tend to incriminate; but no person shall be prosecuted for any  
 56 act concerning which he the person shall be compelled to so \*  
 57 testify or produce evidence, documentary or otherwise, except  
 58 for perjury committed in so testifying.

59 No change for subd 3 to 4

072A#10S

60 72A.10 FAILURE TO APPEAR OR OBSTRUCTING COMMISSIONER.

61 Whoever without justifiable cause neglects, upon due  
 62 summons, to appear and testify before the commissioner, or  
 63 obstructs the commissioner, or deputy or assistant commissioner,  
 64 in his an examination of an insurance company, shall be guilty, \*  
 65 for the first offense, of a misdemeanor, and for each subsequent  
 66 offense, of a gross misdemeanor.

072A#12S

67 72A.12 LIFE INSURANCE.

68 No change for subd 1 to 2

69 Subd. 3. DISCRIMINATION IN ACCEPTING RISKS. No life  
 70 insurance company or agent, all other conditions being equal,



1 shall make any discrimination in the acceptance of risks, in  
 2 rates, premiums, dividends, or benefits of any kind, or by way  
 3 of rebates, between persons of the same class, or on account of  
 4 race; and upon request of any person whose application has been  
 5 rejected, the company shall furnish ~~him~~ the rejected applicant,  
 6 in writing; the reasons therefor, including a certificate of the  
 7 examining physician that such rejection was not for any racial  
 8 cause. Every company violating either of the foregoing  
 9 provisions shall forfeit not less than \$500, nor more than  
 10 \$1,000, and every officer, agent, or solicitor violating the  
 11 same shall be guilty of a gross misdemeanor; and the  
 12 commissioner shall revoke the license of such company and its  
 13 agents, and grant no new license within one year thereafter.

14 No change for subd 4

15 Subd. 5. POLITICAL CONTRIBUTIONS PROHIBITED. No  
 16 insurance company or association, including fraternal  
 17 beneficiary associations, doing business in this state, shall,  
 18 directly or indirectly, pay or use, or offer, consent or agree  
 19 to pay or use, any money or property for or in aid of any  
 20 political party, committee or organization, or for or in aid of  
 21 any corporation, joint stock or other association organized or  
 22 maintained for political purposes, or for or in aid of any  
 23 candidate for political office, or for nomination for the  
 24 office, or for any other political purpose, or for reimbursement  
 25 or indemnification of any person for money or property used for  
 26 political purposes. Any officer, director, stockholder,  
 27 attorney or agent of any corporation or association which  
 28 violates any of the provisions of this section, who participates  
 29 in, aids, abets, or advises or consents to any violation, and  
 30 any person who solicits or knowingly receives any money or  
 31 property in violation of this section, is guilty of a gross  
 32 misdemeanor. Any officer aiding or abetting in any contribution  
 33 made in violation of this section is liable to the company or  
 34 association for the amount contributed. No person shall be  
 35 excused from attending and testifying, or producing any books,  
 36 papers or other documents before any court, upon any  
 37 investigation, proceeding or trial, for a violation of any of  
 38 the provisions of this section, upon the ground, or for the  
 39 reason, that the testimony or evidence, documentary or  
 40 otherwise, required ~~of him~~ may tend to incriminate or degrade  
 41 him the person. No person shall be prosecuted or subjected to  
 42 any penalty or forfeiture for or on account of any transaction,  
 43 matter or thing concerning which ~~he~~ the person may testify or  
 44 produce evidence, documentary or otherwise, and no testimony  
 45 given or produced shall be used against ~~him~~ that person upon any  
 46 criminal investigation or proceeding.

072A#15S

47 72A.15 PENALTY FOR VIOLATION OF LAW PROVIDING FOR  
 48 INSURANCE IN UNLICENSED COMPANIES.

49 Every person licensed to procure insurance in an unlicensed  
 50 foreign company who fails to file the affidavit and statement  
 51 required in such case or who wilfully makes a false affidavit or  
 52 statement shall forfeit ~~his~~ the license and be guilty, for the  
 53 first offense, of a misdemeanor, and for each subsequent  
 54 offense, of a gross misdemeanor.

072A#16S

55 72A.16 MUTUAL COMPANIES.

56 No change for subd 1

57 Subd. 2. GUARANTY AGAINST ASSESSMENT. Every  
 58 director, officer, or agent of an insurance company who  
 59 officially or privately gives a guaranty to a policyholder  
 60 thereof against an assessment for which ~~he~~ the policyholder  
 61 would otherwise be liable shall be guilty of a misdemeanor.

072A#19S

62 72A.19 UNFAIR METHODS AND UNFAIR OR DECEPTIVE ACTS AND  
 63 PRACTICES PROHIBITED.

64 No change for subd 1

65 Subd. 2. The commissioner may, in accordance with chapter  
 66 14, promulgate reasonable rules and regulations as ~~he~~ the  
 67 commissioner deems necessary to enforce and administer the  
 68 provisions of this chapter.

072A#20S

69 72A.20 METHODS, ACTS AND PRACTICES WHICH ARE DEFINED AS  
 70 UNFAIR OR DECEPTIVE.

71 Subdivision 1. MISREPRESENTATIONS AND FALSE ADVERTISING  
 72 OF POLICY CONTRACTS. Making, issuing, circulating, or causing



1 to be made, issued, or circulated, any estimate, illustration,  
 2 circular, or statement misrepresenting the terms of any policy  
 3 issued or to be issued or the benefits or advantages promised  
 4 thereby or the dividends or share of the surplus to be received  
 5 thereon, or making any false or misleading statement as to the  
 6 dividends or share of surplus previously paid on similar  
 7 policies, or making any misleading representation or any  
 8 misrepresentation as to the financial condition of any insurer,  
 9 or as to the legal reserve system upon which any life insurer  
 10 operates, or using any name or title of any policy or class of  
 11 policies misrepresenting the true nature thereof, or making any  
 12 misrepresentation to any policyholder insured in any company for  
 13 the purpose of inducing or tending to induce such policyholder  
 14 to lapse, forfeit, or surrender ~~his~~ insurance, shall constitute \*  
 15 an unfair method of competition and an unfair and deceptive act  
 16 or practice in the business of insurance.

17 Subd. 2. FALSE INFORMATION AND ADVERTISING GENERALLY.

18 Making, publishing, disseminating, circulating, or placing  
 19 before the public, or causing, directly or indirectly, to be  
 20 made, published, disseminated, circulated, or placed before the  
 21 public, in a newspaper, magazine, or other publication, or in  
 22 the form of a notice, circular, pamphlet, letter, or poster, or  
 23 over any radio station, or in any other way, an advertisement,  
 24 announcement, or statement, containing any assertion,  
 25 representation, or statement with respect to the business of  
 26 insurance, or with respect to any person in the conduct of ~~his~~ \*  
 27 the person's insurance business, which is untrue, deceptive, or \*  
 28 misleading, shall constitute an unfair method of competition and  
 29 an unfair and deceptive act or practice.

30 No change for subd 3 to 11

31 Subd. 12. UNFAIR SERVICE. Causing or permitting with  
 32 such frequency to indicate a general business practice any  
 33 unfair, deceptive, or fraudulent act concerning any claim or  
 34 complaint of an insured or claimant including, but not limited  
 35 to, the following practices:

36 (1) misrepresenting pertinent facts or insurance policy  
 37 provisions relating to coverages at issue;

38 (2) failing to acknowledge and act reasonably promptly upon  
 39 communications with respect to claims arising under insurance  
 40 policies;

41 (3) failing to adopt and implement reasonable standards for  
 42 the prompt investigation of claims arising under insurance  
 43 policies;

44 (4) refusing to pay claims without conducting a reasonable  
 45 investigation based upon all available information;

46 (5) failing to affirm or deny coverage of claims within a  
 47 reasonable time after proof of loss statements have been  
 48 completed;

49 (6) not attempting in good faith to effectuate prompt,  
 50 fair, and equitable settlements of claims in which liability has  
 51 become reasonably clear;

52 (7) compelling insureds to institute litigation to recover  
 53 amounts due under an insurance policy by offering substantially  
 54 less than the amounts ultimately recovered in actions brought by  
 55 the insureds;

56 (8) attempting to settle a claim for less than the amount  
 57 to which a reasonable ~~person~~ persons would have believed ~~he-or~~ \*  
 58 ~~she-was~~ they were entitled by reference to written or printed \*  
 59 advertising material accompanying or made part of an application;

60 (9) attempting to settle claims on the basis of an  
 61 application which was altered without notice to, or knowledge or  
 62 consent of, the insured;

63 (10) making claims payments to insureds or beneficiaries  
 64 not accompanied by a statement setting forth the coverage under  
 65 which the payments are being made;

66 (11) making known to insureds or claimants a policy of  
 67 appealing from arbitration awards in favor of insureds or  
 68 claimants for the purpose of compelling them to accept  
 69 settlements or compromises less than the amount awarded in  
 70 arbitration;

71 (12) delaying the investigation or payment of claims by  
 72 requiring an insured, claimant, or the physician of either to  
 73 submit a preliminary claim report and then requiring the  
 74 subsequent submission of formal proof of loss forms, both of  
 75 which submissions contain substantially the same information;

76 (13) failing to promptly settle claims, where liability has



1 become reasonably clear, under one portion of the insurance  
2 policy coverage in order to influence settlements under other  
3 portions of the insurance policy coverage;

4 (14) failing to promptly provide a reasonable explanation  
5 of the basis in the insurance policy in relation to the facts or  
6 applicable law for denial of a claim or for the offer of a  
7 compromise settlement.

8 Subd. 12a. CLAIMS SETTLEMENT. (a) ADMINISTRATIVE  
9 ENFORCEMENT. The commissioner may, in accordance with chapter  
10 14, adopt rules to insure the prompt, fair, and honest  
11 processing of claims and complaints. The commissioner may, in  
12 accordance with sections 72A.22 to 72A.25, seek and impose  
13 appropriate administrative remedies, including fines, for (1) a  
14 violation of this subdivision or the rules adopted pursuant to  
15 this subdivision; or (2) a violation of section 72A.20,  
16 subdivision 12. The commissioner need not show a general  
17 business practice in taking an administrative action for these  
18 violations.

19 No individual violation constitutes an unfair,  
20 discriminatory, or unlawful practice in business, commerce, or  
21 trade for purposes of section 8.31.

22 (b) CONSTRUCTION. The policy of the department of  
23 commerce, in interpreting and enforcing this subdivision, will  
24 be to take into consideration all pertinent facts and  
25 circumstances in determining the severity and appropriateness of  
26 the action to be taken in regard to any violation of this  
27 subdivision.

28 The magnitude of the harm to the claimant or insured, and  
29 any actions by the insured, claimant, or insurer that mitigate  
30 or exacerbate the impact of the violation may be considered.

31 Actions of the claimant or insured which impeded the  
32 insurer in processing or settling the claim, and actions of the  
33 insurer which increased the detriment to the claimant or insured  
34 may also be considered in determining the appropriate  
35 administrative action to be taken.

36 (c) DEFINITIONS. For the purposes of this  
37 subdivision, the following terms have the meanings given them.

38 (1) Adjuster or adjusters. "Adjuster" or "adjusters" is as  
39 defined in Minnesota Statutes, section 72B.02.

40 (2) Agent. "Agent" means insurance agents or insurance  
41 agencies licensed pursuant to Minnesota Statutes, section  
42 60A.17, and representatives of these agents or agencies.

43 (3) Claim. "Claim" means a request or demand made with an  
44 insurer for the payment of funds or the provision of services  
45 under the terms of any policy, certificate, contract of  
46 insurance, binder, or other contracts of temporary insurance.  
47 The term does not include a claim under a health insurance  
48 policy made by a participating provider with an insurer in  
49 accordance with the participating provider's service agreement  
50 with the insurer which has been filed with the commissioner of  
51 commerce prior to its use.

52 (4) Claim settlement. "Claim settlement" means all  
53 activities of an insurer related directly or indirectly to the  
54 determination of the extent of liabilities due or potentially  
55 due under coverages afforded by the policy, and which result in  
56 claim payment, claim acceptance, compromise, or other  
57 disposition.

58 (5) Claimant. "Claimant" means any individual,  
59 corporation, association, partnership, or other legal entity  
60 asserting a claim against any individual, corporation,  
61 association, partnership, or other legal entity which is insured  
62 under an insurance policy or insurance contract of an insurer.

63 (6) Complaint. "Complaint" means a communication primarily  
64 expressing a grievance.

65 (7) Insurance policy. "Insurance policy" means any  
66 evidence of coverage issued by an insurer including all  
67 policies, contracts, certificates, riders, binders, and  
68 endorsements which provide or describe coverage. The term  
69 includes any contract issuing coverage under a self-insurance  
70 plan, group self-insurance plan, or joint self-insurance  
71 employee health plans.

72 (8) Insured. "Insured" means an individual, corporation,  
73 association, partnership, or other legal entity asserting a  
74 right to payment under their insurance policy or insurance  
75 contract arising out of the occurrence of the contingency or  
76 loss covered by the policy or contract. The term does not apply



1 to a person who acquires rights under a mortgage.

2 (9) Insurer. "Insurer" includes any individual,  
3 corporation, association, partnership, reciprocal exchange,  
4 Lloyds, fraternal benefits society, self-insurer, surplus line  
5 insurer, self-insurance administrator, and nonprofit service  
6 plans under the jurisdiction of the department of commerce.

7 (10) Investigation. "Investigation" means a reasonable  
8 procedure adopted by an insurer to determine whether to accept  
9 or reject a claim.

10 (11) Notification of claim. "Notification of claim" means  
11 any communication to an insurer by a claimant or an insured  
12 which reasonably appries the insurer of a claim brought under  
13 an insurance contract or policy issued by the insurer.  
14 Notification of claim to an agent of the insurer is notice to  
15 the insurer.

16 (12) Proof of loss. "Proof of loss" means the necessary  
17 documentation required from the insured to establish entitlement  
18 to payment under a policy.

19 (13) Self-insurance administrator. "Self-insurance  
20 administrator" means any vendor of risk management services or  
21 entities administering self-insurance plans, licensed pursuant  
22 to Minnesota Statutes, section 60A.23, subdivision 8.

23 (14) Self-insured or self-insurer. "Self-insured" or  
24 "self-insurer" means any entity authorized pursuant to Minnesota  
25 Statutes, section 65B.48, subdivision 3; Minnesota Statutes,  
26 chapter 62H; Minnesota Statutes, section 176.181, subdivision 2;  
27 Laws of Minnesota 1983, chapter 290, section 171; Minnesota  
28 Statutes, section 471.617; or Minnesota Statutes, section  
29 471.981 and includes any entity which, for a fee, employs the  
30 services of vendors of risk management services in the  
31 administration of a self-insurance plan as defined by Minnesota  
32 Statutes, 60A.23, subdivision 8, clause (2), subclauses (a) and  
33 (d).

34 (d) STANDARDS FOR CLAIM FILING AND HANDLING. The  
35 following acts by an insurer, an adjuster, a self-insured, or a  
36 self-insurance administrator constitute unfair settlement  
37 practices:

38 (1) except for claims made under a health insurance policy,  
39 after receiving notification of claim from an insured or a  
40 claimant, failing to acknowledge receipt of the notification of  
41 the claim within ten business days, and failing to promptly  
42 provide all necessary claim forms and instructions to process  
43 the claim, unless the claim is settled within ten business  
44 days. The acknowledgment must include the telephone number of  
45 the company representative who can assist the insured or the  
46 claimant in providing information and assistance that is  
47 reasonable so that the insured or claimant can comply with the  
48 policy conditions and the insurer's reasonable requirements. If  
49 an acknowledgment is made by means other than writing, an  
50 appropriate notation of the acknowledgment must be made in the  
51 claim file of the insurer and dated. An appropriate notation  
52 must include at least the following information where the  
53 acknowledgment is by telephone or oral contact:

54 (i) the telephone number called, if any;

55 (ii) the name of the person making the telephone call or  
56 oral contact;

57 (iii) the name of the person who actually received the  
58 telephone call or oral contact;

59 (iv) the time of the telephone call or oral contact; and

60 (v) the date of the telephone call or oral contact;

61 (2) failing to reply, within ten business days of receipt,  
62 to all other communications about a claim from an insured or a  
63 claimant that reasonably indicate a response is requested or  
64 needed;

65 (3) unless provided otherwise by law or in the policy,  
66 failing to complete its investigation and inform the insured or  
67 claimant of acceptance or denial of a claim within 30 business  
68 days after receipt of notification of claim unless the  
69 investigation cannot be reasonably completed within that time.  
70 In the event that the investigation cannot reasonably be  
71 completed within that time, the insurer shall notify the insured  
72 or claimant within the time period of the reasons why the  
73 investigation is not complete and the expected date the  
74 investigation will be complete. For claims made under a health  
75 policy the notification of claim must be in writing;

76 (4) where evidence of suspected fraud is present, the



1 requirement to disclose their reasons for failure to complete  
2 the investigation within the time period set forth in clause (3)  
3 need not be specific. The insurer must make this evidence  
4 available to the department of commerce if requested;

5 (5) failing to notify an insured who has made a  
6 notification of claim of all available benefits or coverages  
7 which ~~he-or-she~~ the insured may be eligible to receive under the \*  
8 terms of a policy and of the documentation which the insured  
9 must supply in order to ascertain eligibility;

10 (6) unless otherwise provided by law or in the policy,  
11 requiring an insured to give written notice of loss or proof of  
12 loss within a specified time, and thereafter seeking to relieve  
13 the insurer of its obligations if the time limit is not complied  
14 with, unless the failure to comply with the time limit  
15 prejudices the insurer's rights and then only if the insurer  
16 gave prior notice to the insured of the potential prejudice;

17 (7) advising an insured or a claimant not to obtain the  
18 services of an attorney or an adjuster, or representing that  
19 payment will be delayed if an attorney or an adjuster is  
20 retained by the insured or the claimant;

21 (8) failing to advise in writing an insured or claimant who  
22 has filed a notification of claim known to be unresolved, and  
23 who has not retained an attorney, of the expiration of a statute  
24 of limitations at least 60 days prior to that expiration. For  
25 the purposes of this clause, any claim on which the insurer has  
26 received no communication from the insured or claimant for a  
27 period of two years preceding the expiration of the applicable  
28 statute of limitations shall not be considered to be known to be  
29 unresolved and notice need not be sent pursuant to this clause;

30 (9) demanding information which would not affect the  
31 settlement of the claim;

32 (10) unless expressly permitted by law or the policy,  
33 refusing to settle a claim of an insured on the basis that the  
34 responsibility should be assumed by others;

35 (11) failing, within 60 business days after receipt of a  
36 properly executed proof of loss, to advise the insured of the  
37 acceptance or denial of the claim by the insurer. No insurer  
38 shall deny a claim on the grounds of a specific policy  
39 provision, condition, or exclusion unless reference to the  
40 provision, condition, or exclusion is included in the denial.  
41 The denial must be given to the insured in writing with a copy  
42 filed in the claim file;

43 (12) denying or reducing a claim on the basis of an  
44 application which was altered or falsified by the agent or  
45 insurer without the knowledge of the insured;

46 (13) failing to notify the insured of the existence of the  
47 additional living expense coverage when an insured under a  
48 homeowners policy sustains a loss by reason of a covered  
49 occurrence and the damage to the dwelling is such that it is not  
50 habitable;

51 (14) failing to inform an insured or a claimant that the  
52 insurer will pay for an estimate of repair if the insurer  
53 requested the estimate and the insured or claimant had  
54 previously submitted two estimates of repair.

55 (e) STANDARDS FOR FAIR SETTLEMENT OFFERS AND AGREEMENTS.  
56 The following acts by an insurer, an adjuster, a  
57 self-insured, or a self-insurance administrator constitute  
58 unfair settlement practices:

59 (1) making any partial or final payment, settlement, or  
60 offer of settlement, which does not include an explanation of  
61 what the payment, settlement, or offer of settlement is for;

62 (2) making an offer to an insured of partial or total  
63 settlement of one part of a claim contingent upon agreement to  
64 settle another part of the claim;

65 (3) refusing to pay one or more elements of a claim by an  
66 insured for which there is no good faith dispute;

67 (4) threatening cancellation, rescission, or nonrenewal of  
68 a policy as an inducement to settlement of a claim;

69 (5) failing to issue payment for any amount finally agreed  
70 upon in settlement of all or part of any claim within five  
71 business days from the receipt of the agreement by the insurer  
72 or from the date of the performance by the claimant of any  
73 conditions set by such agreement, whichever is later;

74 (6) failing to inform the insured of the policy provision  
75 or provisions under which payment is made;

76 (7) settling or attempting to settle a claim or part of a



1 claim with an insured under actual cash value provisions for  
2 less than the value of the property immediately preceding the  
3 loss, including all applicable taxes and license fees. In no  
4 case may an insurer be required to pay an amount greater than  
5 the amount of insurance;

6 (8) except where limited by policy provisions, settling or  
7 offering to settle a claim or part of a claim with an insured  
8 under replacement value provisions for less than the sum  
9 necessary to replace the damaged item with one of like kind and  
10 quality, including all applicable taxes, license, and transfer  
11 fees;

12 (9) reducing or attempting to reduce for depreciation any  
13 settlement or any offer of settlement for items not adversely  
14 affected by age, use, or obsolescence;

15 (10) reducing or attempting to reduce for betterment any  
16 settlement or any offer of settlement unless the resale value of  
17 the item has increased over the preloss value by the repair of  
18 the damage.

19 (f) STANDARDS FOR AUTOMOBILE INSURANCE CLAIMS HANDLING,  
20 SETTLEMENT OFFERS, AND AGREEMENTS. In addition to the acts  
21 specified in paragraphs (d), (e), (g), (h), and (i), the  
22 following acts by an insurer, adjuster, or a self-insured or  
23 self-insurance administrator constitute unfair settlement  
24 practices:

25 (1) if an automobile insurance policy provides for the  
26 adjustment and settlement of an automobile total loss on the  
27 basis of actual cash value or replacement with like kind and  
28 quality and the insured is not an automobile dealer, failing to  
29 offer one of the following methods of settlement:

30 (a) comparable and available replacement automobile, with  
31 all applicable taxes, license fees, at least pro rata for the  
32 unexpired term of the replaced automobile's license, and other  
33 fees incident to the transfer or evidence of ownership of the  
34 automobile paid, at no cost to the insured other than the  
35 deductible amount as provided in the policy;

36 (b) a cash settlement based upon the actual cost of  
37 purchase of a comparable automobile, including all applicable  
38 taxes, license fees, at least pro rata for the unexpired term of  
39 the replaced automobile's license, and other fees incident to  
40 transfer of evidence of ownership, less the deductible amount as  
41 provided in the policy. The costs must be determined by:

42 (i) the cost of a comparable automobile, adjusted for  
43 mileage, condition, and options, in the local market area of the  
44 insured, if such an automobile is available in that area; or

45 (ii) one of two or more quotations obtained from two or  
46 more qualified sources located within the local market area when  
47 a comparable automobile is not available in the local market  
48 area. The insured shall be provided the information contained  
49 in all quotations prior to settlement; or

50 (iii) any settlement or offer of settlement which deviates  
51 from the procedure above must be documented and justified in  
52 detail. The basis for the settlement or offer of settlement  
53 must be explained to the insured;

54 (2) if an automobile insurance policy provides for the  
55 adjustment and settlement of an automobile partial loss on the  
56 basis of repair or replacement with like kind and quality and  
57 the insured is not an automobile dealer, failing to offer one of  
58 the following methods of settlement:

59 (a) to assume all costs, including reasonable towing costs,  
60 for the satisfactory repair of the motor vehicle. Satisfactory  
61 repair includes repair of both obvious and hidden damage as  
62 caused by the claim incident. This assumption of cost may be  
63 reduced by applicable policy provision; or

64 (b) to offer a cash settlement sufficient to pay for  
65 satisfactory repair of the vehicle. Satisfactory repair  
66 includes repair of obvious and hidden damage caused by the claim  
67 incident, and includes reasonable towing costs;

68 (3) regardless of whether the loss was total or partial, in  
69 the event that a damaged vehicle of an insured cannot be safely  
70 driven, failing to exercise the right to inspect automobile  
71 damage prior to repair within five business days following  
72 receipt of notification of claim. In other cases the inspection  
73 must be made in 15 days;

74 (4) regardless of whether the loss was total or partial,  
75 requiring unreasonable travel of a claimant or insured to  
76 inspect a replacement automobile, to obtain a repair estimate,



1 to allow an insurer to inspect a repair estimate, to allow an  
2 insurer to inspect repairs made pursuant to policy requirements,  
3 or to have the automobile repaired;

4 (5) regardless of whether the loss was total or partial, if  
5 loss of use coverage exists under the insurance policy, failing  
6 to notify an insured at the time of the insurer's  
7 acknowledgement of claim, or sooner if inquiry is made, of the  
8 fact of the coverage, including the policy terms and conditions  
9 affecting the coverage and the manner in which the insured can  
10 apply for this coverage;

11 (6) regardless of whether the loss was total or partial,  
12 failing to include the insured's deductible in the insurer's  
13 demands under its subrogation rights. Subrogation recovery must  
14 be shared at least on a proportionate basis with the insured,  
15 unless the deductible amount has been otherwise recovered by the  
16 insured. No deduction for expenses may be made from the  
17 deductible recovery unless an attorney is retained to collect  
18 the recovery, in which case deduction may be made only for a pro  
19 rata share of the cost of retaining the attorney;

20 (7) requiring as a condition of payment of a claim that  
21 repairs to any damaged vehicle must be made by a particular  
22 contractor or repair shop;

23 (8) where liability is reasonably clear, failing to inform  
24 the claimant in an automobile property damage liability claim  
25 that ~~he-or-she~~ the claimant may have a claim for loss of use of  
26 the vehicle; \*

27 (9) failing to make a good faith assignment of comparative  
28 negligence percentages in ascertaining the issue of liability;

29 (10) failing to pay any interest required by statute on  
30 overdue payment for an automobile personal injury protection  
31 claim;

32 (11) if an automobile insurance policy contains either or  
33 both of the time limitation provisions as permitted by Minnesota  
34 Statutes, section 65B.55, subdivisions 1 and 2, failing to  
35 notify the insured in writing of those limitations at least 60  
36 days prior to the expiration of that time limitation;

37 (12) if an insurer chooses to have an insured examined as  
38 permitted by Minnesota Statutes, section 65B.56, subdivision 1,  
39 failing to notify the insured of all of ~~his-or-her~~ the insured's  
40 rights and obligations under that statute, including the right  
41 to request, in writing, and to receive a copy of the report of  
42 the examination. \*

43 (g) STANDARDS FOR RELEASES. The following acts by an  
44 insurer, adjuster, or self-insured or self-insurance  
45 administrator constitute unfair settlement practices:

46 (1) requesting or requiring an insured or a claimant to  
47 sign a release that extends beyond the subject matter that gave  
48 rise to the claim payment;

49 (2) issuing a check or draft in payment of a claim that  
50 contains any language or provision that implies or states that  
51 acceptance of the check or draft constitutes a final settlement  
52 or release of any or all future obligations arising out of the  
53 loss.

54 (h) STANDARDS FOR CLAIM DENIAL. The following acts by  
55 an insurer, adjuster, or self-insured, or self-insurance  
56 administrator constitute unfair settlement practices:

57 (1) denying a claim or any element of a claim on the  
58 grounds of a specific policy provision, condition, or exclusion,  
59 without informing the insured of the policy provision,  
60 condition, or exclusion on which the denial is based;

61 (2) denying a claim without having made a reasonable  
62 investigation of the claim;

63 (3) denying a liability claim because the insured has  
64 requested that the claim be denied;

65 (4) denying a liability claim because the insured has  
66 failed or refused to report the claim, unless an independent  
67 evaluation of available information indicates there is no  
68 liability;

69 (5) denying a claim without including the following  
70 information:

71 (i) the basis for the denial;

72 (ii) the name, address, and telephone number of the  
73 insurer's claim service office or the claim representative of  
74 the insurer to whom the insured or claimant may take any  
75 questions or complaints about the denial; and

76 (iii) the claim number and the policy number of the insured;



1 (6) denying a claim because the insured or claimant failed  
 2 to exhibit the damaged property unless:  
 3 (i) the insurer, within a reasonable time period, made a  
 4 written demand upon the insured or claimant to exhibit the  
 5 property; and  
 6 (ii) the demand was reasonable under the circumstances in  
 7 which it was made.  
 8 (i) STANDARDS FOR COMMUNICATIONS WITH THE DEPARTMENT.  
 9 In addition to the acts specified elsewhere in this section, the  
 10 following acts by an insurer, adjuster, or a self-insured or  
 11 self-insurance administrator constitute unfair settlement  
 12 practices:  
 13 (1) failure to respond, within 15 working days after  
 14 receipt of an inquiry from the commissioner, about a claim, to  
 15 the commissioner;  
 16 (2) failure, upon request by the commissioner, to make  
 17 specific claim files available to the commissioner;  
 18 (3) failure to include in the claim file all written  
 19 communications and transactions emanating from, or received by,  
 20 the insurer, as well as all notes and work papers relating to  
 21 the claim. All written communications and notes referring to  
 22 verbal communications must be dated by the insurer;  
 23 (4) failure to submit to the commissioner, when requested,  
 24 any summary of complaint data reasonably required;  
 25 (5) failure to compile and maintain a file on all  
 26 complaints. If the complaint deals with a loss, the file must  
 27 contain adequate information so as to permit easy retrieval of  
 28 the entire file. If the complaint alleges that the company, or  
 29 agent of the company, or any agent producing business written by  
 30 the company is engaged in any unfair, false, misleading,  
 31 dishonest, fraudulent, untrustworthy, coercive, or financially  
 32 irresponsible practice, or has violated any insurance law or  
 33 rule, the file must indicate what investigation or action was  
 34 taken by the company. The complaint file must be maintained for  
 35 at least four years after the date of the complaint.  
 36 (j) SCOPE. This subdivision does not apply to  
 37 workers' compensation insurance. Nothing in this subdivision  
 38 abrogates any policy provisions.  
 39 No change for subd 13 to 17

072A#22S

40 72A.22 HEARING; WITNESSES; PRODUCTION OF BOOKS.  
 41 Subdivision 1. STATEMENT OF CHARGES AND NOTICE OF  
 42 HEARING. Whenever the commissioner has reason to believe  
 43 that any person has been engaged or is engaging in this state in  
 44 any unfair method of competition or any unfair or deceptive act  
 45 or practice, defined in section 72A.20, and that a proceeding by  
 46 ~~him~~ he the commissioner in respect thereto would be to the interest of the public,  
 47 he the commissioner shall issue and serve upon that person a  
 48 statement of the charges in that respect and a notice of a  
 49 hearing thereon to be held at a time and place fixed in the  
 50 notice, which shall not be less than 20 days after the date of  
 51 the service thereof.  
 52 Subd. 2. APPEARANCE; INTERVENTION. At the time and  
 53 place fixed for such hearing said person shall have an  
 54 opportunity to be heard and to show cause why an order should  
 55 not be made by the commissioner requiring ~~him~~ the person to  
 56 cease and desist from the acts, methods, or practices so  
 57 complained of. Upon good cause shown, the commissioner shall  
 58 permit any person to intervene, appear and be heard at such  
 59 hearing by counsel or in person.  
 60 No change for subd 3  
 61 Subd. 4. HEARING. The commissioner, upon such a  
 62 hearing, may administer oaths, examine and cross-examine  
 63 witnesses, receive oral and documentary evidence, and shall have  
 64 the power to subpoena witnesses, compel their attendance, and  
 65 require the production of books, papers, records,  
 66 correspondence, or other documents which ~~he~~ the commissioner  
 67 deems relevant to the inquiry. The commissioner, upon such a  
 68 hearing, may, and upon the request of any party shall, cause to  
 69 be made a stenographic record of all the evidence and all the  
 70 proceedings had at the hearing. If no stenographic record is  
 71 made and if a judicial review is sought, the commissioner shall  
 72 prepare a statement of the evidence and proceeding for use on  
 73 review. In case of a refusal of any person to comply with any  
 74 subpoena issued hereunder or to testify with respect to any  
 75 matter concerning which ~~he~~ the person may be lawfully

\*  
 \*  
 \*  
 \*  
 \*



1 interrogated, the district court of Ramsey county or of the  
 2 county where the hearing is being held, on application of the  
 3 commissioner, may issue an order requiring that person to comply  
 4 with the subpoena and to testify; and any failure to obey any  
 5 such order of the court may be punished by the court as a  
 6 contempt thereof.

7 Subd. 5. SERVICE. Statements of charges, notices,  
 8 orders, and other processes of the commissioner under sections  
 9 72A.17 to 72A.32 may be served by anyone duly authorized by the  
 10 commissioner, either in the manner provided by law for service  
 11 of process in civil actions or by registering and mailing a copy  
 12 thereof to the person affected by the statement, notice, order,  
 13 or other process at ~~his~~ the person's residence or principal  
 14 office or place of business. A verified return by the person  
 15 serving the statement, notice, order, or other process, setting  
 16 forth the manner of such service, or the return postcard receipt  
 17 for a copy of the statement, notice, order, or other process,  
 18 registered and mailed as aforesaid, shall be proof of the  
 19 service of the same.

072A#23S

20 72A.23 DECISION AND ORDER THEREON.

21 Subdivision 1. DETERMINATION BY COMMISSIONER; FINDINGS.

22 Whenever it appears to the commissioner that any person has  
 23 engaged or is about to engage in any act or practice  
 24 constituting a violation of this chapter or any rule or order  
 25 under this chapter:

26 (a) ~~He~~ The commissioner may issue and cause to be served  
 27 upon the person an order requiring the person to cease and  
 28 desist from violations of section 72A.19 or 72A.20. The order  
 29 must be calculated to give reasonable notice of the rights of  
 30 the person to request a hearing thereon and must state the  
 31 reasons for the entry of the order. A hearing must be held not  
 32 later than seven days after the request for the hearing is  
 33 received by the commissioner after which and within 20 days of  
 34 the date of the hearing the commissioner shall issue a further  
 35 order vacating the cease and desist order or making it permanent  
 36 as the facts require. If no hearing is requested within 30 days  
 37 of service of the order, the order will become final and will  
 38 remain in effect until it is modified or vacated by the  
 39 commissioner. All hearings must be conducted in accordance with  
 40 the provisions of chapter 14. If the person to whom a cease and  
 41 desist order is issued fails to appear at the hearing after  
 42 being duly notified, the person shall be deemed in default, and  
 43 the proceeding may be determined against ~~him~~ the defaulter upon  
 44 consideration of the cease and desist order, the allegations of  
 45 which may be deemed to be true. The commissioner may adopt  
 46 rules of procedure concerning all proceedings conducted pursuant  
 47 to this subdivision; and

48 (b) If, after a hearing, as provided in section 72A.22, the  
 49 commissioner shall determine that the method of competition or  
 50 the act or practice in question is defined in section 72A.20 or  
 51 any rules adopted pursuant to section 72A.19 or 72A.20, and that  
 52 the person complained of has engaged in that method of  
 53 competition, act, or practice, in violation of sections 72A.17  
 54 to 72A.32 ~~he shall reduce his findings to writing~~ the  
 55 commissioner shall make written findings and shall issue and  
 56 cause to be served upon the person charged with the violation an  
 57 order requiring ~~him~~ the person to cease and desist from engaging  
 58 in that method of competition, act or practice, and may impose a  
 59 civil penalty of not more than \$2,000 for each offense. If the  
 60 commissioner determines that an insurer has engaged in an act or  
 61 practice defined in section 72A.20, subdivision 13, the cease  
 62 and desist order may also require the insurer to write or renew  
 63 the homeowner's insurance coverage sought by the insured or  
 64 prospective insured for a specified period of up to three years  
 65 without cancellation or nonrenewal by the insurer for a reason  
 66 not specified in section 65A.01; after the specified period  
 67 expires, cancellation or nonrenewal of the coverage may be made  
 68 only as permitted by law.

69 Subd. 2. MODIFICATION OF ORDER. Until the  
 70 expiration of the time allowed under section 72A.24, subdivision  
 71 1, for filing a petition for review, if no such petition has  
 72 been duly filed within that time, or, if a petition for review  
 73 has been filed within that time, then until the transcript of  
 74 the record in the proceeding has been filed in the district  
 75 court, as hereinafter provided, the commissioner may at any



1 time, upon such notice and in such manner as ~~he~~ the commissioner \*  
 2 shall deem proper, modify or set aside in whole or in part any \*  
 3 order issued ~~by-him~~ under this section. \*  
 4 Subd. 3. COMMISSIONER MAY REOPEN, MODIFY, OR SET ASIDE.  
 5 After the expiration of the time allowed for filing such a  
 6 petition for review, if no such petition has been duly filed  
 7 within that time, the commissioner may at any time, after notice  
 8 and opportunity for hearing, reopen and alter, modify, or set  
 9 aside, in whole or in part, any order issued ~~by-him~~ under this \*  
 10 section, whenever in ~~his~~ the commissioner's opinion conditions \*  
 11 of fact or of law have so changed as to require such action, or  
 12 if the public interest shall so require.

072A#24S

13 72A.24 ENFORCEMENT OF SECTIONS 72A.17 TO 72A.32.

14 No change for subd 1

15 Subd. 3. REHEARING. If, before the entry of the  
 16 decree of the court, either party shall apply to the court for  
 17 leave to adduce additional evidence and shall show to the  
 18 satisfaction of the court that said additional evidence is  
 19 material and that there were reasonable grounds for the failure  
 20 to adduce it in the proceeding before the commissioner, the  
 21 court may order said additional evidence to be taken before the  
 22 commissioner and to be adduced upon the hearing in such manner  
 23 and upon such terms and conditions as to the court may seem  
 24 proper. The commissioner may modify ~~his~~ the findings of fact, \*  
 25 or make new findings, by reason of the additional evidence so \*  
 26 taken and shall file those modified or new findings and ~~his~~ the \*  
 27 commissioner's recommendation, if any, for the modification or \*  
 28 setting aside of ~~his~~ the original order, with the return of the \*  
 29 additional evidence. Any such additional evidence, modified or  
 30 new findings, and recommendation shall be considered by the  
 31 court in making and entering its final decree, together with the  
 32 matters submitted in the original transcript.

33 Subd. 4. FINAL CEASE AND DESIST ORDER. A cease and  
 34 desist order issued by the commissioner under section 72A.23  
 35 shall become final:

36 (1) Upon the expiration of the time allowed for filing a  
 37 petition for review if no such petition has been duly filed  
 38 within such time; except that the commissioner may thereafter  
 39 modify or set aside ~~his~~ the order to the extent provided in \*  
 40 section 72A.23, subdivision 3; or

41 (2) Upon the final decision of the court if the court  
 42 directs that the order of the commissioner be affirmed or the  
 43 petition for review dismissed.

072A#25S

44 72A.25 UNFAIR COMPETITION.

45 Subdivision 1. STATEMENT OF CHARGES; SERVICE; HEARING.

46 Whenever the commissioner has reason to believe that any  
 47 person engaged in the business of insurance is engaged in this  
 48 state in any method of competition or in any act or practice in  
 49 the conduct of that business which is not defined in section  
 50 72A.20, that said method of competition is unfair or that said  
 51 act or practice is unfair or deceptive and that a proceeding ~~by~~ \*  
 52 ~~him~~ in respect thereto would be to the interest of the \*  
 53 public, ~~he~~ the commissioner may issue and serve upon that person \*  
 54 a statement of the charges in that respect and a notice of a  
 55 hearing thereon to be held at a time and place fixed in the  
 56 notice, which shall not be less than 20 days after the date of  
 57 the service thereof. Each such hearing shall be conducted in  
 58 the same manner as the hearings provided for in section 72A.22,  
 59 and the provisions of that section as to service are made  
 60 applicable to proceedings under this section. Upon good cause  
 61 shown, the commissioner shall permit any person to intervene,  
 62 appear and be heard at such hearing by counsel or in person.  
 63 The commissioner shall, after the hearing, make a written report \*  
 64 in-writing-in which ~~he~~ shall state-his include findings as to \*  
 65 the facts and shall serve a copy thereof upon the person upon \*  
 66 whom-he served ~~his~~ with the statement of charges. \*

67 Subd. 2. APPLICATION FOR INJUNCTION. If the report  
 68 charges a violation of sections 72A.17 to 72A.32 and if the  
 69 method of competition, act, or practice charged ~~by-him~~ has not \*  
 70 been discontinued, the commissioner may, through the attorney  
 71 general, at any time after 20 days after the service of the  
 72 report, cause a petition to be filed in the district court of  
 73 Ramsey County, to enjoin and restrain that person from engaging  
 74 in the method, act, or practice charged. A transcript of the



1 proceedings before the commissioner, including all evidence  
 2 taken and the report and findings, shall be filed with the  
 3 petition. Upon the filing of the petition and transcript the  
 4 court shall have jurisdiction of the proceedings and shall have  
 5 power to make and enter appropriate orders in connection  
 6 therewith and to issue such writs as are ancillary to its  
 7 jurisdiction or necessary in its judgment to prevent injury to  
 8 the public pendente lite.

9 No change for subd 3

10 Subd. 4. REHEARING. If either party shall apply to  
 11 the court before the entry of its order for leave to adduce  
 12 additional evidence, and shall show to the satisfaction of the  
 13 court that said additional evidence is material and that there  
 14 were reasonable grounds for the failure to adduce it in the  
 15 proceeding before the commissioner, the court may order said  
 16 additional evidence to be taken before the commissioner and to  
 17 be adduced upon the hearing in such manner and upon such terms  
 18 and conditions as to the court may seem proper. The  
 19 commissioner may modify ~~his~~ the findings of fact, or make new \*  
 20 findings, by reason of the additional evidence so taken, and  
 21 shall file those modified or new findings with the return of the  
 22 additional evidence. Any such additional evidence and modified  
 23 or new findings shall be considered by the court in making and  
 24 entering its final order, together with the matters submitted in  
 25 the original transcript.

072A#26S

26 72A.26 INTERVENTION.

27 If the report of the commissioner does not charge a  
 28 violation of sections 72A.17 to 72A.32, any intervenor in the  
 29 proceedings may, within 20 days after the service of the report  
 30 ~~upon him~~, cause a petition to be filed in the district court of \*  
 31 Ramsey county for a review of that report. Notice of the filing  
 32 of the intervenor's petition shall be given to the commissioner  
 33 and to the person upon whom the statement of charges was  
 34 originally served. The commissioner shall, within 20 days after  
 35 the service ~~upon him~~ of the notice of filing the petition, file \*  
 36 a transcript of the proceedings ~~before him~~, including all \*  
 37 evidence taken and ~~his~~ the report and findings, and the person \*  
 38 upon whom the statement of charges was originally served shall \*  
 39 have 20 days after the service ~~upon him~~ of notice of filing the \*  
 40 petition in which to file an answer. The proceedings before the  
 41 court shall conform to those provided for by section 72A.25.  
 42 Upon such a review the court shall have authority to issue  
 43 appropriate orders and writs in connection therewith, including,  
 44 if the court finds it is to the interest of the public, orders  
 45 enjoining and restraining the continuance of any method of  
 46 competition, act, or practice which it finds, notwithstanding  
 47 the report of the commissioner, constitutes a violation of  
 48 sections 72A.17 to 72A.32.

072A#30S

49 72A.30 EVIDENTIAL PRIVILEGE DENIED; IMMUNITY; WAIVER.

50 A person who asks to be excused from attending and  
 51 testifying or from producing any books, papers, records,  
 52 correspondence, or other documents at any hearing on the ground  
 53 that the testimony or evidence required ~~of him~~ may tend to \*  
 54 incriminate ~~him~~ or subject ~~him~~ the person to a penalty or \*  
 55 forfeiture, who is nevertheless directed to give the testimony  
 56 or produce the evidence, shall comply with the direction.  
 57 However, ~~he~~ the person shall not subsequently be prosecuted or \*  
 58 subjected to any penalty or forfeiture because of any  
 59 transaction, matter, or thing about which ~~he~~ the person \*  
 60 testified or produced evidence, and no testimony given or \*  
 61 evidence produced shall be received against ~~him~~ that person upon \*  
 62 any criminal action, investigation, or proceeding. No person  
 63 testifying is exempt from prosecution or punishment for perjury  
 64 committed ~~by him~~ while testifying, and the testimony or evidence \*  
 65 given or produced shall be admissible against ~~him~~ that person \*  
 66 upon any criminal action, investigation, or proceeding  
 67 concerning the perjury. The person is not exempt from the  
 68 refusal, revocation, or suspension of any license, permission,  
 69 or authority conferred; or to be conferred, pursuant to the  
 70 insurance law of this state.

71 An individual may execute, acknowledge, and file in the  
 72 office of the commissioner a statement expressly waiving  
 73 immunity or privilege in respect to any transaction, matter, or  
 74 thing specified in the statement, and the testimony of that



1 person or any evidence in relation to it may be received or  
2 produced before any judge, court, tribunal, grand jury, or  
3 otherwise. When it is received or produced, that individual is  
4 not entitled to any immunity or privilege on account of any  
5 testimony given or evidence produced by that individual.

072A#31S

6 72A.31 CERTAIN ACTS DEEMED UNFAIR METHOD OF COMPETITION.

7 Subdivision 1. No person, firm or corporation engaged in  
8 the business of financing the purchase of real or personal  
9 property or of lending money on the security of real or personal  
10 property or who acts as agent or broker for one who purchases  
11 real property and borrows money on the security thereof, and no  
12 trustee, director, officer, agent or other employee of any such  
13 person, firm, or corporation shall directly or indirectly  
14 require, as a condition precedent to such purchase or financing  
15 the purchase of such property or to loaning money upon the  
16 security of a mortgage thereon, or as a condition prerequisite  
17 for the renewal or extension of any such loan or mortgage or for  
18 the performance of any other act in connection therewith, that  
19 the person, firm or corporation making such purchase or for whom  
20 such purchase is to be financed or to whom the money is to be  
21 loaned or for whom such extension, renewal or other act is to be  
22 granted or performed negotiate any policy of insurance or  
23 renewal thereof covering such property through a particular  
24 agent, or insurer, or refuse to accept any policy of insurance  
25 covering such property because it was not negotiated through or  
26 with any particular agent, or insurer. This section shall not  
27 prevent the disapproval of the insurer or a policy of insurance  
28 by any such person, firm, corporation, trustee, director,  
29 officer, agent or employee where there are reasonable grounds  
30 for believing that such insurance is unsatisfactory as to  
31 placement with an unauthorized insurer, the financial solvency  
32 of the insurer, adequacy of the coverage, adequacy of the  
33 insurer to assume the risk to be insured, the assessment  
34 features to which the policy is subject, or other grounds which  
35 are not arbitrary, unreasonable or discriminatory, nor shall  
36 this section forbid the securing of insurance or a renewal  
37 thereof at the request of the borrower or because of the  
38 borrower's failure to furnish the necessary insurance or renewal  
39 thereof.

40 Upon notice of any such disapproval of an insurer or a  
41 policy of insurance, the commissioner may order the approval of  
42 the insurer or the acceptance of the tendered policy of  
43 insurance, or both, if he the commissioner determines such  
44 disapproval is not in accordance with the foregoing \*  
45 requirements. Failure to comply with such an order of the  
46 commissioner of commerce shall be deemed a violation of this  
47 section.

48 No change for subd 2

072A#35S

49 72A.35 NOTICE TO DOMICILIARY SUPERVISORY OFFICIAL.

50 No unauthorized foreign or alien insurer of the kind  
51 described in section 72A.33 shall make, issue, circulate or  
52 cause to be made, issued or circulated, to residents of this  
53 state any estimate, illustration, circular, pamphlet, or letter,  
54 or cause to be made in any newspaper, magazine or other  
55 publication or over any radio or television station, any  
56 announcement or statement to such residents misrepresenting its  
57 financial condition or the terms of any contracts issued or to  
58 be issued or the benefits or advantages promised thereby, or the  
59 dividends or share of the surplus to be received thereon in  
60 violation of the unfair trade practice act, and whenever the  
61 commissioner shall have reason to believe that any such insurer  
62 is engaging in such unlawful advertising, it shall be ~~his~~ the  
63 commissioner's duty to give notice of such fact by certified \*  
64 mail to such insurer and to the insurance supervisory official \*  
65 of the domiciliary state of such insurer. For the purpose of  
66 this section, the domiciliary state of an alien insurer shall be  
67 deemed to be the state of entry or the state of the principal  
68 office in the United States.

072A#36S

69 72A.36 ACTION BY COMMISSIONER.

70 If after 30 days following the giving of the notice  
71 mentioned in section 72A.35 such insurer has failed to cease  
72 making, issuing, or circulating such false representations or  
73 causing the same to be made, issued or circulated in this state,



1 and if the commissioner has reason to believe that a proceeding  
 2 ~~by him~~ in respect to such matters would be to the interest of \*  
 3 the public, and that such insurer is issuing or delivering  
 4 contracts of insurance to residents of this state or collecting  
 5 premiums on such contracts or doing any of the acts enumerated  
 6 in section 72A.37, ~~he~~ the commissioner shall take action against \*  
 7 such insurer under the unfair trade practice act.

072A#37S

8 72A.37 SERVICE UPON UNAUTHORIZED INSURER.  
 9 Subdivision 1. ACTS CONSTITUTING APPOINTMENT OF  
 10 COMMISSIONER AS ATTORNEY. Any of the following acts in this  
 11 state, effected by mail or otherwise, by any such unauthorized  
 12 foreign or alien insurer: (1) The issuance or delivery of  
 13 contracts of insurance to residents of this state; (2) the  
 14 solicitation of applications for such contracts; (3) the  
 15 collection of premiums, membership fees, assessments or other  
 16 considerations for such contracts; or (4) any other transaction  
 17 of insurance business; is equivalent to and shall constitute an  
 18 appointment by such insurer of the commissioner of commerce and  
 19 ~~his~~ a successor or successors in office, to be its true and \*  
 20 lawful attorney, upon whom may be served all statements of  
 21 charges, notices and lawful process in any proceeding instituted  
 22 in respect to the misrepresentations set forth in section 72A.35  
 23 under the provisions of the unfair trade practice act, or in any  
 24 action, suit or proceeding for the recovery of any penalty  
 25 therein provided, and any such act shall be signification of its  
 26 agreement that such service of statement of charges, notices or  
 27 process is of the same legal force and validity as personal  
 28 service of such statement of charges, notices or process in this  
 29 state, upon such insurer.

30 Subd. 2. METHOD OF SERVICE. Service of a statement  
 31 of charges and notices under said unfair trade practice act  
 32 shall be made by any deputy or employee of the department of  
 33 commerce delivering to and leaving with the commissioner or some  
 34 person in apparent charge of ~~his~~ the office, two copies \*  
 35 thereof. Service of process issued by any court in any action,  
 36 suit or proceeding to collect any penalty under said act  
 37 provided, shall be made by delivering and leaving with the  
 38 commissioner, or some person in apparent charge of ~~his~~ the \*  
 39 office, two copies thereof. The commissioner shall forthwith  
 40 cause to be mailed by certified mail one of the copies of such  
 41 statement of charges, notices or process to the defendant at its  
 42 last known principal place of business, and shall keep a record  
 43 of all statements of charges, notices and process so served.  
 44 Such service of statement of charges, notices or process shall  
 45 be sufficient provided they shall have been so mailed and the  
 46 defendant's receipt or receipt issued by the post office with  
 47 which the letter is certified, showing the name of the sender of  
 48 the letter and the name and address of the person to whom the  
 49 letter is addressed, and the affidavit of the person mailing  
 50 such letter showing a compliance herewith are filed with the  
 51 commissioner in the case of any statement of charges or notices,  
 52 or with the clerk of the court in which such action is pending  
 53 in the case of any process, on or before the date the defendant  
 54 is required to appear or within such further time as may be  
 55 allowed.

56 No change for subd 3 to 5

072A#42S

57 72A.42 COMMISSIONER MAY ENJOIN UNAUTHORIZED COMPANY.  
 58 Subdivision 1. Whenever the commissioner believes, from \*  
 59 evidence satisfactory to ~~him~~ the commissioner, that any company  
 60 is violating or about to violate the provisions of section  
 61 72A.41, the commissioner may, through the attorney general of  
 62 this state, cause a complaint to be filed in the district court  
 63 of Ramsey county to enjoin and restrain such company from  
 64 continuing such violation or engaging therein or doing any act  
 65 in furtherance thereof. The court shall have jurisdiction of  
 66 the proceeding and shall have the power to make and enter an  
 67 order or judgment awarding such preliminary or final injunctive  
 68 relief as in its judgment is proper.

69 No change for subd .2

072A#43S

70 72A.43 SERVICE OF PROCESS UPON UNAUTHORIZED COMPANY BY  
 71 COMMISSIONER.  
 72 Subdivision 1. Any act of entering into a contract of  
 73 insurance or annuity as an insurer or transacting insurance



1 business in this state as set forth in subdivision 2 of section  
2 72A.41, by an unauthorized company is equivalent to and shall  
3 constitute an appointment by such company of the commissioner of  
4 commerce and ~~his~~ a successor or successors in office to be its \*  
5 true and lawful attorney upon whom may be served all lawful  
6 process in any action or proceeding against it, arising out of a  
7 violation of section 72A.41, and any of such acts shall be a  
8 signification of its agreement that any such process against it  
9 which is so served shall be of the same legal force and validity  
10 as personal service of process in this state upon such company.

11 Subd. 2. Service of such process shall be made by  
12 delivering and leaving with the commissioner two copies thereof  
13 and the payment to the commissioner of a \$15 filing fee. The  
14 commissioner shall forthwith mail by certified mail one of the  
15 copies of such process to such company at its last known  
16 registered office, and shall keep a record of all process so  
17 served ~~upon him~~. The company's receipt, or receipt issued by \*  
18 the post office with which the letter is certified, and an  
19 affidavit of compliance herewith by or on behalf of the  
20 commissioner, shall be filed with the clerk of the court in  
21 which such action or proceeding is pending on or before the  
22 return date of such process or within such further time as the  
23 court may allow.

24 No change for subd 3 to 5

072A#45S

25 72A.45 NONAPPLICATION.

26 Sections 72A.40 to 72A.45 shall not apply to any life  
27 insurance company organized and operated, without profit to any  
28 private shareholder or individual, exclusively for the purpose  
29 of aiding educational or scientific institutions organized and  
30 operated without profit to any private shareholder or individual  
31 by issuing insurance and annuity contracts direct from the home  
32 office of the company and without agents or representatives in  
33 this state only to or for the benefit of the institutions and to  
34 individuals engaged in the services of the institutions;  
35 provided such company agrees to appoint the commissioner, and  
36 ~~his~~ successors in office, as its attorney to receive service of \*  
37 legal process issued against it in Minnesota, such appointment  
38 to be irrevocable and to bind the company and any successors in  
39 interest and to remain in effect as long as there is in force in  
40 this state any contract made by that company or any obligation  
41 arising therefor; nor shall sections 72A.40 to 72A.45 apply to  
42 any insurance or annuity contracts issued by such a life  
43 insurance company.

072A#51S

44 72A.51 RIGHT TO CANCEL.

45 No change for subd 1

46 Subd. 2. Any individual person may cancel an individual  
47 policy of insurance against loss or damage by reason of the  
48 sickness of the assured or ~~his~~ the assured's dependents, a \*  
49 nonprofit health service plan contract providing benefits for  
50 hospital, surgical and medical care, a health maintenance  
51 organization subscriber contract, or a policy of insurance  
52 authorized by section 60A.06, subdivision 1, clause (4), by  
53 returning the policy or contract and by giving written notice of  
54 cancellation any time before midnight of the tenth day following  
55 the date of purchase. Notice of cancellation may be given  
56 personally, by mail, or by telegram. The policy or contract may  
57 be returned personally or by mail. If by mail, the notice or  
58 return of the policy or contract is effective upon being  
59 postmarked, properly addressed and postage prepaid.

60 Subd. 3. With the exception of a variable annuity contract  
61 issued pursuant to sections 61A.13 to 61A.21, a person's  
62 cancellation of an insurance policy or contract under this  
63 section and section 72A.52 is without liability ~~on his part~~ and \*  
64 ~~he~~ the person is entitled to a refund of the entire \*  
65 consideration paid for the policy or contract within ten days  
66 after notice of cancellation and the returned policy or contract  
67 are received by the insurer or its agent. Cancellation under  
68 this section and section 72A.52 of a variable annuity contract  
69 issued pursuant to sections 61A.13 to 61A.21 shall entitle a  
70 person to an amount equal to the sum of (a) the difference  
71 between the premiums paid including any contract fees or other  
72 charges and the amounts allocated to any separate accounts under  
73 the contract and (b) the cash value of the contract, or, if the  
74 contract does not have a cash value, the reserve for the



1 contract, on the date the returned contract is received by the  
2 insurer or its agent. Cancellation of an insurance policy or  
3 contract under this section or section 72A.52 makes the policy  
4 or contract void from its inception.

5 Subd. 4. A person may not waive or surrender ~~his~~ a right  
6 to cancel an insurance policy or contract under sections 72A.51  
7 and 72A.52.

072A#52S

8 72A.52 NOTICE REQUIREMENTS.

9 Subdivision 1. In addition to all other legal requirements  
10 a policy or contract of insurance described in section 72A.51  
11 shall show the name and address of the insurer ~~and~~ the seller of  
12 the policy or contract and shall state, clearly and  
13 conspicuously in bold face type of a minimum size of ten points,  
14 a notice in the following form or its equivalent: "RIGHT TO  
15 CANCEL. You may cancel this policy by delivering or mailing a  
16 written notice or sending a telegram to (insert name and mailing  
17 address of the insurer or the seller of the policy or contract)  
18 and by returning the policy or contract before midnight of the  
19 tenth day after the date you receive the policy. Notice given  
20 by mail and return of the policy or contract by mail are  
21 effective on being postmarked, properly addressed and postage  
22 prepaid. The insurer must return all payments made for this  
23 policy within ten days after it receives notice of cancellation  
24 and the returned policy." For variable annuity contracts issued  
25 pursuant to sections 61A.13 to 61A.21, this notice shall be  
26 suitably modified so as to notify the purchaser that ~~he~~ the  
27 purchaser is entitled to a refund of the amount calculated in  
28 accordance with the provisions of section 72A.51, subdivision 3.

29 Subd. 2. If a policy or contract of insurance covered by  
30 this section is sold without compliance with subdivision 1, the  
31 policy or contract may be cancelled by the purchaser at any time  
32 within one year after the date of purchase by returning the  
33 policy or contract and by giving written notice of cancellation  
34 to the insurer or its agent. If a purchaser cancels a policy or  
35 contract under this subdivision, the insurer must return the  
36 entire consideration paid for the policy or contract within ten  
37 days after ~~he-receives~~ receiving notice of cancellation and the  
38 returned policy or contract, except that if the contract is a  
39 variable annuity contract issued pursuant to sections 61A.13 to  
40 61A.21, the insurer shall refund to the purchaser an amount  
41 calculated in accordance with the provisions of section 72A.51,  
42 subdivision 3.

072B#01S

43 72B.01 PURPOSE AND SCOPE.

44 It is the purpose of sections 72B.01 to 72B.14 to provide  
45 high quality service to insureds and insurance claimants in the  
46 state of Minnesota by providing for well trained adjusters and  
47 persons engaged in soliciting business for adjusters, who are  
48 qualified to deal with the public in the interest of a fair  
49 resolution of insurance claims. Sections 72B.01 to 72B.14 shall  
50 apply to all adjusters, and adjusters' solicitors, except as  
51 specifically stated to the contrary; but nothing in sections  
52 72B.01 to 72B.14 shall apply to:

53 (a) An attorney at law who is licensed or otherwise allowed  
54 to practice law in this state and who does not hold ~~himself~~ out  
55 to be an adjuster, or adjuster's solicitor.

56 (b) A licensed agent of an authorized insurer who adjusts  
57 losses for such insurer solely under policies issued by ~~him~~ the  
58 agent or ~~his~~ the agent's agency or on which ~~he~~ the agent is  
59 the agent of record, provided the agent receives no extra  
60 compensation for such services.

61 (c) Personnel of township mutual companies.

62 (d) Adjusters for crop hail and farm windstorm damage  
63 claims who are on the staff of companies covering such risks.

64 (e) Persons who process life insurance annuity contract or  
65 accident and health insurance claims.

66 (f) Persons processing or adjusting wet marine or inland  
67 transportation claims or losses.

072B#02S

68 72B.02 DEFINITIONS:

69 No change for subd 1 to 2

70 Subd. 3. "Commissioner" means the commissioner of commerce  
71 or any other person properly acting ~~in-his-place~~ for the  
72 commissioner.

73 No change for subd 4



1 Subd. 5. "Independent adjuster" means any person who for  
2 another for money, commission or any other thing of value acts  
3 as an adjuster on behalf of more than one insurer, or who holds  
4 ~~himself~~ out to do so. \*

5 Subd. 6. "Public adjuster" means an adjuster who ~~holds~~ \*  
6 ~~himself~~ hires out for employment by members of the public for a \*  
7 fee, commission or any other thing of value, and who, when so  
8 employed, acts solely to represent the interests of an insured  
9 named in an insurance policy.

10 No change for subd 7 to 13

072B#03S

11 72B.03 LICENSES.

12 Subdivision 1. REQUIREMENT; EXCEPTIONS. Except as  
13 otherwise provided, no person shall act as an independent  
14 adjuster, public adjuster, or public adjuster solicitor for  
15 money, a commission, or any other thing of value, unless such  
16 person shall first obtain from the commissioner a license. No  
17 license shall be required for a person:

18 (a) Undergoing a training or education program under the  
19 guidance of a licensed adjuster and who is registered with the  
20 commissioner for a one year temporary permit;

21 (b) Acting in a catastrophe or emergency situation, and  
22 who has registered with the commissioner for that purpose;

23 (c) A nonresident adjuster who occasionally is in this  
24 state to adjust a single loss; provided, however, that if a  
25 nonresident adjusts more than six losses in this state in one  
26 year ~~he~~ the adjuster must qualify for and receive a \*  
27 nonresident's license as provided in sections 72B.01 to 72B.14,  
28 and provided the adjuster's domiciliary state affords a like  
29 privilege.

30 No change for subd 2 to 3

072B#04S

31 72B.04 LICENSE PROCEDURE AND REQUIREMENTS; EXAMINATIONS;  
32 FEES.

33 No change for subd 1

34 Subd. 2. QUALIFICATIONS. An applicant for licensing  
35 as an adjuster under sections 72B.01 to 72B.14 shall be at least  
36 18 years of age, and shall have one year's training and  
37 experience in adjusting insurance claims for damage or loss from  
38 risks in the field stated in ~~his~~ the application. The applicant \*  
39 shall be competent and trustworthy and shall not have been  
40 engaged in any practice which would be grounds for suspension or  
41 revocation of a license under sections 72B.01 to 72B.14 within \*  
42 the three years next preceding the date of ~~his~~ the application.

43 An applicant for licensing as a public adjuster solicitor  
44 under sections 72B.01 to 72B.14 shall be at least 18 years of  
45 age, shall be competent and trustworthy, and shall not have been  
46 engaged in any practice which would be grounds for suspension or  
47 revocation of a license under sections 72B.01 to 72B.14 within \*  
48 the three years next preceding the date of ~~his~~ the application.

49 In the case of any applicant who has been convicted of a \*  
50 felony within the tenyears next preceding the date of ~~his~~ the \*  
51 application, and who in the judgment of the commissioner, meets  
52 the other qualifications, the commissioner may impose the  
53 additional requirement of the filing of a bond in accordance  
54 with the requirements of section 72B.08, subdivision 8.

55 No change for subd 3 to 4

56 Subd. 5. EXAMINATIONS. A person applying for a  
57 license under sections 72B.01 to 72B.14 must successfully  
58 complete an examination prescribed by the commissioner, which  
59 examination shall be at least in part a written examination.  
60 Examinations shall be given at such time and place as designated  
61 by the commissioner and there shall be different examinations  
62 for adjusters, public adjuster solicitors, and applicants for  
63 temporary permits. Adjusters' examinations shall be given in at  
64 least each of three fields: fire and allied lines, inland  
65 marine lines and including all perils under homeowners policies;  
66 all lines written as casualty insurance under section 60A.06,  
67 and including workers' compensation; and a combination of the  
68 two foregoing fields. Each examination shall be, in the  
69 judgment of the commissioner with the advice of the advisory  
70 committee, sufficient to require for a satisfactory score such  
71 knowledge of insurance, adjusting practices and appraisal  
72 techniques, to the extent that such knowledge is necessary for  
73 the class of license applied for and the field in which the  
74 applicant is being examined, that the people of Minnesota will



1 receive insurance claim service from persons who are  
 2 sufficiently trained to make fair and well informed judgments in  
 3 the evaluation or settlement of insured losses. The examination  
 4 for an applicant for a temporary permit may be oriented to the  
 5 specified fields, but shall be less exacting than the  
 6 examination for a license.

7 The commissioner may by rule determine the period of time  
 8 between failure of an examination and re-examination.

9 A person shall not be eligible to take an examination if  
 10 ~~his~~ that person's license as an adjuster or public adjuster \*  
 11 solicitor has been revoked in this or any other state within the \*  
 12 three years next preceding the date of ~~his~~ the application.

13 No examination shall be required for the timely renewal of  
 14 a license, unless the license has been revoked.

15 Subd. 6. EXCEPTIONS. A person who on January 1,  
 16 1972, meets all of the qualifications specified in subdivision 2  
 17 with regard to the class of license applied for and, if  
 18 experience is one of the requisites, has gained ~~his~~ the \*  
 19 experience within the three years next preceding January 1,  
 20 1972, shall be eligible for the issuance of a license without  
 21 taking an examination.

22 A person who has held a license of any given class or in  
 23 any field or fields within three years prior to ~~his~~ the \*  
 24 application shall be entitled to a renewal of ~~his~~ the license in \*  
 25 the same class or in the same fields without taking an  
 26 examination.

27 The commissioner may issue a license under sections 72B.01  
 28 to 72B.14 without an examination, if the applicant presents  
 29 sufficient and satisfactory evidence of having passed a similar  
 30 examination in another state and if the commissioner, with the  
 31 advice of the advisory board, has determined that the standards  
 32 of such other state are equivalent to those in Minnesota for the  
 33 class of license applied for. Any applicant who presents  
 34 sufficient and satisfactory evidence of having successfully  
 35 completed all six parts of the insurance institute of America  
 36 program in adjusting shall be entitled to an adjuster's license  
 37 without taking the examination prescribed in subdivision 5.

38 No change for subd 7 to 8

39 Subd. 9. NOTICE OF CHANGES. Each licensee or holder  
 40 of a temporary permit shall give written notice to the  
 41 commissioner of any change in ~~his~~ name, or residence address not \*  
 42 later than ten days after such change. The commissioner may,  
 43 upon receipt of such notice, issue an amendment to the license  
 44 incorporating such changes.

45 No change for subd 10

072B#05S

46 72B.05 NONRESIDENTS.

47 A nonresident person may become licensed under sections  
 48 72B.01 to 72B.14, provided that ~~he~~ the person meets all of the \*  
 49 requirements of sections 72B.01 to 72B.14, and complies with  
 50 their provisions, and, on a form prescribed by the commissioner,  
 51 appoints the commissioner as ~~his~~ the attorney upon whom may be \*  
 52 served all legal process issued in connection with any action or  
 53 proceeding brought or pending in this state against or involving  
 54 the licensee and relating to transactions under ~~his~~ the license; \*  
 55 the appointment shall be irrevocable and shall continue so long  
 56 as any such action or proceeding could arise or exist.

57 Duplicate copies of process shall be served upon the  
 58 commissioner, accompanied by payment of the fee specified in  
 59 section 60A.14, subdivision 1(3) (d). Upon receiving such  
 60 service, the commissioner shall promptly forward a copy thereof  
 61 by registered or certified mail, with return receipt requested,  
 62 to the nonresident licensee at ~~his~~ that person's last known \*  
 63 address. Process served upon the commissioner in this manner  
 64 shall for all purposes constitute personal service thereof upon  
 65 the licensee.

072B#06S

66 72B.06 CATASTROPHE OR EMERGENCY SITUATIONS.

67 Any person acting as an independent adjuster in this state  
 68 in a catastrophe or emergency situation who is not a licensed  
 69 adjuster, must register with the commissioner within 72 hours of  
 70 commencing ~~his~~ any adjusting assignments. The registration \*  
 71 shall be made on such form as the commissioner shall prescribe  
 72 and shall include the name of the registrant, ~~his~~ permanent home \*  
 73 address, ~~his~~ and address for the period during which the \*  
 74 registration is effective, the categories of losses being



1 adjusted by the registrant, the name of the licensed independent  
 2 adjuster or staff adjuster who will be supervising ~~him~~ that  
 3 adjuster, and the name of the insurer or insurers in whose  
 4 behalf the adjusting is being done. No person shall register or  
 5 be allowed to adjust losses under this provision unless ~~he~~ that  
 6 person is under the supervision of a staff adjuster or a  
 7 licensed independent adjuster. The supervising adjuster shall  
 8 indicate on the registration filing the period of time for which  
 9 the registration is being made, and no unlicensed person shall  
 10 undertake to adjust losses after the termination of the  
 11 registration.

\*  
\*  
\*  
\*

12 Each registrant under this section shall promptly give  
 13 written notice to the commissioner of any change in ~~his~~ address  
 14 while in this state, or any other information stated in ~~his~~ the  
 15 registration statement.

\*  
\*

16 The commissioner may summarily suspend or revoke the right  
 17 of any person adjusting in this state under the authority of  
 18 this section to continue to adjust in this state, if the  
 19 commissioner finds that that person has engaged in any of the  
 20 practices forbidden to a licensed adjuster under sections 72B.01  
 21 to 72B.14. Notice of such suspension or revocation may be given  
 22 personally or by mail sent to the temporary address stated in  
 23 the registration. A duplicate copy of such notice shall be  
 24 given to the supervising adjuster.

072B#08S

25 72B.08 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.

26 Subdivision 1. CAUSES. The commissioner may suspend,  
 27 revoke, or refuse to issue an initial or renewal license or  
 28 temporary permit for any of the following causes:

- 29 (a) Failure to pass a required examination;
- 30 (b) Material misrepresentation or fraud in obtaining or  
 31 attempting to obtain a license or a temporary permit;
- 32 (c) Willful violation of any insurance law or of any  
 33 provision of sections 72B.01 to 72B.14;
- 34 (d) Misappropriation, conversion or illegal withholding of  
 35 moneys required to be held in a fiduciary capacity;
- 36 (e) Materially misrepresenting the terms and effect of any  
 37 insurance contract, with intent to deceive, or engaging in, or  
 38 attempting to engage in, any fraudulent transaction with respect  
 39 to a claim or loss that the licensee or holder of a temporary  
 40 permit is adjusting and, in the case of a public adjuster  
 41 solicitor, misrepresenting the services offered or the fees or  
 42 commission to be charged.
- 43 (f) Conviction of a felony under the laws of this state,  
 44 any other state, the United States, or any foreign country.
- 45 (g) The licensee or holder of a temporary permit has  
 46 demonstrated ~~his~~ incompetency or untrustworthiness to act as an  
 47 adjuster or public adjuster solicitor;
- 48 (h) Refusal to comply with any lawful order of the  
 49 commissioner.

\*

50 Subd. 2. NOTICE. If an application for a license or  
 51 temporary permit is rejected by the commissioner, ~~he~~ the  
 52 commissioner shall forthwith give written notice to the person  
 53 concerned, mailed to ~~his~~ that person's last known address. The  
 54 notice shall state the reason for the action.

\*  
\*  
\*

55 Subd. 3. HEARING. Except when an application is  
 56 rejected for failure to pass a required examination, the person  
 57 aggrieved by the action of the commissioner shall be entitled to  
 58 a hearing before the commissioner or ~~his~~ the commissioner's  
 59 delegate, provided that such person files a written request for  
 60 such hearing with the commissioner prior to the expiration of 30  
 61 days from the date of notice specified in subdivision 2. If no  
 62 hearing is requested within 30 days from the date of the notice,  
 63 the action taken by the commissioner shall continue in effect  
 64 until modified or vacated ~~by him~~. If a hearing is timely  
 65 requested, the commissioner shall set a date for such hearing  
 66 not later than 30 days after the date of receipt of the request  
 67 for hearing. Pending the hearing or any judicial review of such  
 68 hearing, the commissioner may modify or vacate the action taken  
 69 or extend it until final determination.

\*

70 After the hearing, the commissioner shall enter an order  
 71 either vacating ~~his~~ the prior action, confirming ~~his~~ the prior  
 72 action or otherwise disposing of the matter as the facts require.

\*

73 Subd. 4. SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.

74 When the commissioner has information, which if true, would  
 75 be grounds for suspension, revocation, or refusal to issue a



1 renewal license or a temporary permit, he the commissioner may \*  
 2 order the licensee or holder of the temporary permit to appear  
 3 for a hearing pursuant to chapter 14, to determine the facts of  
 4 the case and to determine whether the license or permit should  
 5 be suspended or revoked, or whether it should not be renewed.  
 6 The order shall fix the time and place for the hearing. After  
 7 the hearing, the commissioner shall enter an order either  
 8 dismissing the matter or suspending or revoking the license or  
 9 temporary permit, or otherwise disposing of the matter as the  
 10 facts require. Pending the results of the hearing, the licensee  
 11 or permit holder may continue to act under his the license or \*  
 12 permit.

13 No change for subd 5 to 7

14 Subd. 8. BOND. In the case of any licensee or \*  
 15 permit holder who has had his a license or permit suspended or  
 16 revoked or whose license renewal has been prohibited by a lawful  
 17 order of the commissioner, the commissioner may condition the  
 18 issuance of a new license on the filing of a surety bond in an  
 19 amount not to exceed \$10,000, made and conditioned in accordance  
 20 with the requirements of section 72B.04, subdivision 4, relating  
 21 to public adjusters' bonds. Nothing in this subdivision shall  
 22 reduce or alter the bonding requirements for a public adjuster.

23 No change for subd 9

072B#091S

24 72B.091 DAMAGE APPRAISALS; ADJUSTMENTS; DUTIES OF  
 25 APPRAISERS, ADJUSTERS, AND INSURERS.

26 No change for subd 1 to 2

27 Subd. 3. No appraiser, adjuster, or his that person's \*  
 28 employer shall require that repairs be made in any specified  
 29 repair facility.

30 No change for subd 4

31 Subd. 5. No appraiser or adjuster for personal gain shall  
 32 receive or trade in auto salvage if the salvage is obtained as a  
 33 result of his that person's appraisals. \*

072B#092S

34 72B.092 MOTOR VEHICLE INSURANCE ADJUSTMENTS;  
 35 PROHIBITIONS.

36 Subdivision 1. No adjuster or insurer, director, officer,  
 37 broker, agent, attorney-in-fact, employee, or other  
 38 representative of an insurer shall in collision cases:

39 (a) Limit the freedom of an insured or claimant to choose  
 40 the shop ~~of-his-choice~~; \*

41 (b) Require that an insured or claimant present his the \*  
 42 claim or his the automobile for loss adjustment or inspection at \*  
 43 a "drive-in" claim center or any other similar facility solely  
 44 under the control of the insurer;

45 (c) Engage in boycotts, intimidation or coercive tactics in  
 46 negotiating repairs to damaged motor vehicles which they insure  
 47 or are liable to claimants to have repaired; or

48 (d) Attempt to secure, except in an emergency, the  
 49 insured's or claimant's signature authorizing the party securing  
 50 the signature to act in behalf of the insured or claimant in  
 51 selection of a repair shop facility.

52 No change for subd 2 to 5

072B#10S

53 72B.10 STAFF ADJUSTERS.

54 A staff adjuster who adjusts losses or claims in this state  
 55 shall not be subject to the application, licensing, or  
 56 examination requirements or other qualifications set forth in  
 57 sections 72B.01 to 72B.14. Such a staff adjuster shall not,  
 58 however, engage in any of the practices forbidden to a licensee  
 59 under section 72B.08, subdivision 1, clauses (c), (d), (e), (f),  
 60 (g) or (h). If the commissioner has information, which if true,  
 61 would establish that a staff adjuster has engaged or is engaging  
 62 in any such prohibited practices, he the commissioner may issue \*  
 63 an order for a hearing to determine the facts involved. The  
 64 order shall fix the time and place for hearing. The staff  
 65 adjuster and one or more representatives of the insurer or  
 66 insurers employing the staff adjuster shall make an appearance  
 67 at the hearing unless the commissioner expressly waives the  
 68 appearance of one or more such parties. If, following the  
 69 hearing, the commissioner determines that the staff adjuster has  
 70 engaged or is engaging in any prohibited practices, he the \*  
 71 commissioner may impose a fine, not in excess of \$500, on the \*  
 72 staff adjuster or on the employing insurer or insurers, or on  
 73 both such parties. In addition, the commissioner may order the



1 employing insurer to suspend the staff adjuster from ~~his~~ all \*  
 2 duties for such period as the commissioner may deem appropriate.  
 3 Any final order of the commissioner shall be subject to  
 4 judicial review. Any hearing or judicial review under this  
 5 section shall be in accordance with the contested case  
 6 provisions of chapter 14.

## 072B#11S

7 72B.11 PRODUCTION OF RECORDS.

8 The commissioner may, by order, require any licensee or  
 9 permit holder to produce any records relating to ~~his~~ activities \*  
 10 under ~~his~~ that person's license or permit, and may examine \*  
 11 persons under oath to determine questions arising under a  
 12 person's status as a licensee or permit holder.

## 072C#04S

13 72C.04 DEFINITIONS.

14 No change for subd 1

15 Subd. 2. "Commissioner" means the commissioner of commerce  
 16 or ~~his~~ a designated agent. \*

17 No change for subd 3 to 7

## 072C#07S

18 72C.07 LEGIBILITY.

19 Subdivision 1. All insurance policies covered by section  
 20 72C.11 shall be printed in legible type and in a type face style  
 21 approved by the commissioner. The commissioner shall by  
 22 emergency rule establish a list of type face styles ~~which he~~ \*  
 23 ~~will approve~~ approved as acceptable not later than January 1, \*  
 24 1978.

25 No change for subd 2

## 072C#10S

26 72C.10 FILING REQUIREMENTS; DUTIES OF THE COMMISSIONER.

27 Subdivision 1. No insurer shall make, issue, amend, or  
 28 renew any policy or contract after the dates specified in  
 29 section 72C.11 for the applicable type of policy unless the  
 30 contract is in compliance with the requirements of sections  
 31 72C.06 to 72C.09 and unless the contract is filed with the  
 32 commissioner for ~~his~~ approval. The contract shall be deemed \*  
 33 approved 90 days after filing unless disapproved by the  
 34 commissioner within the 90 day period. The commissioner shall  
 35 not unreasonably withhold ~~his~~ approval. Any disapproval shall \*  
 36 be delivered to the insurer in writing, stating the grounds  
 37 therefor. Any policy filed with the commissioner shall be  
 38 accompanied by a Flesch scale readability analysis and test  
 39 score and by the insurer's certification that the policy or  
 40 contract is in its judgment readable based on the factors  
 41 specified in sections 72C.06 to 72C.08.

42 Subd. 2. The commissioner shall disapprove any contract or  
 43 policy covered by subdivision 1 if ~~he~~ the commissioner finds \*  
 44 that:

45 (a) it is not accompanied by a certified Flesch scale  
 46 analysis readability score of more than 40;

47 (b) it is not accompanied by the insurer's certification  
 48 that the policy or contract is in its judgment readable under  
 49 the standards of sections 72C.01 to 72C.13;

50 (c) it does not comply with the readability standards  
 51 established by section 72C.06;

52 (d) it does not comply with the legibility standards  
 53 established by section 72C.07; or

54 (e) it does not comply with the format requirements  
 55 established by section 72C.08.

## 072C#11S

56 72C.11 APPLICATION TO POLICIES, DATES; DUTIES OF THE  
 57 COMMISSIONER.

58 No change for subd 1

59 Subd. 2. The commissioner shall make the following reports  
 60 to the legislature:

61 (a) On or before February 1, 1979 a report detailing and  
 62 evaluating the efforts made by the commissioner and insurers to  
 63 implement the provisions of subdivision 1, clause (a), and  
 64 particularly examining the feasibility and practicality of  
 65 requiring accident and health and life insurance policies to  
 66 comply with sections 72C.01 to 72C.13 and in the time prescribed;

67 (b) On or before February 1, 1980 a report detailing and  
 68 evaluating (1) the operation of and the extent of compliance  
 69 with sections 72C.01 to 72C.13, (2) the efforts made by the  
 70 commissioner and insurers to implement the provisions of  
 71 subdivision 1, clause (b), and (3) the commissioner's intent



1 regarding the extension of the application of sections 72C.01 to  
 2 72C.13 to other lines and types of insurance under subdivision  
 3 1, clause (c), and ~~his~~ the reasons therefor. \*

079\*#01S

4 79.01 DEFINITIONS.  
 5 No change for subd 1 to 2  
 6 Subd. 3. INSURANCE. The word "insurance" means  
 7 workers' compensation insurance and insurance covering any part  
 8 of the liability of an employer exempted from insuring ~~his~~ \*  
 9 liability for compensation, as provided in section 176.181 and  
 10 includes a program of self insurance, self insurance revolving  
 11 fund or pool established under section 471.981.

12 Subd. 4. Repealed, 1969 c 9 s 10  
 13 No change for subd 5 to 8

079\*#211S

14 79.211 CERTAIN PREMIUM DETERMINATION PRACTICES.  
 15 No change for subd 1  
 16 Subd. 2. DIVISION OF PAYROLL. An insurer shall  
 17 permit an employer to divide ~~his~~ a payroll among the rating \*  
 18 classifications most closely fitting the work actually performed  
 19 by each employee in a four-hour block or more for purposes of  
 20 premium calculation when the employer's records provide adequate  
 21 support for a division.

079\*#37S

22 79.37 BOARD OF DIRECTORS.  
 23 A board of directors of the reinsurance association is  
 24 created and is responsible for the operation of the reinsurance  
 25 association consistent with the plan of operation and sections  
 26 79.34 to 79.42. The board consists of 13 directors. Four  
 27 directors shall represent insurers, two directors shall  
 28 represent employers, two shall represent self-insurers; two  
 29 directors shall represent employees; the commissioner of finance  
 30 and the executive director of the state board of investment or  
 31 their designees shall serve as directors; and one director shall  
 32 represent the public. Insurer members of the reinsurance  
 33 association shall elect the directors who represent insurers;  
 34 self-insurer members of the reinsurance association shall elect  
 35 the directors who represent self-insurers; and the commissioner  
 36 of labor and industry shall appoint the remaining directors for  
 37 the terms authorized in the plan of operation. Each director is  
 38 entitled to one vote. Terms of the directors shall be staggered  
 39 so that the terms of all the directors do not expire at the same  
 40 time and so that a director does not serve a term of more than  
 41 four years. The board shall select a ~~chairman~~ chair and other \*  
 42 officers it deems appropriate.

43 A majority of the directors currently holding office  
 44 constitutes a quorum. Action may be taken by a majority vote of  
 45 the directors present.

46 The board shall take reasonable and prudent action  
 47 regarding the management of the reinsurance association  
 48 including but not limited to determining the entity who shall  
 49 manage the daily affairs of the reinsurance association. The  
 50 board shall report to the governor of its actions regarding the  
 51 entity selected to manage the reinsurance association and the  
 52 reasons for the selection.

079\*#38S

53 79.38 PLAN OF OPERATION.  
 54 No change for subd 1 to 2  
 55 Subd. 3. AMENDMENTS. (a) PROCEDURE WITH MEMBERS'  
 56 RATIFICATION. The plan of operation may be amended, in whole  
 57 or in part, as follows: proposal of an amendment by a member of  
 58 the board and adoption by a majority vote of the board at a  
 59 meeting duly called for that purpose, ratification by a majority  
 60 vote of the members at any annual meeting or special meeting  
 61 duly called for that purpose, and approval of the commissioner,  
 62 provided that an amendment shall be deemed approved 30 days  
 63 after the day following the date of ratification by the members  
 64 if not sooner disapproved by written order of the commissioner.

65 (b) EMERGENCY BOARD POWER TO AMEND WITH DELAYED  
 66 MEMBERS' RATIFICATION. The board shall have emergency powers  
 67 to amend the plan at a meeting duly called for that purpose,  
 68 without ratification by the members; provided that a meeting of  
 69 members shall be scheduled to consider ratification of the  
 70 amendment within 90 days.

71 (c) COMMISSIONER'S POWER TO AMEND. If the board  
 72 proposes an amendment which the members decline to ratify, the



1 commissioner is authorized, upon request of the board, to amend  
 2 the plan as proposed by the board when ~~he~~ the commissioner  
 3 determines that failure to adopt the proposed amendment may  
 4 seriously impair the ability of the reinsurance association to  
 5 meet its financial obligations.

6 (d) DELEGATION OF AUTHORITY TO RATIFY. By a majority  
 7 vote, the members, voting in person, or by proxy if authorized  
 8 by the board, at a meeting duly called for that purpose, may  
 9 authorize the board to exercise the power of amendment of the  
 10 plan without ratification by the members. When the members have  
 11 authorized the board to amend the plan without ratification by  
 12 the members, the board may, by a majority vote of the directors,  
 13 amend the plan, provided that notice of the meeting and of the  
 14 proposed amendment shall be given to each director and officer,  
 15 including the commissioner. By a majority vote, the members,  
 16 voting in person, or by proxy if authorized by the board, at a  
 17 meeting duly called for that purpose, may prospectively revoke  
 18 the authority of the board to amend the plan without  
 19 ratification by the members.

079\*#58S

20 79.58 DISAPPROVAL OF RATES OR RATING PLANS.

21 Subdivision 1. RATES. A rate filed by an insurer may  
 22 be disapproved by the commissioner subsequent to its effective  
 23 date. Following a disapproval and prior to a refileing the  
 24 insurer shall use the rates as reasonably established by the  
 25 commissioner.

26 The commissioner shall disapprove a rate if, after a  
 27 hearing on the record, ~~he~~ the commissioner finds that:

28 (a) The premium is inadequate or unfairly discriminatory;  
 29 or

30 (b) A competitive market for workers' compensation does not  
 31 exist and rates are excessive; or

32 (c) The insurer failed to comply with filing requirements.

33 A rehearing shall be held within 30 days of any disapproval  
 34 under this section at the request of the insurer whose rates are  
 35 disapproved.

36 No change for subd 2

079\*#62S

37 79.62 DATA SERVICE ORGANIZATIONS; LICENSING, EXAMINATION.

38 No change for subd 1 to 3

39 Subd. 4. SUSPENSION; REVOCATION. The commissioner  
 40 may, after a hearing on the record, revoke or suspend the  
 41 license of a data service organization if ~~he~~ the commissioner  
 42 finds that the organization is not in compliance with the  
 43 requirements of this chapter or rules issued thereunder.

44 No change for subd 5

080A#02S

45 80A.02 PROHIBITED ACTIVITIES.

46 Subdivision 1. ADVISORY ACTIVITIES. It is unlawful  
 47 for any person who receives, directly or indirectly, any  
 48 consideration from another ~~person~~ primarily for advising the  
 49 other ~~person~~ as to the value of securities or their purchase or  
 50 sale:

51 (a) to employ any device, scheme, or artifice to defraud  
 52 the other ~~person~~;

53 (b) to engage in any act, practice, or course of business  
 54 which operates or would operate as a fraud or deceit upon the  
 55 other ~~person~~; or

56 (c) to knowingly sell any security to or purchase any  
 57 security from a client while acting as principal for ~~his-or-her~~  
 58 the person's own account or knowingly effect any sale or  
 59 purchase of any security for the account of a client while  
 60 acting as broker for ~~a-person~~ one other than the client, unless  
 61 that the person discloses to the client in writing before the  
 62 execution of the transaction the capacity in which ~~he-or-she~~ the  
 63 person is acting and obtains the consent of the client to the  
 64 transaction.

65 No change for subd 1a to 3

080A#03S

66 80A.03 UNLAWFUL ACTIVITIES.

67 It is unlawful for any person to effect any transaction in,  
 68 or to induce the purchase or sale of any security by means of  
 69 any manipulative, deceptive or other fraudulent device or  
 70 contrivance, including any fictitious quotation. The terms  
 71 "manipulative, deceptive, or other fraudulent device or  
 72 contrivance" shall include, but shall not be limited to, the



1 following practices:

2 (a) effecting any transaction in a security which involves  
3 no change in the beneficial ownership thereof, or entering any  
4 order or orders for the purchase or sale of any security with  
5 the knowledge that an order or orders of substantially the same  
6 size, at substantially the same time, and at substantially the  
7 same price, for the sale or purchase of the security, have been  
8 or will be entered by or for the same or affiliated persons, for  
9 the purpose of creating a false or misleading appearance of  
10 active trading in the security or a false or misleading  
11 appearance with respect to the market for the security;

12 (b) effecting, alone or with one or more other persons, a  
13 series of transactions in any security creating actual or  
14 apparent active trading in the security or raising or depressing  
15 the price of the security, for the purpose of inducing the  
16 purchase or sale of the security by others; or

17 (c) inducing the purchase or sale of any security by the  
18 circulation or dissemination of information to the effect that  
19 the price of the security will or is likely to rise or fall  
20 because of market operations of any one or more persons  
21 conducted for the purpose of raising or depressing the price of  
22 the security, if he the person circulating or disseminating the  
23 information is selling or offering to sell or purchasing or  
24 offering to purchase the security or is receiving a  
25 consideration, directly or indirectly, from any such person to  
26 whom the information is circulated or disseminated.

\*  
\*  
\*  
\*

080A#04S

27 80A.04 LICENSING REQUIREMENT.

28 Subdivision 1. It is unlawful for any person to transact  
29 business in this state as a broker-dealer or agent unless ~~he-is~~  
30 licensed under this chapter.

31 Subd. 2. It is unlawful for any broker-dealer or issuer to  
32 employ an agent ~~to-represent-him-or-her~~ as a representative in  
33 this state unless the agent is licensed. The licensing of an  
34 agent is not effective during any period when ~~he-or-she~~ the  
35 agent is not associated with a specified broker-dealer licensed  
36 under this chapter or a specified issuer. No agent shall at any  
37 time represent more than one broker-dealer or issuer, except  
38 that where broker-dealers affiliated by direct common control  
39 are licensed under this chapter, an agent may represent the  
40 broker-dealer. When an agent begins or terminates ~~his-or-her~~  
41 employment with a broker-dealer or issuer, or begins or  
42 terminates those activities which make that person an agent, the  
43 agent as well as the broker-dealer or issuer shall promptly  
44 notify the commissioner or ~~his-or-her~~ the commissioner's  
45 designated representative.

\*  
\*  
\*  
\*  
\*  
\*  
\*

46 Subd. 3. It is unlawful for any person to transact  
47 business in this state as an investment adviser unless that  
48 person is so licensed or licensed as a broker-dealer under this  
49 chapter or unless ~~his-or-her~~ that person's only clients in this  
50 state are investment companies as defined in the Investment  
51 Company Act of 1940, other investment advisers, broker-dealers,  
52 banks, trust companies, savings and loan associations, insurance  
53 companies, employee benefit plans, corporations with a class of  
54 equity securities registered under section 12(g) of the  
55 Securities Exchange Act of 1934, small business investment  
56 companies, and government agencies or instrumentalities, whether  
57 acting for themselves or as trustees with investment control, or  
58 other institutional investors as are designated by rule or order  
59 of the commissioner.

\*

60 No change for subd 4

080A#05S

61 80A.05 LICENSING PROCEDURE.

62 Subdivision 1. A broker-dealer, agent or investment  
63 adviser may obtain an initial or renewal license by filing with  
64 the commissioner or ~~his~~ a designee an application together with  
65 a consent to service of process pursuant to section 80A.27,  
66 subdivision 7. The application shall be on a form prescribed by  
67 the commissioner and shall contain whatever information the  
68 commissioner requires concerning such matters as the applicant's  
69 form and place of organization, proposed method of doing  
70 business and financial condition, the qualifications and  
71 experience of the applicant, including, in the case of a  
72 broker-dealer or investment adviser, the qualifications and  
73 experience of any partner, officer, director or controlling  
74 person, any injunction or administrative order or conviction of

\*



1 a misdemeanor involving securities and any conviction of a  
2 felony. The commissioner may by order, with respect to any  
3 particular application, require the submission of information  
4 concerning any other matters which ~~he~~ the commissioner \*  
5 determines are relevant to the application. The commissioner  
6 may by rule or order require an applicant for an initial license  
7 to publish an announcement of the application in one or more  
8 specified newspapers published in this state.

9 If no denial order is in effect, no proceeding is pending  
10 under section 80A.07, and all of the requirements of this  
11 subdivision and subdivision 3 have been complied with, the  
12 licensing becomes effective 30 days after an application is  
13 filed. The commissioner may by rule or order specify an earlier  
14 effective date, and may by order defer the effective date until  
15 30 days after the filing of any amendment.

16 No change for subd 2 to 5

17 Subd. 6. The commissioner may by rule or order impose  
18 other conditions in connection with the issuance of licenses  
19 under this chapter as ~~he~~ the commissioner deems appropriate in \*  
20 the public interest and for the protection of investors.

080A#06S

21 80A.06 POST-LICENSING PROVISIONS.

22 Subdivision 1. Every licensed broker-dealer and investment  
23 adviser shall make and keep all accounts, correspondence,  
24 memoranda, papers, books and other records which the  
25 commissioner by rule prescribes. All records required shall be  
26 preserved for three years unless the commissioner by rule  
27 prescribes otherwise for particular types of records. All  
28 required records shall be kept within the state or shall, at the  
29 request of the commissioner, be made available at any time for  
30 examination by ~~him~~ the commissioner either in the principal \*  
31 office of the licensee or by production of exact copies thereof  
32 in this state.

33 No change for subd 2 to 3

34 Subd. 4. The commissioner shall make periodic  
35 examinations, within or without this state, of the business and  
36 records of each licensed broker-dealer and investment adviser,  
37 at such times and in such scope as ~~he~~ the commissioner \*  
38 determines. The examinations may be made without prior notice  
39 to the broker-dealer or investment adviser. For the purpose of  
40 avoiding unnecessary duplication of examinations, the  
41 commissioner, insofar as ~~he~~ the commissioner deems it \*  
42 practicable in administering this subdivision, may cooperate  
43 with securities administrators of other states, the securities  
44 and exchange commission, and any national securities exchange or  
45 national securities association registered under the Securities  
46 Exchange Act of 1934.

47 Subd. 5. No investment adviser who shall recommend the  
48 purchase or sale of a security to a client, and no licensed  
49 broker-dealer acting as a broker-dealer for a customer in the  
50 purchase or sale of a security shall take or accept any  
51 remuneration or other thing of value from any person other than  
52 the client or customer in connection with such purchase or sale  
53 unless, prior to or contemporaneously with such recommendation  
54 in the case of an investment adviser and prior to or  
55 contemporaneously with the confirmation of the transaction in  
56 the case of a licensed broker-dealer so acting, written  
57 disclosure to the client or customer is made of the acceptance  
58 or intended acceptance of such remuneration or other thing of  
59 value and of the amount thereof. All charges made by an  
60 investment adviser for services and all charges by a licensed  
61 broker-dealer for services rendered ~~by him~~ as a broker-dealer or \*  
62 for advice with respect to securities shall be reasonable, and  
63 no such charges shall be based upon or measured by profits  
64 accrued or to accrue from transactions recommended or carried  
65 out by an investment adviser, or licensed broker-dealer. This  
66 subdivision shall not be construed to prohibit charges by an  
67 investment adviser based upon the total value of the assets  
68 under management averaged over a definite period, or as of  
69 definite dates, or taken as of a definite date, nor charges  
70 based upon the performance of the managed assets as compared to  
71 an established index in compliance with rules promulgated by the  
72 commissioner.

080A#07S

73 80A.07 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.

74 Subdivision 1. The commissioner may by order deny,



1 suspend, or revoke any license or may censure the licensee, if  
2 ~~he-or-she~~ the commissioner finds (a) that the order is in the \*  
3 public interest and (b) that the applicant or licensee or, in  
4 the case of a broker-dealer or investment adviser, any partner,  
5 officer, or director, any person occupying a similar status or  
6 performing similar functions, or any person directly or  
7 indirectly controlling the broker-dealer or investment adviser:  
8 (1) has filed an application for license which as of its  
9 effective date, or as of any date after filing in the case of an  
10 order denying effectiveness, was incomplete in any material  
11 respect or contained any statement which was, in light of the  
12 circumstances under which it was made, false or misleading with  
13 respect to any material fact;  
14 (2) has willfully violated or failed to comply with any  
15 provision of this chapter or a predecessor law or any provision  
16 of the Securities Act of 1933, the Securities Exchange Act of  
17 1934, the Investment Advisers Act of 1940, the Investment  
18 Company Act of 1940, the Commodity Exchange Act, or any rule  
19 under any of these statutes, or any order thereunder of which ~~he~~ \*  
20 ~~or-she~~ that person has notice and ~~to-which-he-or-she~~ is subject; \*  
21 (3) has been convicted, within the past ten years, of any  
22 misdemeanor involving a security or any aspect of the securities  
23 business, or any felony;  
24 (4) is permanently or temporarily enjoined by any court of  
25 competent jurisdiction from engaging in or continuing any  
26 conduct or practice involving any aspect of the securities  
27 business;  
28 (5) is the subject of an order of the commissioner denying,  
29 suspending, or revoking a license as a broker-dealer, agent or  
30 investment adviser;  
31 (6) is the subject of an order entered within the past five  
32 years by the securities administrator of any other state or by  
33 the securities and exchange commission denying or revoking  
34 registration or license as a broker-dealer, agent, or investment  
35 adviser, or is the subject of an order of the securities and  
36 exchange commission suspending or expelling that person from a  
37 national securities exchange or association registered under the  
38 Securities Exchange Act of 1934, or is the subject of a United  
39 States post office fraud order. The commissioner may not  
40 institute a revocation or suspension proceeding under this  
41 clause more than one year from the date of the order relied on,  
42 and may not enter an order under this clause on the basis of an  
43 order under another state law unless the order was based on  
44 facts which would currently constitute a ground for an order  
45 under this section;  
46 (7) has engaged in dishonest or fraudulent practices in the  
47 securities business;  
48 (8) has failed to maintain the minimum net capital or to  
49 comply with the limitation on aggregate indebtedness which the  
50 commissioner by rule prescribes;  
51 (9) is not qualified on the basis of such factors as  
52 training, experience, and knowledge of the securities business;  
53 (10) has failed reasonably to supervise agents, investment  
54 adviser representatives, or employees to assure their compliance  
55 with this chapter;  
56 (11) has failed to pay the proper filing fee, but the  
57 commissioner shall vacate the order when the deficiency has been  
58 corrected;  
59 (12) has offered or sold securities in this state through  
60 any unlicensed agent;  
61 (13) has made any material misrepresentation to the  
62 commissioner, or upon request reasonably made by the  
63 commissioner, has withheld or concealed information from, or  
64 refused to furnish information to, the commissioner; or  
65 (14) has failed to reasonably supervise agents, investment  
66 adviser representatives, or employees if ~~he-or-she~~ that person \*  
67 has assumed or has been designated to carry out the supervisory  
68 procedures of the broker-dealer or investment adviser.  
69 Subd. 1a. INVESTMENT ADVISER REPRESENTATIVES. The  
70 commissioner, by order, shall censure or place limitations on  
71 the activities of any investment adviser representative or  
72 person seeking to become an investment adviser representative,  
73 or suspend or bar any person from being an investment adviser  
74 representative, if the commissioner finds, after notice and  
75 opportunity for hearing, that the censure, placing of  
76 limitations, suspension, or bar is in the public interest and



1 that the person has committed or omitted any act or omission  
2 enumerated in subdivision 1. It shall be unlawful for any  
3 person as to whom an order suspending or barring ~~him~~ that person \*  
4 from being an investment adviser representative is in effect  
5 willfully to become, or to be, associated with an investment  
6 adviser without the consent of the commissioner, and it shall be  
7 unlawful for any investment adviser to permit this person to  
8 become, or remain, an investment adviser representative without  
9 the consent of the commissioner, if the investment adviser knew,  
10 or in the exercise of reasonable care, should have known of the  
11 order.

12 Subd. 2. The commissioner may not institute a suspension  
13 or revocation proceeding solely on the basis of a fact or  
14 transaction known to ~~him~~ the commissioner when the initial \*  
15 license was issued unless the proceeding is instituted within  
16 the next 30 days after the issuance of the initial license.

17 Subd. 3. The commissioner may issue an order requiring a  
18 licensee or an applicant for a license to show cause why the  
19 license should not be revoked or the application denied. The  
20 order shall be calculated to give reasonable notice of the time  
21 and place for hearing thereon, and shall state the reasons for  
22 the entry of the order. The commissioner may by order summarily  
23 suspend a license, or in the case of an investment adviser  
24 representative or person seeking to become an investment adviser  
25 representative, summarily suspend or bar that person from acting  
26 in that capacity, pending final determination of any order to  
27 show cause. If a license is suspended pending final  
28 determination of an order to show cause, a hearing on the merits  
29 shall be held within 30 days of the issuance of the order of  
30 suspension. All hearings shall be conducted in accordance with  
31 the provisions of chapter 14. After the hearing, the  
32 commissioner shall enter an order making a disposition of the  
33 matter as the facts require. If the licensee or applicant fails  
34 to appear at a hearing of which ~~he or she~~ that person has been \*  
35 duly notified, the person shall be deemed in default and the \*  
36 proceeding may be determined against ~~him~~ that person upon \*  
37 consideration of the order to show cause, the allegations of  
38 which may be deemed to be true. The commissioner may adopt  
39 rules of procedure concerning all proceedings conducted pursuant  
40 to this subdivision.

41 No change for subd 4 to 5

080A#09S

42 80A.09 REGISTRATION BY NOTIFICATION.

43 No change for subd 1 to 3

44 Subd. 4. The commissioner may by order require that any  
45 security otherwise permitted to be registered under this section  
46 be registered by qualification under section 80A.11 if ~~he~~ the \*  
47 commissioner determines that registration by qualification is in \*  
48 the public interest and is necessary for the protection of  
49 investors.

080A#10S

50 80A.10 REGISTRATION BY COORDINATION.

51 No change for subd 1 to 2

52 Subd. 3. A registration statement under this section  
53 automatically becomes effective at the moment the federal  
54 registration statement becomes effective if all the following  
55 conditions are satisfied: (a) no stop order is in effect and no  
56 proceeding is pending under section 80A.13; (b) the registration  
57 statement has been on file with the commissioner for at least 20  
58 days; and (c) a statement of the maximum proposed offering  
59 prices and the maximum underwriting discounts and commissions  
60 has been on file for two full business days or such shorter  
61 period as the commissioner permits by rule or otherwise and the  
62 offering is made within those limitations. The registrant shall  
63 promptly notify the commissioner by telephone or telegram or  
64 similar electronic means of communication of the date and time  
65 when the federal registration statement became effective and the  
66 content of the price amendment, if any, and shall promptly file  
67 an amendment containing the information and documents in the  
68 price amendment. "Price amendment" means the final federal  
69 amendment which includes a statement of the offering price,  
70 underwriting and selling discounts or commissions, amount of  
71 proceeds, conversion rates, call prices and other matters  
72 dependent upon the offering price. Upon failure to receive the  
73 required notification with respect to the price amendment, the  
74 commissioner may enter a stop order, without notice or hearing,



1 retroactively denying effectiveness to the registration  
 2 statement or suspending its effectiveness until compliance with  
 3 this subsection, if ~~he~~ the commissioner promptly notifies the  
 4 registrant by telephone or telegram or similar electronic means  
 5 of communication (and promptly confirms by letter or telegram  
 6 when ~~he~~ the commissioner notifies by telephone) of the issuance  
 7 of the order. If the registrant proves compliance with the  
 8 requirements of this subdivision as to notice and price  
 9 amendment, the stop order is void as of the time of its entry.  
 10 The commissioner may by rule or otherwise waive either or both  
 11 of the conditions specified in clauses (b) and (c). If the  
 12 federal registration statement becomes effective before all the  
 13 conditions in this subdivision are satisfied and they are not  
 14 waived, the registration statement automatically becomes  
 15 effective as soon as all the conditions are satisfied. If the  
 16 registrant advises the commissioner of the date when the federal  
 17 registration statement is expected to become effective, the  
 18 commissioner shall promptly advise the registrant by telephone  
 19 or telegram or similar electronic means of communication, at the  
 20 registrant's expense, whether all the conditions are satisfied  
 21 and whether ~~he~~ the commissioner then contemplates the  
 22 institution of a proceeding under section 80A.13; but this  
 23 advice by the commissioner does not preclude the institution of  
 24 such a proceeding at any time.

25 No change for subd 4

080A#11S

26 80A.11 REGISTRATION BY QUALIFICATION.

27 No change for subd 1 to 3

28 Subd. 4. The commissioner may by rule or order require as  
 29 a condition of registration under this section that a prospectus  
 30 containing any designated part of the information specified in  
 31 subdivision 2 be sent or given to each person to whom an offer  
 32 is made before or concurrently with (a) the first written offer  
 33 made to ~~him~~ that person (otherwise than by means of a public  
 34 advertisement) by or for the account of the issuer or any other  
 35 person on whose behalf the offering is being made, or by any  
 36 underwriter or broker-dealer who is offering part of an unsold  
 37 allotment or subscription taken by ~~him~~ that person as a  
 38 participant in the distribution, (b) the confirmation of any  
 39 sale made by or for the account of any such person, (c) payment  
 40 pursuant to any such sale, or (d) delivery of the security  
 41 pursuant to any such sale, whichever first occurs.

080A#12S

42 80A.12 PROVISIONS APPLICABLE TO REGISTRATION GENERALLY.

43 No change for subd 1 to 4

44 Subd. 5. The commissioner may by rule or order require as  
 45 a condition of registration by qualification or coordination (a)  
 46 that any security issued within the past three years or to be  
 47 issued to a promoter for a consideration substantially different  
 48 from the public offering price, or to any person for a  
 49 consideration other than cash, be deposited in escrow; and (b)  
 50 that the proceeds from the sale of the registered security in  
 51 this state be impounded until the issuer receives a specified  
 52 amount from the sale of the security either in this state or  
 53 elsewhere. The commissioner may by rule or order determine the  
 54 conditions of any escrow or impounding required hereunder, but  
 55 ~~he~~ may reject a depository solely because of location in another  
 56 state only if the offering is not being registered under the  
 57 Securities Act of 1933 and the principal place of business of  
 58 the registrant is in this state.

59 No change for subd 6 to 10

080A#13S

60 80A.13 DENIAL, SUSPENSION AND REVOCATION OF REGISTRATION.

61 Subdivision 1. The commissioner may issue a stop order  
 62 denying effectiveness to, or suspending or revoking the  
 63 effectiveness of, any registration statement if ~~he~~ the  
 64 commissioner finds (a) that the order is in the public interest  
 65 and (b) that

66 (1) the registration statement as of its effective date or  
 67 as of any earlier date in the case of an order denying  
 68 effectiveness, or any amendment under section 80A.12,  
 69 subdivision 9, as of its effective date, or any report under  
 70 section 80A.12, subdivision 8, is incomplete in any material  
 71 respect or contains any statement which was, in the light of the  
 72 circumstances under which it was made, false or misleading with  
 73 respect to any material fact;



1 (2) any provision of sections 80A.01 to 80A.31 or any rule,  
2 order, or condition lawfully imposed under sections 80A.01 to  
3 80A.31 has been willfully violated in connection with the  
4 offering, by (i) the person filing the registration statement,  
5 (ii) the issuer, any partner, officer, or director of the  
6 issuer, any person occupying a similar status or performing  
7 similar functions, or any person directly or indirectly  
8 controlling or controlled by the issuer, but only if the person  
9 filing the registration statement is directly or indirectly  
10 controlled by or acting for the issuer, or (iii) any underwriter;

11 (3) the security registered or sought to be registered is  
12 the subject of an administrative stop order or similar order or  
13 a permanent or temporary injunction of any court of competent  
14 jurisdiction entered under any other federal or state act  
15 applicable to the offering; but (i) the commissioner may not  
16 institute a proceeding against an effective registration  
17 statement under this clause more than one year from the date of  
18 the order or injunction relied on, and (ii) may not enter an  
19 order under this clause on the basis of an order or injunction  
20 entered under any other state act unless that order or  
21 injunction was based on facts which would currently constitute a  
22 ground for a stop order under this section;

23 (4) the issuer's enterprise or method of business includes  
24 or would include activities which are illegal where performed;

25 (5) the offering has worked or tended to work a fraud upon  
26 purchasers or would so operate;

27 (6) except with respect to securities which are being  
28 registered by notification, the terms of the securities are  
29 unfair and inequitable; provided, however, that the commissioner  
30 may not determine that an offering is unfair and inequitable  
31 solely on the grounds that the securities are to be sold at an  
32 excessive price where the offering price has been determined by  
33 arms length negotiation between nonaffiliated parties. The  
34 selling price of any security being sold by a broker-dealer  
35 licensed in this state shall be presumed to have been determined  
36 by arms length negotiation;

37 (7) when a security is sought to be registered by  
38 coordination there has been a failure to comply with the  
39 undertaking required by section 80A.10, subdivision 2, clause  
40 (d);

41 (8) the applicant or registrant has failed to pay the  
42 proper filing fee; but the commissioner may enter only a denial  
43 order under this clause and ~~he~~ shall vacate any such order when  
44 the deficiency has been corrected; or \*

45 (9) the offering of securities sought to be registered is  
46 not firmly underwritten and the maximum amount of proceeds from  
47 the sale of the securities is (i) not more than \$500,000, and  
48 (ii) more than 200 percent of the minimum amount of proceeds  
49 required to go forward with the offering.

50 The commissioner may not institute a stop order proceeding  
51 against an effective registration statement solely on the basis  
52 of a fact or transaction known to ~~him~~ the commissioner when the  
53 registration statement became effective unless the proceeding is  
54 instituted within the next 30 days. \*

55 Subd. 2. The commissioner may issue an order requiring the  
56 person for whom a registration was made to show cause why the  
57 registration should not be revoked. The order shall be  
58 calculated to give reasonable notice of the time and place for  
59 hearing thereon, and shall state the reasons for the issuance of  
60 the order. The commissioner may by order summarily suspend a  
61 registration pending final determination of any order to show  
62 cause. If the registration is suspended pending final  
63 determination of an order to show cause, a hearing on the merits  
64 shall be held within 30 days of the issuance of the order or  
65 suspension. All hearings shall be conducted in accordance with  
66 the provisions of chapter 14. After the hearing, the  
67 commissioner shall enter an order making such disposition of the  
68 matter as the facts require. If the person for whom the  
69 registration was made fails to appear at a hearing of which ~~he~~ \*  
70 the person has been duly notified, such person shall be deemed \*  
71 in default and the proceeding may be determined against ~~him~~ the \*  
72 person upon consideration of the order to show cause, the \*  
73 allegations of which may be deemed to be true. The commissioner  
74 may adopt rules of procedure concerning all proceedings  
75 conducted pursuant to this subdivision.



1 80A.14 DEFINITIONS.

2 No change for subd 1 to 2

3 Subd. 3. AGENT. "Agent" means any individual other  
4 than a broker-dealer who represents a broker-dealer or issuer in  
5 effecting or attempting to effect purchases or sales of  
6 securities. "Agent" does not include an individual who  
7 represents an issuer in:

8 (1) effecting transactions in a security exempted by  
9 section 80A.15, subdivision 1;

10 (2) effecting transactions exempted by section 80A.15,  
11 subdivision 2;

12 (3) effecting transactions with existing employees,  
13 partners or directors of the issuer if no commission or other  
14 remuneration is paid or given directly or indirectly for  
15 soliciting any person in this state;

16 (4) effecting other transactions, if the individual is an  
17 officer or director of the issuer, no commission or other  
18 remuneration is paid or given directly or indirectly for  
19 soliciting any person in this state, and, upon application, the  
20 individual is specifically authorized by name in an order issued  
21 by the commissioner; or

22 (5) effecting transactions in securities registered by  
23 notification under section 80A.09 if no commission or other  
24 remuneration is paid or given directly or indirectly for  
25 soliciting any person in this state.

26 A partner, officer or director of a broker-dealer or  
27 issuer, or a person occupying a similar status or performing  
28 similar functions, is an agent only if he that person otherwise \*  
29 comes within this definition.

30 Subd. 4. BROKER-DEALER. "Broker-dealer" means any  
31 person engaged in the business of effecting transactions in  
32 securities for the account of others or for his that person's \*  
33 own account. "Broker-dealer" does not include:

34 (1) an agent;

35 (2) an issuer;

36 (3) a trust company; or

37 (4) a bank, savings institution, savings and loan  
38 association

39 (i) acting for the account of others, provided that such  
40 activities are conducted in compliance with such rules and  
41 regulations as may be adopted by the commissioner;

42 (ii) acting for its own account; or

43 (iii) acting in a fiduciary capacity pursuant to the powers  
44 and privileges described by sections 48.36 to 48.49 or United  
45 States Code, title 12, section 92(a);

46 (5) a person who has no place of business in this state if  
47 he that person effects transactions in this state exclusively \*  
48 with or through (i) the issuers of the securities involved in  
49 the transactions, (ii) other broker-dealers, or (iii) banks,  
50 savings institutions, trust companies, insurance companies,  
51 investment companies as defined in the Investment Company Act of  
52 1940, pension or profit sharing trusts, or other financial  
53 institutions or institutional buyers, or to broker-dealers,  
54 whether the purchaser is acting for itself or in some fiduciary  
55 capacity; or

56 (6) other persons not within the intent of this subsection  
57 whom the commissioner by rule or order designates.

58 No change for subd 5 to 8

59 Subd. 9. INVESTMENT ADVISER. "Investment adviser"  
60 means any person who, for compensation, engages in the business  
61 of advising others, either directly or through publications,  
62 writings or electronic means, as to the value of securities or  
63 as to the advisability of investing in, purchasing, or selling  
64 securities, or who, for compensation and as a part of a regular  
65 business, issues or promulgates analyses or reports concerning  
66 securities. "Investment adviser" does not include:

67 (1) a bank, savings institution, or trust company;

68 (2) a lawyer, accountant, engineer, or teacher whose  
69 performance of these services is solely incidental to the  
70 practice of his that person's profession; \*

71 (3) a broker-dealer whose performance of these services is  
72 solely incidental to the conduct of his-or-her the business as a \*  
73 broker-dealer and who receives no special compensation for them;

74 (4) a publisher of any newspaper, news column, newsletter,  
75 news magazine, or business or financial publication or service,  
76 whether communicated in hard copy form, or by electronic means,



1 or otherwise, that does not consist of the rendering of advice  
2 on the basis of the specific investment situation of each client;  
3 or

4 (5) other persons not within the intent of this subdivision  
5 as the commissioner may by rule or order designate.

6 No change for subd 9a to 19

080A#15S

7 80A.15 EXEMPTIONS.

8 No change for subd 1

9 Subd. 2. The following transactions are exempted from  
10 sections 80A.08 and 80A.16:

11 (a) Any isolated sales, whether or not effected through a  
12 broker-dealer, provided that no person shall make more than ten  
13 sales of securities of the same issuer pursuant to this  
14 exemption during any period of 12 consecutive months; provided  
15 further, that in the case of sales by an issuer, except sales of  
16 securities registered under the Securities Act of 1933 or  
17 exempted by section 3(b) of that act, (1) the seller reasonably  
18 believes that all buyers are purchasing for investment, and (2)  
19 the securities are not advertised for sale to the general public  
20 in newspapers or other publications of general circulation or  
21 otherwise, or by radio, television, electronic means or similar  
22 communications media, or through a program of general  
23 solicitation by means of mail or telephone.

24 (b) Any nonissuer distribution of an outstanding security  
25 if (1) either Moody's, Fitch's, or Standard & Poor's Securities  
26 Manuals, or other recognized manuals approved by the  
27 commissioner contains the names of the issuer's officers and  
28 directors, a balance sheet of the issuer as of a date not more  
29 than 18 months prior to the date of the sale, and a profit and  
30 loss statement for the fiscal year preceding the date of the  
31 balance sheet, and (2) the issuer or its predecessor has been in  
32 active, continuous business operation for the five-year period  
33 next preceding the date of sale, and (3) if the security has a  
34 fixed maturity or fixed interest or dividend provision, the  
35 issuer has not, within the three preceding fiscal years,  
36 defaulted in payment of principal, interest, or dividends on the  
37 securities.

38 (c) The execution of any orders by a licensed broker-dealer  
39 for the purchase or sale of any security, pursuant to an  
40 unsolicited offer to purchase or sell; provided that the  
41 broker-dealer acts as agent for the purchaser or seller, and has  
42 no direct material interest in the sale or distribution of the  
43 security, receives no commission, profit, or other compensation  
44 from any source other than the purchaser and seller and delivers  
45 to the purchaser and seller written confirmation of the  
46 transaction which clearly itemizes ~~his~~ the commission, or other \*  
47 compensation.

48 (d) Any nonissuer sale of notes or bonds secured by a  
49 mortgage lien if the entire mortgage, together with all notes or  
50 bonds secured thereby, is sold to a single purchaser at a single  
51 sale.

52 (e) Any judicial sale, exchange, or issuance of securities  
53 made pursuant to an order of a court of competent jurisdiction.

54 (f) The sale, by a pledge holder, of a security pledged  
55 ~~with him~~ in good faith as collateral for a bona fide debt. \*

56 (g) Any offer or sale to a bank, savings institution, trust  
57 company, insurance company, investment company as defined in the  
58 Investment Company Act of 1940, pension or profit sharing trust,  
59 or other financial institution or institutional buyer, or to a  
60 broker-dealer, whether the purchaser is acting for itself or in  
61 some fiduciary capacity.

62 (h) Any sales by an issuer to the number of persons that  
63 shall not exceed 25 persons in this state, or 35 persons if the  
64 sales are made in compliance with Regulation D promulgated by  
65 the Securities and Exchange Commission, Code of Federal  
66 Regulations, title 17, sections 230.501 to 230.506, (other than  
67 those designated in paragraph (a) or (g)), whether or not any of  
68 the purchasers is then present in this state, if (1) the issuer  
69 reasonably believes that all of the buyers in this state (other  
70 than those designated in clause (g)) are purchasing for  
71 investment, and (2) no commission or other remuneration is paid  
72 or given directly or indirectly for soliciting any prospective  
73 buyer in this state (other than those designated in clause (g)),  
74 except reasonable and customary commissions paid by the issuer  
75 to a broker-dealer licensed under this chapter, and (3) the



1 issuer has, ten days prior to any sale pursuant to this  
2 paragraph, supplied the commissioner with a statement of issuer  
3 on forms prescribed by the commissioner, containing the  
4 following information: (i) the name and address of the issuer,  
5 and the date and state of its organization; (ii) the number of  
6 units, price per unit, and a description of the securities to be  
7 sold; (iii) the amount of commissions to be paid and the persons  
8 to whom they will be paid; (iv) the names of all officers,  
9 directors and persons owning five percent or more of the equity  
10 of the issuer; (v) a brief description of the intended use of  
11 proceeds; (vi) a description of all sales of securities made by  
12 the issuer within the six-month period next preceding the date  
13 of filing; and (vii) a copy of the investment letter, if any,  
14 intended to be used in connection with any sale. Sales that are  
15 made more than six months before the start of an offering made  
16 pursuant to this exemption or are made more than six months  
17 after completion of an offering made pursuant to this exemption  
18 will not be considered part of the offering, so long as during  
19 those six-month periods there are no sales of unregistered  
20 securities (other than those made pursuant to paragraph (a) or  
21 (g)) by or for the issuer that are of the same or similar class  
22 as those sold under this exemption. The commissioner may by  
23 rule or order as to any security or transaction or any type of  
24 security or transaction, withdraw or further condition this  
25 exemption, or increase the number of offers and sales permitted,  
26 or waive the conditions in clause (1), (2), or (3) with or  
27 without the substitution of a limitation or remuneration.

28 (i) Any offer (but not a sale) of a security for which a  
29 registration statement has been filed under sections 80A.01 to  
30 80A.31, if no stop order or refusal order is in effect and no  
31 public proceeding or examination looking toward an order is  
32 pending; and any offer of a security if the sale of the security  
33 is or would be exempt under this section. The commissioner may  
34 by rule exempt offers (but not sales) of securities for which a  
35 registration statement has been filed as he the commissioner  
36 deems appropriate, consistent with the purposes of sections  
37 80A.01 to 80A.31. \*

38 (j) The offer and sale by a cooperative association  
39 organized under chapter 308, of its securities when the  
40 securities are offered and sold only to its members, or when the  
41 purchase of the securities is necessary or incidental to  
42 establishing membership in such association, or when such  
43 securities are issued as patronage dividends.

44 (l) The issuance and delivery of any securities of one  
45 corporation to another corporation or its security holders in  
46 connection with a merger, exchange of shares, or transfer of  
47 assets whereby the approval of stockholders of the other  
48 corporation is required to be obtained, provided, that the  
49 commissioner has been furnished with a general description of  
50 the transaction and with other information as he the  
51 commissioner by rule prescribes not less than ten days prior to  
52 the issuance and delivery. \*

53 (m) Any transaction between the issuer or other person on  
54 whose behalf the offering is made and an underwriter or among  
55 underwriters.

56 (n) The distribution by a corporation of its or other  
57 securities to its own security holders as a stock dividend or as  
58 a dividend from earnings or surplus or as a liquidating  
59 distribution; or upon conversion of an outstanding convertible  
60 security; or pursuant to a stock split or reverse stock split.

61 (o) Any offer or sale of securities by an affiliate of the  
62 issuer thereof if: (1) a registration statement is in effect  
63 with respect to securities of the same class of the issuer and  
64 (2) the offer or sale has been exempted from registration by  
65 rule or order of the commissioner.

66 Subd. 3. The commissioner may issue an order requiring any  
67 person who claims the benefit of an exemption with respect to a  
68 specific security or transaction, to show cause why the  
69 exemption should not be revoked. The order shall be calculated  
70 to give reasonable notice of the time and place for hearing  
71 thereon, and shall state the reasons for the entry of the  
72 order. The commissioner may by order summarily suspend an  
73 exemption pending final determination of any order to show  
74 cause. If an exemption is suspended pending final determination  
75 of an order to show cause, a hearing on the merits shall be held  
76 within 30 days of the issuance of the order of suspension. All



1 hearings shall be conducted in accordance with the provisions of  
 2 chapter 14. After the hearing, the commissioner shall enter an  
 3 order making such disposition of the matter as the facts  
 4 require. If the person claiming the benefit of the exemption  
 5 fails to appear at a hearing of which ~~he~~ the person has been \*  
 6 duly notified, such person shall be deemed in default, and the \*  
 7 proceeding may be determined against ~~him~~ the person upon  
 8 consideration of the order to show cause, the allegations of  
 9 which may be deemed to be true. The commissioner may adopt  
 10 rules of procedure concerning all proceedings conducted pursuant  
 11 to this subdivision.

12 No change for subd 4

080A#19S

13 80A.19 ADMINISTRATION.

14 Subdivision 1. This chapter shall be administered by the  
 15 commissioner of commerce. The commissioner shall appoint two  
 16 deputy commissioners and shall file with the secretary of state  
 17 an order delegating authority to one of such deputy  
 18 commissioners to exercise all of the rights and powers and  
 19 perform all of the duties of the commissioner during the  
 20 disability of the commissioner, ~~his~~ the commissioner's absence \*  
 21 from the office or during a vacancy in the office of the  
 22 commissioner pending the filling thereof as provided by law.

23 Subd. 2. It is unlawful for the commissioner or any of ~~his~~ \*  
 24 the commissioner's officers or employees to use for personal \*  
 25 benefit any information which is filed with or obtained by the  
 26 commissioner and which is not a matter of public record.

27 Nothing in this chapter authorizes the commissioner or any  
 28 of ~~his~~ the commissioner's officers or employees to disclose \*  
 29 information which is not a matter of public record except among  
 30 themselves or when necessary or appropriate in a proceeding or  
 31 investigation under this chapter. No provision of this chapter  
 32 either creates or derogates from any privilege which exists at  
 33 common law or otherwise when documentary or other evidence is  
 34 sought under a subpoena directed to the commissioner or any  
 35 of ~~his~~ the commissioner's officers or employees. \*

36 No change for subd 3

080A#20S

37 80A.20 INVESTIGATIONS AND SUBPOENAS.

38 Subdivision 1. The commissioner ~~in his discretion:~~ \*

39 (a) may make such public or private investigations within \*  
 40 or without this state as ~~he~~ the commissioner deems necessary to  
 41 determine whether any person has violated or is about to violate  
 42 this chapter or any rule or order hereunder, or to aid in the  
 43 enforcement of this chapter or in the prescribing of rules and  
 44 forms hereunder;

45 (b) may require or permit any person to file a statement in  
 46 writing, under oath or otherwise as the commissioner determines,  
 47 as to all the facts and circumstances concerning the matter  
 48 being investigated;

49 (c) may publish information which is contained in any order  
 50 issued by the commissioner;

51 (d) may hold hearings, upon reasonable notice, in respect  
 52 of any matter arising out of the administration of this chapter;

53 (e) may conduct investigations and hold hearings for the  
 54 purpose of compiling information with a view to recommending  
 55 changes in this chapter to the legislature; and

56 (f) may require an issuer, broker-dealer or agent to report \*  
 57 ~~to him~~ all sales of any specified security except securities  
 58 exempted from registration under this chapter. Such reports  
 59 shall be made within ten days after demand therefor by the  
 60 commissioner and shall be open for public inspection only upon a  
 61 court order. The commissioner shall not make known, in any  
 62 manner not provided by law, any information contained in such  
 63 reports.

64 Subd. 2. For the purpose of any investigation, hearing or  
 65 proceeding under this chapter, the commissioner or any officer  
 66 designated by ~~him~~ the commissioner may administer oaths and \*  
 67 affirmation, subpoena witnesses, compel their attendance, take  
 68 evidence and require the production of any books, papers,  
 69 correspondence, memoranda, agreements or other documents or  
 70 records which the commissioner deems relevant or material to the  
 71 inquiry.

72 Subd. 3. In case of contumacy by, or refusal to obey a  
 73 subpoena issued to, any person, the district court, upon  
 74 application by the commissioner, may issue to the person an



1 order ~~directing-him~~ to appear before the commissioner, or the \*  
 2 officer designated by ~~him~~ the commissioner, there to produce \*  
 3 documentary evidence if so ordered or to give evidence touching  
 4 the matter under investigation or in question. Failure to obey  
 5 the order of the court may be punished by the court as a  
 6 contempt of court.

7 Subd. 4. No person is excused from attending and  
 8 testifying or from producing any document or record before the  
 9 commissioner, or in obedience to the subpoena of the  
 10 commissioner or any officer designated by ~~him~~ the commissioner, \*  
 11 or in any proceeding instituted by the commissioner, on the \*  
 12 ground that the testimony or evidence required ~~of-him~~ may tend \*  
 13 to incriminate ~~him~~ or subject ~~him~~ that person to a penalty or \*  
 14 forfeiture; but no individual may be prosecuted or subjected to  
 15 any penalty or forfeiture for or on account of a transaction,  
 16 matter, or thing concerning which ~~he~~ that person is compelled, \*  
 17 after claiming ~~his~~ the privilege against self-incrimination, to \*  
 18 testify or produce evidence, (documentary or otherwise), except  
 19 that the individual testifying is not exempt from prosecution  
 20 and punishment for perjury or contempt committed in testifying.

21 Subd. 5. The attorney general shall assign ~~from-his-staff~~ \*  
 22 one or more assistant attorneys general who shall be attorney  
 23 and counsel for the department of commerce, and shall have  
 24 charge of and may conduct all prosecutions for or involving the  
 25 violation of this chapter, and all other proceedings for the  
 26 enforcement thereof.

27 No change for subd 6

080A#21S

28 80A.21 CEASE AND DESIST ORDERS; INJUNCTIONS; RECEIVERS.

29 Subdivision 1. Whenever it appears to the commissioner  
 30 that any person has engaged or is about to engage in any act or  
 31 practice constituting a violation of this chapter or any rule or  
 32 order hereunder:

33 (a) ~~He~~ the commissioner shall have the power to issue and \*  
 34 cause to be served upon the person an order requiring the person  
 35 to cease and desist from violations of sections 80A.01 to  
 36 80A.31. The order shall be calculated to give reasonable notice  
 37 of the rights of the person to request a hearing thereon and  
 38 shall state the reasons for the entry of the order. A hearing  
 39 shall be held not later than seven days after the request for  
 40 the hearing is received by the commissioner after which and  
 41 within 20 days of the date of the hearing the commissioner shall  
 42 issue a further order vacating the cease and desist order or  
 43 making it permanent as the facts require. If no hearing is  
 44 requested within 30 days of service of the order, the order will  
 45 become final and will remain in effect until it is modified or  
 46 vacated by the commissioner. All hearings shall be conducted in  
 47 accordance with the provisions of chapter 14. If the person to  
 48 whom a cease and desist order is issued fails to appear at the  
 49 hearing after being duly notified, the person shall be deemed in  
 50 default, and the proceeding may be determined ~~against-him~~ upon \*  
 51 consideration of the cease and desist order, the allegations of  
 52 which may be deemed to be true. The commissioner may adopt  
 53 rules of procedure concerning all proceedings conducted pursuant  
 54 to this subdivision; and

55 (b) ~~He~~ may bring an action in the district court of the \*  
 56 appropriate county to enjoin the acts or practices and to  
 57 enforce compliance with sections 80A.01 to 80A.31 or any rule or  
 58 order thereunder and ~~he~~ may refer the matter to the attorney \*  
 59 general or the county attorney of the appropriate county. Upon  
 60 a proper showing, a permanent or temporary injunction,  
 61 restraining order or writ of mandamus shall be granted and a  
 62 receiver may be appointed for the defendant or the defendant's  
 63 assets. The court may not require the commissioner to post a  
 64 bond.

65 No change for subd 2

080A#22S

66 80A.22 CRIMINAL PENALTY.

67 Subdivision 1. Any person who willfully violates any  
 68 provision of sections 80A.01 to 80A.31 except section 80A.17, or  
 69 any rule or order under sections 80A.01 to 80A.31, of which ~~he~~ \*  
 70 that person has notice, or who violates section 80A.17 knowing \*  
 71 that the statement was false or misleading in any material  
 72 respect, may be fined not more than \$10,000 or imprisoned not  
 73 more than five years or both. Each of the acts specified shall  
 74 constitute a separate offense and a prosecution or conviction



1 for any one of such offenses shall not bar prosecution or  
 2 conviction for any other offense.  
 3 Subd. 2. The commissioner may refer such evidence as is  
 4 available concerning violations of sections 80A.01 to 80A.31 or  
 5 of any rule or order hereunder to the attorney general or the  
 6 county attorney of the appropriate county, who may, with or  
 7 without any such reference, institute the appropriate criminal  
 8 proceedings under sections 80A.01 to 80A.31. If referred to a  
 9 county attorney, ~~he~~ the county attorney shall within 90 days  
 10 file with the commissioner a statement concerning any action  
 11 taken, or, if no action has been taken, the reasons therefor.

12 No change for subd 3

080A#23S

13 80A.23 CIVIL LIABILITIES.

14 Subdivision 1. Any person who sells a security in  
 15 violation of sections 80A.08 or 80A.18, or of any condition  
 16 imposed under section 80A.11, subdivision 4, or section 80A.12,  
 17 subdivisions 5 and 6, is liable to the person purchasing the  
 18 security ~~from him~~, who may sue either in equity for rescission  
 19 upon tender of the security or at law for damages if he that  
 20 person no longer owns the security. In any action for  
 21 rescission, the purchaser shall be entitled to recover the  
 22 consideration paid for the security together with interest at  
 23 the legal rate, costs, and reasonable attorney's fees, less the  
 24 amount of any income received on the securities. In an action  
 25 at law, damages shall be the consideration paid for the security  
 26 together with interest at the legal rate to the date of  
 27 disposition, costs, and reasonable attorney's fees, less the  
 28 value of the security at the date of disposition.

29 Subd. 2. Any person who violates section 80A.01 in  
 30 connection with the purchase or sale of any security shall be  
 31 liable to any person damaged thereby who sold such security to  
 32 him that person or to whom he that person sold such security,  
 33 and any person who violates section 80A.03 in connection with  
 34 the purchase or sale of any security shall be liable to any  
 35 person damaged by the conduct prescribed by section 80A.03. Any  
 36 person who violates section 80A.02 in connection with the  
 37 purchase or sale of any security shall be liable to any  
 38 investment advisory client ~~of his~~ who is damaged thereby.  
 39 Damages in an action pursuant to this subdivision shall include  
 40 the actual damages sustained plus interest from the date of  
 41 payment or sale, costs and reasonable attorney's fees.

42 No change for subd 3

43 Subd. 4. No person shall be liable under subdivisions 1 to  
 44 3 who shall sustain the burden of proof that he the person did  
 45 not know, and in the exercise of reasonable care could not have  
 46 known, of the existence of facts by reason of which the  
 47 liability is alleged to exist.

48 No change for subd 5 to 11

080A#24S

49 80A.24 HEARINGS AND JUDICIAL REVIEW.

50 Subdivision 1. Within 30 days after an order has been  
 51 issued without a hearing, any interested party may apply to the  
 52 commissioner for a hearing in respect to matters determined by  
 53 the order, and a hearing shall be held, on a date fixed by the  
 54 commissioner, within 30 days after the application is filed.  
 55 After the hearing the commissioner may modify the order as he  
 56 the commissioner deems appropriate. Hearings shall be public  
 57 unless the commissioner grants a request joined in by all  
 58 parties that the hearing be conducted privately.

59 No change for subd 2

080A#25S

60 80A.25 RULES, FORMS AND ORDERS.

61 Subdivision 1. The commissioner may from time to time  
 62 make, amend, and rescind such rules, forms, and orders as are  
 63 necessary to carry out the provisions of sections 80A.01 to  
 64 80A.31, including but not limited to rules and forms governing  
 65 the conduct of business by broker-dealers, agents and investment  
 66 advisers, registration statements, applications, and reports,  
 67 and defining any terms, whether or not used in sections 80A.01  
 68 to 80A.31, insofar as the definitions are not inconsistent with  
 69 the provisions of sections 80A.01 to 80A.31. For the purpose of  
 70 rules and forms, the commissioner may classify securities,  
 71 persons, and matters within his the commissioner's jurisdiction,  
 72 and prescribe different requirements for different classes.

73 No change for subd 2 to 5



080A#26S

1 80A.26 ADMINISTRATIVE FILES AND OPINIONS.

2 No change for subd 1 to 3

3 Subd. 4. Upon request and at such reasonable charges as he  
4 the commissioner prescribes, the commissioner shall furnish to  
5 any person photostatic or other copies (certified under ~~his~~ the  
6 seal of office if requested) of any entry in the register or any  
7 document which is a matter of public record. In any proceeding  
8 or prosecution under this chapter, any copy so certified is  
9 prima facie evidence of the contents of the entry or document  
10 certified.

11 Subd. 5. The commissioner ~~in-his-discretion~~ may honor  
12 requests from interested persons for interpretive opinions.

080A#27S

13 80A.27 SCOPE OF SECTIONS 80A.01 TO 80A.31 AND SERVICE OF  
14 PROCESS.

15 No change for subd 1 to 4

16 Subd. 5. An offer to sell or to buy is not made in this  
17 state when (a) the publisher circulates or there is circulated  
18 on ~~his~~ the publisher's behalf in this state any bona fide  
19 newspaper or other publication of general, regular, and paid  
20 circulation which is not published in this state, or which is  
21 published in this state but has had more than two thirds of its  
22 circulation outside this state during the past 12 months, or (b)  
23 a radio or television program originating outside this state is  
24 received in this state.

25 No change for subd 6

26 Subd. 7. Every applicant for registration under sections  
27 80A.01 to 80A.31 and every issuer who proposes to offer a  
28 security in this state through any person acting on an agency  
29 basis in the common law sense shall file with the commissioner,  
30 in such form as ~~he~~ the commissioner by rule prescribes, an  
31 irrevocable consent appointing the commissioner or ~~his~~ a  
32 successor in office to be ~~his~~ the attorney to receive service of  
33 any lawful process in any noncriminal suit, action, or  
34 proceeding against ~~him~~ that person or ~~his~~ a successor, executor,  
35 or administrator which arises under sections 80A.01 to 80A.31 or  
36 any rule or order hereunder after the consent has been filed,  
37 with the same force and validity as if served personally on the  
38 person filing the consent. The consent need not be filed by a  
39 person who has filed a consent in connection with a previous  
40 registration or license which is then in effect. Service may be  
41 made by leaving a copy of the process in the office of the  
42 commissioner, but it is not effective unless (a) the plaintiff,  
43 who may be commissioner in a suit, action, or proceeding  
44 instituted by ~~him~~ the commissioner, forthwith sends notice of  
45 the service and a copy of the process by certified mail to the  
46 defendant or respondent at ~~his~~ the last address on file with the  
47 commissioner, and (b) the plaintiff's affidavit of compliance  
48 with this subsection is filed in the case on or before the  
49 return day of the process, if any, or within such further time  
50 as the court allows.

51 Subd. 8. When any person, including any nonresident of  
52 this state, engages in conduct prohibited or made actionable by  
53 sections 80A.01 to 80A.31 or any rule or order hereunder, and ~~he~~  
54 has not filed a consent to service of process under subdivision  
55 7 and personal jurisdiction ~~over-him~~ cannot otherwise be  
56 obtained in this state, that conduct shall be considered  
57 equivalent to ~~his~~ an appointment of the commissioner or ~~his~~ a  
58 successor in office to be ~~his~~ the attorney to receive service of  
59 any lawful process in any noncriminal suit, action, or  
60 proceeding against ~~him~~ that person or ~~his~~ a successor executor  
61 or administrator which grows out of that conduct and which is  
62 brought under sections 80A.01 to 80A.31 or any rule or order  
63 hereunder, with the same force and validity as if served ~~on-him~~  
64 personally. Service may be made by leaving a copy of the  
65 process in the office of the commissioner, and it is not  
66 effective unless (a) the plaintiff, who may be the commissioner  
67 in a suit, action, or proceeding instituted by ~~him~~ the  
68 commissioner, forthwith sends notice of the service and a copy  
69 of the process by certified mail to the defendant or respondent  
70 at ~~his~~ the last known address or takes other steps which are  
71 reasonably calculated to give actual notice, and (b) the  
72 plaintiff's affidavit of compliance with this subsection is  
73 filed in the case on or before the return day of the process, if  
74 any, or within such further time as the court allows.



1 Subd. 9. When process is served under this section, the  
2 court, or the commissioner in a proceeding before ~~him~~ the \*  
3 commissioner, shall order such continuance as may be necessary \*  
4 to afford the defendant or respondent reasonable opportunity to  
5 defend.

## 080A#28S

6 80A.28 FEES AND EXPENSES.

7 No change for subd 1 to 7a

8 Subd. 8. When the commissioner deems it necessary to incur  
9 any expense in connection with any application, registration or  
10 license, ~~he~~ the commissioner shall have the power to require the \*  
11 interested person to make an advance deposit with the  
12 commissioner in an amount estimated as sufficient to cover such  
13 expense. All such deposits shall be covered into the state  
14 treasury and credited to the state commissioner of commerce's  
15 investigation fund, from which fund the commissioner shall have  
16 power to make disbursements to pay for expenses necessarily  
17 incurred in the investigation. Any unexpended portion shall be  
18 refunded. On field examinations made by the commissioner or an  
19 employee away from the office of the commissioner, a per diem of  
20 \$10 for each such person may be charged in addition to actual  
21 expenses. Where additional technical, expert, or special  
22 services are used, the actual cost of such services may be  
23 charged in addition to actual expenses.

24 Subd. 9. No filing for which a fee is required shall be  
25 deemed to be filed or given any effect until the proper fee is  
26 paid. All fees and charges collected by the commissioner shall  
27 be covered into the state treasury. When any person is entitled  
28 to a refund under this section, the commissioner shall certify  
29 to the commissioner of finance the amount of the fee to be  
30 refunded to the applicant, and the commissioner of finance shall  
31 issue ~~his~~ a warrant in payment thereof out of the fund to which \*  
32 such fee was credited in the manner provided by law. There is  
33 hereby appropriated to the person entitled to such refunds from  
34 the fund in the state treasury to which such fees were credited  
35 an amount to make such refunds and payments.

## 080B#01S

36 80B.01 DEFINITIONS.

37 No change for subd 1 to 4

38 Subd. 5. "Equity security" means any stock or similar  
39 security; or any security convertible, with or without  
40 consideration, into such a security; or carrying any warrant or  
41 right to subscribe to or purchase such a security; or any such  
42 warrant or right; or any other security which the commissioner  
43 shall deem to be of similar nature and consider necessary or  
44 appropriate, by such rules as ~~he~~ the commissioner may prescribe \*  
45 in the public interest and for the protection of investors, to  
46 treat as an equity security.

47 No change for subd 6 to 10

## 080B#03S

48 80B.03 REGISTRATION OF TAKE-OVER OFFERS.

49 No change for subd 1

50 Subd. 2. The registration statement shall be filed on  
51 forms prescribed by the commissioner, and shall be accompanied  
52 by a consent by the offeror to service of process and the filing  
53 fee specified in section 80B.08, and shall contain the following  
54 information:

55 (a) all of the information specified in subdivision 6;

56 (b) two copies of all solicitation materials intended to be  
57 used in the take-over offer in the form proposed to be published  
58 or sent or delivered to offerees;

59 (c) if the offeror is other than a natural person,  
60 information concerning its organization and operations,  
61 including the year, form and jurisdiction of its organization, a  
62 description of each class of equity security and long-term debt,  
63 a description of the business conducted by the offeror and its  
64 subsidiaries and any material changes therein during the past  
65 three years, a description of the location and character of the  
66 principal properties of the offeror and its subsidiaries, a  
67 description of any material pending legal or administrative  
68 proceedings in which the offeror or any of its subsidiaries is a  
69 party, the names of all persons directly or indirectly  
70 controlling the offeror, directors and executive officers of the  
71 offeror and their material business activities, their business  
72 affiliations during the past three years and any material legal  
73 or administrative proceedings in which the controlling persons,



1 directors, or executive officers are or were a party during the  
 2 past three years, and financial statements of the offeror in  
 3 such form and for such period of time as the commissioner may by  
 4 rule prescribe;

5 (d) if the offeror is a natural person, information  
 6 concerning ~~his~~ that person's identity and background, including \*  
 7 ~~his~~ business activities and affiliations during the past three \*  
 8 years, and a description of any material pending legal or  
 9 administrative proceedings in which the offeror is a party.

10 Subd. 3. Repealed, 1984 c 488 s 19

11 No change for subd 3a to 6

080B#07S

12 80B.07 ADMINISTRATION, RULES AND ORDERS.

13 Subdivision 1. In administering the provisions of sections  
 14 80B.01 to 80B.13, the commissioner may exercise all powers  
 15 granted ~~to him~~ under chapter 80A, which are not inconsistent \*  
 16 with sections 80B.01 to 80B.13.

17 No change for subd 2

18 Subd. 3. The commissioner may by rule or order exempt from  
 19 any provisions of sections 80B.01 to 80B.13 any proposed  
 20 take-over offer or any category or type of take-over offer which  
 21 the commissioner determines does not have the purpose or effect  
 22 of changing or influencing the control of a target company or  
 23 where ~~he~~ the commissioner determines that compliance with \*  
 24 sections 80B.01 to 80B.13 is not necessary for the protection of  
 25 the offerees.

080B#09S

26 80B.09 INJUNCTIONS.

27 Whenever it appears to the commissioner that any person,  
 28 including a controlling person of an offeror or target company,  
 29 has engaged or is about to engage in any act or practice  
 30 constituting a violation of sections 80B.01 to 80B.13 or any  
 31 rule or order hereunder, the commissioner (1) ~~he~~ may issue and \*  
 32 cause to be served upon any person violating any of the  
 33 provisions of sections 80B.01 to 80B.13 an order requiring the  
 34 person guilty thereof to cease and desist therefrom; and (2) ~~he~~ \*  
 35 may bring an action in the district court of the appropriate  
 36 county to enjoin the acts or practices and to enforce compliance  
 37 with sections 80B.01 to 80B.13 or any rule or order hereunder,  
 38 or ~~he~~ may refer the matter to the attorney general or the county \*  
 39 attorney of the appropriate county. Upon a proper showing, the  
 40 court may grant a permanent or temporary injunction or  
 41 restraining order and may order rescission of any sales or  
 42 purchases of securities determined to be unlawful under sections  
 43 80B.01 to 80B.13 or any rule or order hereunder. The court may  
 44 not require the commissioner to post a bond.

080B#10S

45 80B.10 PENALTIES.

46 No change for subd 1

47 Subd. 2. The commissioner may refer such evidence as is  
 48 available concerning violations of sections 80B.01 to 80B.13 or  
 49 of any rule or order hereunder to the attorney general or the  
 50 county attorney of the appropriate county who may, with or  
 51 without any reference, institute the appropriate criminal  
 52 proceedings under sections 80B.01 to 80B.13. ~~If-referred-to~~ A \*  
 53 county attorney, he on receiving a referral, shall within 90 \*  
 54 days file with the commissioner a statement concerning any  
 55 action taken or, if no action has been taken, the reasons  
 56 therefor.

57 No change for subd 3 to 5

080B#11S

58 80B.11 CIVIL LIABILITIES.

59 Subdivision 1. Any offeror who purchases a security in  
 60 connection with a take-over offer in violation of sections  
 61 80B.01 to 80B.13 shall be liable to the person selling the  
 62 security to ~~him~~ the offeror who may sue either at law or in \*  
 63 equity. In an action for rescission the seller shall be  
 64 entitled to recover the security, plus any income received by  
 65 the purchaser thereon, upon tender of the consideration  
 66 received. Tender requires only notice of willingness to pay the  
 67 amount specified in exchange for the security. Any notice may  
 68 be given by service as in civil actions or by certified mail to  
 69 the last known address of the person liable. Damages are the  
 70 excess of either the value of the security on the date of  
 71 purchase or its present value, whichever is greater, over the  
 72 present value of the consideration received for the security.



1 Subd. 2. Every person who directly or indirectly controls  
 2 a person liable under subdivision 1, every partner, principal  
 3 executive officer or director of such person, every person  
 4 occupying a similar status or performing similar functions,  
 5 every employee of such person who materially aids in the act or  
 6 transaction constituting the violation, and every broker-dealer  
 7 or agent who materially aids in the act or transaction  
 8 constituting the violation, is also liable jointly or severally  
 9 with and to the same extent as such person, ~~unless the person.~~  
 10 Persons who would otherwise be so liable proves but who prove  
 11 that he they did not know, and in the exercise of reasonable  
 12 care could not have known, of the existence of the facts by  
 13 reason of which the liability is alleged to exist are not  
 14 liable. There is contribution as in cases of contract among the  
 15 several persons so liable.

16 No change for subd 3 to 4

080C#03S

17 80C.03 EXEMPTIONS.

18 The registration requirement imposed by section 80C.02  
 19 shall not apply to the following provided that the method of  
 20 offer or sale is not used for the purpose of evading sections  
 21 80C.01 to 80C.22:

22 (a) the offer or sale ~~by of~~ a franchisee ~~of a~~ franchise  
 23 owned by ~~him~~ that franchisee, or the offer or sale ~~by a~~  
 24 subfranchisor of the entire area franchise owned by ~~him~~ the  
 25 subfranchisor making the offer or sale if the sale is not  
 26 effected by or through a franchisor; provided, however, that no  
 27 person shall make more than one sale during any period of 12  
 28 consecutive months of a franchise or area franchise granted by a  
 29 single franchisor. A sale is not effected by or through a  
 30 franchisor merely because a franchisor has a right to approve or  
 31 disapprove a different franchisee;

32 (b) any transaction by an executor, administrator, sheriff,  
 33 receiver, trustee in bankruptcy, guardian or conservator;

34 (c) any offer or sale to a banking organization, financial  
 35 organization or life insurance corporation within the meanings  
 36 given these terms by section 345.31;

37 (d) securities currently registered in this state pursuant  
 38 to chapter 80A;

39 (e) the offer or sale of a franchise, not including an area  
 40 franchise, provided that:

41 (1) the franchisor shall make no more than one sale of a  
 42 franchise pursuant to this exemption during any period of 12  
 43 consecutive months;

44 (2) the franchisor has not advertised the franchise for  
 45 sale to the general public in newspapers or other publications  
 46 of general circulation or otherwise by radio, television,  
 47 electronic means or similar communications media, or through a  
 48 program of general solicitation by means of mail or telephone;

49 (3) the franchisor deposits all franchisee fees within two  
 50 days of receipt in an escrow account until all obligations of  
 51 the franchisor to the franchisee which are, pursuant to the  
 52 terms of the franchise agreement, to be performed prior to the  
 53 opening of the franchise, have been performed. The franchisor  
 54 shall provide the franchisee with a purchase receipt for the  
 55 franchise fees paid, a copy of the escrow agreement and the  
 56 name, address and telephone number of the escrow agent. The  
 57 escrow agent shall be a bank located in Minnesota. Upon a  
 58 showing of good cause the commissioner may waive the escrow of  
 59 franchise fees; and

60 (4) the franchisor has provided to the commissioner, no  
 61 later than ten business days prior to the sale, a written notice  
 62 of its intention to offer or sell a franchise pursuant to this  
 63 exemption.

64 (f) the offer or sale of a fractional franchise;

65 (g) any transaction which the commissioner by rule or order  
 66 exempts as not being within the purposes of this chapter and the  
 67 registration of which ~~he or she~~ the commissioner finds is not  
 68 necessary or appropriate in the public interest or for the  
 69 protection of investors; and

70 (h) the offer or sale of a franchise to a resident of a  
 71 foreign state, territory, or country who is neither domiciled in  
 72 this state nor actually present in this state, if the franchise  
 73 business is not to be operated wholly or partly in this state,  
 74 and if the sale of this franchise is not in violation of any law  
 75 of the foreign state, territory, or county concerned.



080C#04S

## 1 80C.04 APPLICATION FOR REGISTRATION.

2 Subdivision 1. An application for registration of a  
3 franchise shall be made by filing with the commissioner a  
4 proposed public offering statement accompanied by a fee of  
5 \$250. The public offering statement shall contain the following:

6 (a) The name of the franchisor, the name under which the  
7 franchisor is doing or intends to do business, and the name of  
8 any parent or affiliated person that will engage in business  
9 transactions with franchisees;

10 (b) The franchisor's principal business address, the  
11 address of its agent in this state authorized to receive service  
12 of process, and a consent to service of process as required by  
13 section 80C.20, if applicable;

14 (c) The business form of the franchisor, whether corporate,  
15 partnership or otherwise, and the state or other sovereign power  
16 under which the franchisor is organized;

17 (d) Such information concerning the identity and business  
18 experiences of persons affiliated with the franchisor as the  
19 commissioner may by rule prescribe;

20 (e) A statement whether the franchisor or any person  
21 identified in the public offering statement:

22 (1) Has during the ten year period immediately preceding  
23 the date of the public offering statement been convicted of a  
24 felony, pleaded nolo contendere to a felony charge, or been held  
25 liable in a civil action by final judgment if such felony or  
26 civil action involved fraud, embezzlement, fraudulent  
27 conversion, restraint of trade, unfair or deceptive practices or  
28 misappropriation of property;

29 (2) Is subject to any currently effective order of the  
30 United States Securities and Exchange Commission or the  
31 securities administrator of any state denying registration to or  
32 revoking or suspending the license or registration of such  
33 person as a securities broker, dealer, agent, or investment  
34 adviser, or is subject to any currently effective order of any  
35 national securities association or national securities exchange,  
36 as defined in the Securities Exchange Act of 1934, suspending or  
37 expelling such person from membership in such association or  
38 exchange;

39 (3) Is subject to any currently effective order or ruling  
40 of the Federal Trade Commission;

41 (4) Is subject to any currently effective injunctive or  
42 restrictive order relating to the business which is the subject  
43 of the franchise offered or any other business activity as a  
44 result of an action brought by any public agency or department;  
45 or

46 (5) Has any civil or criminal actions pending against him  
47 that franchisor or person involving fraud, embezzlement,  
48 fraudulent conversion, restraint of trade, unfair or deceptive  
49 practices or misappropriation of property. \*  
\*

50 Such statement shall set forth the court and date of  
51 conviction or judgment, any penalty imposed or damages assessed,  
52 the date, nature and issuer of any orders, and the court,  
53 nature, and current status of any pending action.

54 (f) The business experience of the franchisor, including  
55 the length of time the franchisor has conducted a business of  
56 the type to be operated by the franchisees, has granted  
57 franchises for such businesses, and has granted franchises in  
58 other lines of business.

59 (g) A balance sheet of the franchisor as of the end of the  
60 franchisor's most recent fiscal year and an income statement for  
61 the period ending on the date of such balance sheet, both  
62 audited by an independent certified public accountant; and, if  
63 the fiscal year-end of the franchisor is in excess of 90 days  
64 prior to the date of filing the application, a balance sheet and  
65 income statement, which may be unaudited, as of a date within 90  
66 days of the date of the application. The commissioner may by  
67 rule or order prescribe the form and content of financial  
68 statements required under this clause and the circumstances  
69 under which consolidated financial statements may or shall be  
70 filed, and may waive the requirement of audited financial  
71 statements;

72 (h) A copy of the entire franchise contract or agreement  
73 proposed for use, including all amendments thereto;

74 (i) A statement of the franchise fee charged, the proposed  
75 use of the proceeds of such fee by the franchisor, and the



- 1 method or formula by which the amount of the fee is determined  
 2 if the fee is not the same in all cases;
- 3 (j) A statement describing any payments or fees other than  
 4 franchise fees that the franchisee or subfranchisor is required  
 5 to pay to the franchisor, including royalties and payments or  
 6 fees which the franchisor collects in whole or in part on behalf  
 7 of a third party;
- 8 (k) A statement of the conditions under which the franchise  
 9 agreement may be terminated or renewal refused or repurchased at  
 10 the option of the franchisor, any limitations on the right of  
 11 the franchisee to sell, transfer, assign, move, renew or  
 12 terminate the franchise, and a description of the provisions  
 13 regarding franchisee equity upon sale, termination, refusal to  
 14 renew, or repurchase;
- 15 (l) A statement whether, by the terms of the franchise  
 16 agreement or by other device or practice, the franchisee or  
 17 subfranchisor is required to purchase from the franchisor or  
 18 person designated by the franchisor, services, supplies,  
 19 products, fixtures or other goods relating to the establishment  
 20 or operation of the franchise business, together with a  
 21 description thereof;
- 22 (m) A statement of any restriction or condition imposed by  
 23 the franchisor whether by the terms of the franchise agreement  
 24 or by other device or practice of the franchisor whereby the  
 25 franchisee is limited in the goods or services offered by him \*  
 26 the franchisee to his the franchisee's customers; \*
- 27 (n) A statement of the terms and conditions of any  
 28 financing arrangements when offered directly or indirectly by  
 29 the franchisor or ~~his~~ an agent or affiliate; \*
- 30 (o) A statement of any past or present practice or of any  
 31 intent of the franchisor to sell, assign or discount to a third  
 32 party any note, contract or other obligation of the franchisee  
 33 or subfranchisor in whole or in part;
- 34 (p) A copy of any statement of estimated or projected  
 35 franchisee earnings prepared for presentation to prospective  
 36 franchisees or subfranchisors, or other persons, together with a  
 37 statement setting forth the data upon which such estimation or  
 38 projection is based;
- 39 (q) A statement describing the training program,  
 40 supervision and assistance the franchisor has provided and will  
 41 provide the franchisee;
- 42 (r) A statement of any compensation or other benefit given  
 43 or promised to a public figure arising, in whole or in part,  
 44 from the use of the public figure in the name or symbol of the  
 45 franchise or the endorsement or recommendation of the franchise  
 46 by the public figure in advertisements, and the extent to which  
 47 such public figure is involved in the actual management of the  
 48 franchisor;
- 49 (s) A statement of the number of franchises presently  
 50 operating and proposed to be sold;
- 51 (t) A statement whether franchisee or subfranchisors  
 52 receive an exclusive area and territory, and if so, a map  
 53 thereof; and
- 54 (u) Such other information as the commissioner may require;
- 55 (v) When the franchises to be registered are proposed to be  
 56 offered and sold by a subfranchisor or ~~his~~ the subfranchisor's \*  
 57 agents, the application shall also include the same information  
 58 concerning the subfranchisor as is required concerning the  
 59 franchisor pursuant to this section.

60 No change for subd 2

080C#06S

61 80C.06 PUBLIC OFFERING STATEMENT.

62 No change for subd 1 to 2

63 Subd. 3. The commissioner may by rule or order provide  
 64 that any information required by section 80C.04 to be included  
 65 in the public offering statement need not be included in respect  
 66 of any class of franchisees ~~if he finds~~ on finding that such \*  
 67 information is inappropriate to such class and that disclosure  
 68 adequate for the protection of prospective franchisees or  
 69 subfranchisors is otherwise included within the public offering  
 70 statement.

71 No change for subd 4

72 Subd. 5. Any person offering for sale or selling any  
 73 franchise which is subject to the registration requirements  
 74 imposed by section 80C.02 shall, at ~~his~~ the person's own \*  
 75 expense, present to the prospective franchisee, at least seven



1 days prior to the execution by the prospective franchisee of any  
 2 franchise or other agreement, or at least seven days prior to  
 3 the payment of any consideration by the franchisee, whichever  
 4 occurs first, a copy of the current public offering statement  
 5 together with a copy of all proposed agreements relating to the  
 6 sale of the franchise. The franchisee shall be permitted to  
 7 retain the public offering statement prior and subsequent to the  
 8 execution of any franchise or other agreement. The person  
 9 offering or selling the franchise shall obtain a receipt, signed  
 10 by the prospective franchisee, acknowledging ~~that he has~~  
 11 received receipt of a copy of the public offering statement  
 12 prior to ~~the execution by him of~~ executing any franchise or  
 13 other agreement and prior to ~~the payment of~~ paying any  
 14 consideration ~~by him~~. The receipt shall be kept in the  
 15 possession of the person offering or selling the franchise,  
 16 subject to inspection by the commissioner, for a period of three  
 17 years from the date the receipt is taken.

18 No change for subd 6

080C#11S

19 80C.11 OPINIONS, APPRAISALS, AND REPORTS.

20 The commissioner may accept and act upon the opinions,  
 21 appraisals and reports of any independent engineers, appraisers,  
 22 or other independent experts which may be presented by an  
 23 applicant or any interested party, on any question of fact  
 24 concerning or affecting the franchises proposed to be offered  
 25 and sold. The commissioner may also have any or all matters  
 26 concerning or affecting such franchises investigated, appraised,  
 27 passed upon and certified by engineers, appraisers or other  
 28 experts selected by ~~him~~ the commissioner.

080C#12S

29 80C.12 DENIAL, SUSPENSION OR REVOCATION OF REGISTRATIONS  
30 OR EXEMPTIONS.

31 Subdivision 1. The commissioner, with or without prior  
 32 notice or hearing, may issue a cease and desist order and may  
 33 issue an order denying, suspending or revoking any registration,  
 34 amendment or exemption ~~if he finds~~ on finding any of the  
 35 following:

36 (a) That the applicant, registrant or franchisor or any  
 37 officer, director, agent or employee thereof or any other person  
 38 has violated or failed to comply with any provision of sections  
 39 80C.01 to 80C.22 or any rule or order of the commissioner;

40 (b) That the offer, sale, or purchase of the franchise  
 41 would constitute misrepresentation to or deceit or fraud upon  
 42 purchasers thereof, or has worked or tended to work a fraud upon  
 43 purchasers or would so operate;

44 (c) That the applicant, registrant or franchisor or any  
 45 officer, director, agent or employee thereof or any other person  
 46 is engaging or about to engage in false, fraudulent or deceptive  
 47 practices in connection with the offer and sale of a franchise;

48 (d) That any person identified in a public offering  
 49 statement has been convicted of an offense described in section  
 50 80C.04, clause (5), or is subject to an order, or has had a  
 51 civil judgment entered against ~~him~~ the person as described in  
 52 section 80C.04, clause (5), and the involvement of the person in  
 53 the business of the applicant or franchisor creates a  
 54 substantial risk to prospective franchisees;

55 (e) That the financial condition of the franchisor  
 56 adversely affects or would adversely affect the ability of the  
 57 franchisor to fulfill its obligations under the franchise  
 58 agreement;

59 (f) That the franchisor's enterprise or method of business  
 60 includes or would include activities which are illegal where  
 61 performed;

62 (g) That the method of sale or proposed method of sale of  
 63 franchises or the operation of the business of the franchisor or  
 64 any term or condition of the franchise agreement or any practice  
 65 of the franchisor is or would be unfair or inequitable to  
 66 franchisees.

67 No change for subd 2 to 4

080C#14S

68 80C.14 UNFAIR PRACTICES.

69 No change for subd 1

70 Subd. 2. ACTS CONSTITUTING. All franchise contracts  
 71 or agreements, other than those classifications of franchises  
 72 specifically recognized by the commissioner pursuant to  
 73 subdivision 1, and any other device or practice of a franchisor



1 shall conform to the following provisions. It shall be deemed  
 2 unfair and inequitable for any person to:  
 3 (a) Terminate or cancel a franchise without first giving  
 4 written notice setting forth all the reasons for the termination  
 5 or cancellation to the franchisee at least 60 days in advance of  
 6 termination or cancellation, except that the notice shall be  
 7 effective immediately upon receipt where the alleged grounds are:

8 (1) Voluntary abandonment of the franchise relationship by  
 9 the franchisee;  
 10 (2) The conviction of the franchisee of an offense directly  
 11 related to the business conducted pursuant to the franchise; or

12 (3) Failure to cure a default under the franchise agreement  
 13 which materially impairs the goodwill associated with the  
 14 franchisor's trade name, trademark, service mark, logotype or  
 15 other commercial symbol after the franchisee has received  
 16 written notice to cure of at least 24 hours in advance thereof;

17 (b) Terminate or cancel a franchise except for good cause.  
 18 "Good cause" shall be failure by the franchisee substantially to  
 19 comply with reasonable requirements imposed upon him by the  
 20 franchise including, but not limited to:

21 (1) The bankruptcy or insolvency of the franchisee;

22 (2) Assignment for the benefit of creditors or similar  
 23 disposition of the assets of the franchise business;

24 (3) Voluntary abandonment of the franchise business;

25 (4) Conviction or a plea of guilty or no contest to a  
 26 charge of violating any law relating to the franchise business;  
 27 or

28 (5) Any act by or conduct of the franchisee which  
 29 materially impairs the goodwill associated with the franchisor's  
 30 trademark, trade name, service mark, logotype or other  
 31 commercial symbol; or

32 (c) Fail to renew a franchise unless the franchisee has  
 33 been given written notice of the intention not to renew at least  
 34 90 days in advance thereof and has been given a sufficient  
 35 opportunity to recover his the franchisee's investment unless  
 36 the failure to renew is for good cause as defined in clause (b).

080C#15S

37 80C.15 INVESTIGATIONS; PROCEEDINGS.

38 Subdivision 1. The commissioner may make such public or  
 39 private investigations within or outside of this state as ~~he~~ the  
 40 commissioner deems necessary to determine whether any person has  
 41 violated or is about to violate any provision of sections 80C.01  
 42 to 80C.22 or any rule or order thereunder, or to aid in the  
 43 enforcement of sections 80C.01 to 80C.22 or in the prescribing  
 44 of rules and forms thereunder, and may publish information  
 45 concerning the violation of sections 80C.01 to 80C.22 or any  
 46 rule or order thereunder.

47 Subd. 2. For the purpose of any investigation or  
 48 proceeding under sections 80C.01 to 80C.22, the commissioner or  
 49 ~~any person designated by him~~ a designee may administer oaths and  
 50 affirmations, subpoena witnesses and compel their attendance,  
 51 take evidence and require the production of any books, papers,  
 52 correspondence, memoranda, agreements or other documents or  
 53 records which the commissioner deems relevant or material to the  
 54 inquiry.

55 Subd. 3. No person is excused from attending and  
 56 testifying or from producing any document or record before the  
 57 commissioner, in obedience to the subpoena of the commissioner  
 58 or ~~any person designated by him~~ a designee in any proceeding  
 59 instituted by the commissioner, on the ground that the testimony  
 60 or evidence required ~~of him~~ may tend to incriminate ~~him~~ or  
 61 subject ~~him~~ the person to a penalty or forfeiture; but no  
 62 individual may be prosecuted or subjected to any penalty or  
 63 forfeiture for an account of any transaction, matter or thing  
 64 concerning which ~~he~~ the individual is compelled, after  
 65 claiming ~~his~~ the privilege against self-incrimination, to  
 66 testify or produce evidence, except that the individual  
 67 testifying is not exempt from prosecution and punishment for  
 68 perjury or contempt committed in testifying.

69 Subd. 4. In case of contumacy by, or refusal to obey a  
 70 subpoena to, any person, the district court, upon application by  
 71 the commissioner, may issue to the person an order directing ~~him~~  
 72 the person to appear before the commissioner or the officer  
 73 designated by ~~him~~ the commissioner, there to produce documentary  
 74 evidence if so ordered or to give evidence touching the matter  
 75 under investigation or in question. Failure to obey the order



1 of the court may be punished by the court as a contempt of court.

080C#16S

2 80C.16 ENFORCEMENT; PENALTIES AND REMEDIES.

3 Subdivision 1. Whenever the commissioner has reasonable  
4 cause to believe that any person has engaged or is about to  
5 engage in any act or practice constituting a violation of any  
6 provisions of sections 80C.01 to 80C.22 or any rule or order  
7 thereunder, ~~he~~ the commissioner may, in addition to all other  
8 remedies, institute on behalf of the state of Minnesota a civil  
9 action seeking appropriate relief. In addition to all other  
10 penalties and remedies provided by sections 80C.01 to 80C.22,  
11 whether administrative or judicial in nature, the courts of this  
12 state shall have jurisdiction to grant such temporary,  
13 interlocutory or permanent injunctive relief as is necessary to  
14 prevent and restrain violations of sections 80C.01 to 80C.22,  
15 and may upon a proper showing appoint a receiver for the  
16 property, assets, business and affairs of the franchisor.

17 No change for subd 2 to 3

080C#18S

18 80C.18 RULES AND REGULATIONS; COMMISSIONER TO PRESCRIBE.

19 Subdivision 1. The commissioner may promulgate rules and  
20 regulations to carry out the provisions of sections 80C.01 to  
21 80C.22, including rules and forms governing public offering  
22 statements, applications, financial statements and annual  
23 reports, and defining any terms, whether or not used in sections  
24 80C.01 to 80C.22, insofar as the definitions are not  
25 inconsistent with sections 80C.01 to 80C.22. The commissioner  
26 may define by rule false, fraudulent or deceptive practices in  
27 the offer and sale of franchises. For the purpose of rules and  
28 forms the commissioner may classify franchises, persons and  
29 matters within ~~his~~ the commissioner's jurisdiction, and  
30 prescribe different requirements for different classes. Rules  
31 and regulations shall be promulgated in accordance with chapter  
32 15.

33 No change for subd 2

080C#19S

34 80C.19 SCOPE OF SECTIONS 80C.01 TO 80C.22.

35 No change for subd 1 to 3

36 Subd. 4. An offer to sell or to purchase is not made in  
37 this state when the publisher circulates or there is circulated  
38 in ~~his~~ the publisher's behalf in this state any bona fide  
39 newspaper or other publication of general, regular and paid  
40 circulation which is not published in this state, or when a  
41 radio or television program originating outside this state is  
42 received in this state.

080C#20S

43 80C.20 SERVICE OF PROCESS.

44 Every applicant for registration under sections 80C.01 to  
45 80C.22 and every franchisor on whose behalf an application for  
46 registration is filed, except applicants and franchisors which  
47 are Minnesota corporations, shall file with the commissioner, in  
48 such form as ~~he~~ the commissioner may prescribe, an irrevocable  
49 consent appointing the commissioner and ~~his~~ successors in office  
50 to be the applicant's or franchisor's attorney to receive  
51 service of any lawful process in any civil action against the  
52 applicant or franchisor or ~~his~~ a successor, executor or  
53 administrator, which arises under sections 80C.01 to 80C.22 or  
54 any rule or order thereunder after the consent has been filed,  
55 with the same force and validity as if served personally on the  
56 applicant or franchisor or ~~his~~ a successor, executor or  
57 administrator. Service may be made by leaving a copy of the  
58 process in the office of the commissioner, but it is not  
59 effective unless the plaintiff, who may be the commissioner in  
60 an action instituted by ~~him~~ the commissioner, forthwith sends  
61 notice of the service and a copy of the process by certified  
62 mail to the defendant or respondent at ~~his~~ the last address on  
63 file with the commissioner, and the plaintiff's affidavit of  
64 compliance with this subsection is filed with the court at the  
65 time of the filing of the complaint.

66 When any person, including any non-resident of this state  
67 and any foreign corporation, engages in conduct prohibited or  
68 made actionable by sections 80C.01 to 80C.22, whether or not ~~he~~  
69 the person has filed a consent to service of process, and  
70 personal jurisdiction over ~~him~~ the person cannot otherwise be  
71 obtained in this state, that conduct shall be considered  
72 equivalent to ~~his~~ appointment of the commissioner and ~~his~~



1 successors in office to be ~~his~~ the person's agent to receive \*  
 2 service of any lawful process in any suit against ~~him~~ the person \*  
 3 or ~~his~~ a successor, executor or administrator which grows out of \*  
 4 that conduct and which is brought under sections 80C.01 to  
 5 80C.22, with the same force and validity as if served ~~on-him~~ \*  
 6 personally. Service may be made by leaving a copy of the process  
 7 in the office of the commissioner but it is not effective unless  
 8 the plaintiff, who may be the commissioner in an action  
 9 instituted by ~~him~~ the commissioner, forthwith sends notice of \*  
 10 the service and a copy of the process by certified mail to the  
 11 defendant or respondent at ~~his~~ the last known address on file \*  
 12 with the commissioner and the plaintiff's affidavit of  
 13 compliance with this section is filed with the court at the time  
 14 of the filing of the complaint.

080C#22S

15 80C.22 ADMINISTRATION.

16 No change for subd 1

17 Subd. 2. It is unlawful for the commissioner or any of ~~his~~ \*  
 18 the commissioner's officers or employees to use for personal \*  
 19 benefit any information which is filed with or obtained by the  
 20 commissioner and which is not generally available to the  
 21 public. Nothing in sections 80C.01 to 80C.22 authorizes the \*  
 22 commissioner or any of ~~his~~ the commissioner's officers or  
 23 employees to disclose any confidential information except among \*  
 24 themselves or to other administrators or regulatory authorities,  
 25 or when necessary or appropriate in a proceeding or  
 26 investigation under sections 80C.01 to 80C.22. No provision of  
 27 sections 80C.01 to 80C.22 either creates any privilege or  
 28 derogates from any privilege which exists at common law or  
 29 otherwise, when documentary or other evidence is sought under a  
 30 subpoena directed to the commissioner or any of ~~his~~ the \*  
 31 commissioner's officers or employees. \*

32 Subd. 3. All applications, notices, reports and other  
 33 documents filed with the commissioner under sections 80C.01 to  
 34 80C.22 shall be open to public inspection in accordance with  
 35 rules prescribed by the commissioner. The commissioner may  
 36 publish information filed with ~~him~~, or obtained by ~~him~~, the \*  
 37 commissioner, if, in the judgment of the commissioner, such \*  
 38 action is in the public interest.

39 No change for subd 4 to 5

40 Subd. 6. The commissioner upon request shall furnish to  
 41 any person at a reasonable charge photostatic or other copies,  
 42 certified under ~~his~~ seal of office if certification is \*  
 43 requested, of any entry in the register or any order or other \*  
 44 document on file in ~~his~~ the commissioner's office. Any copy so \*  
 45 certified is admissible in evidence under section 600.13.

46 No change for subd 7

080D#07S

47 80D.07 ENTRANCE FEE REIMBURSEMENT AFTER OCCUPANCY.

48 Any resident may terminate ~~his~~ the residency agreement at \*  
 49 any time after ~~he-has-assumed~~ assuming residency. A residency \*  
 50 agreement may not require more than 120 days written notice by  
 51 any resident desiring to terminate; nor require any additional  
 52 fees for termination of residency.

53 The termination terms and provisions for reimbursement  
 54 shall be stated in the residency agreement.

080E#10S

55 80E.10 NONRENEWALS.

56 Subdivision 1. GENERAL PROVISIONS. No manufacturer,  
 57 distributor, or factory branch shall fail or refuse to renew a  
 58 franchise unless the manufacturer or distributor provides the  
 59 new motor vehicle dealer at least 12 months written notice of  
 60 its intention not to renew and clearly indicating therein the  
 61 specific grounds for nonrenewal and unless during the 12 months  
 62 prior to expiration of the franchise, the manufacturer or  
 63 distributor permits the dealer to sell or transfer ~~his~~ the \*  
 64 business to a purchaser meeting the manufacturer's or \*  
 65 distributor's then current requirements for granting new  
 66 franchises and in accordance with the provisions of section  
 67 80E.13, paragraph (j).

68 No change for subd '2 to 5

080E#17S

69 80E.17 CIVIL REMEDIES.

70 Notwithstanding the terms of any franchise agreement or  
 71 waiver to the contrary, any person who whose business or \*  
 72 property is injured ~~in-his-business-or-property~~ by a violation \*



1 of sections 80E.01 to 80E.17, or any person injured because he  
 2 refuses of the refusal to accede to a proposal for an  
 3 arrangement which, if consummated, would be in violation of  
 4 sections 80E.01 to 80E.17, may bring a civil action to enjoin  
 5 further violations and to recover the actual damages sustained,  
 6 together with costs and disbursements, including reasonable  
 7 attorney's fees.

082\*#17S

8 82.17 DEFINITIONS.

9 No change for subd 1 to 2

10 Subd. 3. "Commissioner" means the commissioner of commerce  
 11 or ~~his~~ a designee.

12 Subd. 4. "Real estate broker" or "broker" means any person  
 13 who:

14 (a) for another and for commission, fee or other valuable  
 15 consideration or with the intention or expectation of receiving  
 16 the same directly or indirectly lists, sells, exchanges, buys or  
 17 rents, manages, or offers or attempts to negotiate a sale,  
 18 option, exchange, purchase or rental of an interest or estate in  
 19 real estate, or advertises or holds ~~himself, herself, or itself~~  
 20 out as engaged in these activities;

21 (b) for another and for commission, fee or other valuable  
 22 consideration or with the intention or expectation of receiving  
 23 the same directly or indirectly negotiates or offers or attempts  
 24 to negotiate a loan, secured or to be secured by a mortgage or  
 25 other encumbrance on real estate;

26 (c) for another and for commission, fee or other valuable  
 27 consideration or with the intention or expectation of receiving  
 28 the same directly or indirectly lists, sells, exchanges, buys,  
 29 rents, manages, offers or attempts to negotiate a sale, option,  
 30 exchange, purchase or rental of any business opportunity or  
 31 business, or its goodwill, inventory, or fixtures, or any  
 32 interest therein;

33 (d) for another and for commission, fee or other valuable  
 34 consideration or with the intention or expectation of receiving  
 35 the same directly or indirectly offers, sells or attempts to  
 36 negotiate the sale of property that is subject to the  
 37 registration requirements of chapter 83, concerning subdivided  
 38 land;

39 (e) engages in the business of charging an advance fee or  
 40 contracting for collection of a fee in connection with any  
 41 contract whereby ~~he or she~~ the person undertakes to promote the  
 42 sale of real estate through its listing in a publication issued  
 43 primarily for this purpose;

44 (f) engages wholly or in part in the business of selling  
 45 real estate to the extent that a pattern of real estate sales is  
 46 established, whether or not the real estate is owned by the  
 47 person. A person shall be presumed to be engaged in the  
 48 business of selling real estate if the person engages as  
 49 principal in five or more transactions during any 12-month  
 50 period, unless the person is represented by a licensed real  
 51 estate broker or salesperson.

52 No change for subd 5 to 9

082\*#18S

53 82.18 EXCEPTIONS.

54 Unless a person is licensed or otherwise required to be  
 55 licensed under this chapter, the term real estate broker does  
 56 not include:

57 (a) a licensed practicing attorney acting solely as an  
 58 incident to the practice of law if the attorney complies in all  
 59 respects with the trust account provisions of this chapter;

60 (b) a receiver, trustee, administrator, guardian, executor,  
 61 or other person appointed by or acting under the judgment or  
 62 order of any court;

63 (c) any person owning and operating a cemetery and selling  
 64 lots therein solely for use as burial plots;

65 (d) any custodian, janitor, or employee of the owner or  
 66 manager of a residential building who leases residential units  
 67 in the building;

68 (e) any bank, trust company, savings and loan association,  
 69 industrial loan and thrift company, regulated lender under  
 70 chapter 56, public utility, or land mortgage or farm loan  
 71 association organized under the laws of this state or the United  
 72 States, when engaged in the transaction of business within the  
 73 scope of its corporate powers as provided by law;

74 (f) public officers while performing their official duties;



1 (g) employees of persons enumerated in clauses (b), (e) and  
 2 (f), when engaged in the specific performance of their duties;  
 3 (h) any person who acts as an auctioneer bonded in  
 4 conformity with section 330.02, when that person is engaged in  
 5 the specific performance of ~~his or her~~ duties as an auctioneer, \*  
 6 and when that person has been employed to auction real estate by  
 7 a person licensed under this chapter or when the auctioneer has  
 8 engaged a licensed attorney to supervise the real estate  
 9 transaction;

10 (i) any person who acquires real estate for the purpose of  
 11 engaging in and does engage in, or who is engaged in the  
 12 business of constructing residential, commercial or industrial  
 13 buildings for the purpose of resale if no more than 25 such  
 14 transactions occur in any 12-month period and the person  
 15 complies with section 82.24;

16 (j) any person who offers to sell or sells an interest or  
 17 estate in real estate which is a security registered pursuant to  
 18 chapter 80A, when acting solely as an incident to the sale of  
 19 these securities;

20 (k) any person who offers to sell or sells a business  
 21 opportunity which is a franchise registered pursuant to chapter  
 22 80C, when acting solely to sell the franchise;

23 (l) any person who contracts with or solicits on behalf of  
 24 a provider a contract with a resident or prospective resident to  
 25 provide continuing care in a facility, pursuant to the  
 26 Continuing Care Facility Disclosure and Rehabilitation Act  
 27 (chapter 80D), when acting solely as incident to the contract;

28 (m) any broker-dealer or agent of a broker-dealer when  
 29 participating in a transaction in which all or part of a  
 30 business opportunity or business, including any interest  
 31 therein, is conveyed or acquired pursuant to an asset purchase,  
 32 merger, exchange of securities or other business combination, if  
 33 the agent or broker-dealer is licensed pursuant to chapter 80A.

082\*#19S

34 82.19 PROHIBITIONS.

35 Subdivision 1. No person shall act as a real estate broker  
 36 or salesperson unless ~~he is~~ licensed as herein provided. \*

37 Subd. 2. No person persons shall advertise or represent  
 38 himself themselves to be a real estate broker brokers or  
 39 salesperson salespeople unless licensed as herein provided. \*  
 \*

40 Subd. 3. No real estate broker or salesperson shall offer,  
 41 pay or give, and no person shall accept, any compensation or  
 42 other thing of value from any real estate broker or salesperson  
 43 by way of commission-splitting, rebate, finder's fees or  
 44 otherwise, in connection with any real estate or business  
 45 opportunity transaction; provided this subdivision does not  
 46 apply to transactions (1) between a licensed real estate broker  
 47 or salesperson and the person by whom he the broker or \*  
 48 salesperson is engaged to purchase or sell real estate or \*  
 49 business opportunity, (2) among persons licensed as provided  
 50 herein, and (3) between a licensed real estate broker or  
 51 salesperson and persons from other jurisdictions similarly  
 52 licensed in that jurisdiction. A licensed real estate broker or  
 53 salesperson may assign or direct that commissions or other  
 54 compensation earned in connection with any real estate or  
 55 business opportunity transaction be paid to a corporation of  
 56 which the licensed real estate broker or salesperson is the sole  
 57 owner.

58 Subd. 4. No real estate broker or salesperson shall engage  
 59 or authorize any person, except one licensed as provided herein,  
 60 to act as a real estate broker or salesperson on ~~his the~~  
 61 engager's or authorizer's behalf. \*  
 \*

62 Subd. 5. DISCLOSURE REGARDING REPRESENTATION OF

63 PARTIES. (a) No person licensed pursuant to this chapter or  
 64 who otherwise acts as a real estate broker or salesperson shall  
 65 represent any party or parties to a real estate transaction or  
 66 otherwise act as a real estate broker or salesperson unless he \*  
 67 or-she that person makes an affirmative written disclosure to \*  
 68 all parties to the transaction as to which party he-or-she that \*  
 69 person represents in the transaction. The disclosure shall be \*  
 70 printed in at least 6-point bold type on the purchase agreement  
 71 and acknowledged by separate signatures of the buyer and seller.

72 (b) The disclosure required by this subdivision must be  
 73 made by the licensee prior to any offer being made to or  
 74 accepted by the buyer. A change in licensee's representation  
 75 that makes the initial disclosure incomplete, misleading, or



1 inaccurate requires that a new disclosure be made at once.  
 2 (c) The seller may, in the listing agreement, authorize the  
 3 seller's broker to disburse part of the broker's compensation to  
 4 other brokers, including the buyer's brokers solely representing  
 5 the buyer. A broker representing a buyer shall make known to  
 6 the seller or the seller's agent the fact of the agency  
 7 relationship before any showing or negotiations are initiated.

082\*#20S

8 82.20 LICENSING REQUIREMENTS.

9 Subdivision 1. GENERALLY. (a) The commissioner  
 10 shall issue a license as a real estate broker or real estate  
 11 salesperson to any person who qualifies for such license under  
 12 the terms of this chapter;

13 (b) The commissioner is authorized to establish by rule a  
 14 special license for real estate brokers and real estate  
 15 ~~salespersons~~ salespeople engaged solely in the rental or \*  
 16 management of an interest or estate in real estate, to prescribe  
 17 qualifications for the license, and to issue the license  
 18 consistent with the terms of this chapter. This clause shall  
 19 not be construed to require those owners or managers or their  
 20 agents or employees who are excluded by section 82.18, clause  
 21 (d) from the definition of real estate broker, to obtain the  
 22 special license.

23 No change for subd 2

24 Subd. 3. APPLICATION FOR LICENSE; CONTENTS. (a)  
 25 Every applicant for a license as a real estate broker or real  
 26 estate salesperson shall make ~~his~~ an application in writing upon \*  
 27 forms prepared and furnished by the commissioner. Each  
 28 application shall be signed and sworn to by the applicant and  
 29 shall be accompanied by the license fee required by this chapter;

30 (b) Each application for a real estate broker license and  
 31 real estate salesperson license shall contain such information  
 32 as required by the commissioner consistent with the  
 33 administration of the provisions and purposes of this chapter;

34 (c) Each application for a real estate salesperson license  
 35 shall give the applicant's name, age, residence address and the  
 36 name and place of business of the real estate broker on whose  
 37 behalf said salesperson is to be acting;

38 (d) The commissioner may require such further information  
 39 as ~~he~~ the commissioner deems appropriate to administer the \*  
 40 provisions and further the purposes of this chapter.

41 No change for subd 4

42 Subd. 5. RESPONSIBILITY. Each broker shall be  
 43 responsible for the acts of any and all of ~~his~~ the broker's  
 44 sales people while acting as agents on his the broker's behalf  
 45 as-his-agents. Each officer of a corporation or partner in a \*  
 46 partnership licensed as a broker shall have the same \*  
 47 responsibility under this chapter as a corporate or partnership \*  
 48 broker with regard to the acts of the ~~salespersons~~ salespeople \*  
 49 acting on behalf of the corporation or partnership.

50 Subd. 6. ISSUANCE OF LICENSE; SALESPERSON. A  
 51 salesperson must be licensed to act on behalf of a licensed  
 52 broker and may not be licensed to act on behalf of more than one  
 53 broker in this state during the same period of time. The license  
 54 of each real estate salesperson shall be mailed to and remain in  
 55 the possession of the licensed broker with whom ~~he~~ the \*  
 56 salesperson is or is to be associated until canceled or until \*  
 57 such licensee leaves such broker.

58 No change for subd 7 to 8

59 Subd. 9. TERMINATIONS; TRANSFERS. (a) Except as \*  
 60 provided in paragraph (b), when a salesperson terminates ~~his~~ \*  
 61 activity on behalf of a broker, the salesperson's license shall  
 62 be ineffective. Within ten days of the termination the broker  
 63 shall notify the commissioner in writing, and shall return to  
 64 the commissioner the license of the salesperson. The  
 65 salesperson may apply for transfer of the license to another  
 66 broker at any time during the remainder of the license period,  
 67 on forms provided by the commissioner. If the application for  
 68 transfer qualifies, the commissioner shall grant the  
 69 application. Upon receipt of a transfer application and payment  
 70 of the transfer fee, the commissioner may issue a 45 day  
 71 temporary license. If an application for transfer is not made  
 72 within the license period, the commissioner shall require that  
 73 an application for a new license be filed.

74 (b) When a salesperson terminates ~~his~~ activity on behalf of \*  
 75 a broker in order to begin association immediately with another



1 broker, the commissioner shall permit the automatic transfer of  
 2 the salesperson's license. The transfer shall be effective  
 3 either upon the mailing of the required fee and the executed  
 4 documents by certified mail or upon personal delivery of the fee  
 5 and documents to the commissioner's office. The commissioner  
 6 may adopt rules and prescribe forms as necessary to implement  
 7 this paragraph.

8 (c) When a broker terminates ~~his~~ activity in order to begin \*  
 9 association with another broker, the commissioner shall permit  
 10 the automatic transfer of the broker's license to a  
 11 salesperson's license. If there are licensed ~~salespersons~~ \*  
 12 salespeople working for the broker ~~he~~, the broker shall certify \*  
 13 that a broker will remain in the company ~~he~~ that the broker is \*  
 14 leaving prior to issuance of the transfer. The transfer shall  
 15 be effective either upon the mailing of the required fee and the  
 16 executed documents by certified mail or upon personal delivery  
 17 of the fee and documents to the commissioner's office.

18 Subd. 10. EFFECT OF SUSPENSION OR REVOCATION. The  
 19 license of a salesperson is not effective during any period for  
 20 which the license of the broker on whose behalf ~~he~~ the \*  
 21 salesperson is acting is suspended or revoked. The salesperson \*  
 22 may apply for transfer to some other licensed broker by  
 23 complying with subdivision 9.

24 No change for subd 11 to 14

082\*#22S

25 82.22 EXAMINATIONS.

26 No change for subd 1 to 3

27 Subd. 4. EXAMINATION FREQUENCY. The commissioner  
 28 shall hold examinations at such times and places as ~~he~~ the \*  
 29 commissioner may determine, except that said examinations will \*  
 30 be held at least every 45 days.

31 No change for subd 5

32 Subd. 6. INSTRUCTION; NEW LICENSES. (a) Every  
 33 salesperson, licensed after July 1, 1973 and before July 1, 1976  
 34 shall, within two years of the date ~~his~~ a license was first \*  
 35 granted be required to successfully complete a course of study  
 36 in the real estate field consisting of not less than 60 hours of  
 37 instruction, approved by the commissioner. Upon appropriate  
 38 showing of hardship by the licensee, or for persons licensed  
 39 pursuant to section 82.20, subdivision 1, clause (b), the  
 40 commissioner may waive or modify the requirements of this  
 41 subdivision. Every salesperson licensed after July 1, 1976 and  
 42 before July 1, 1978 shall, within three years of the date ~~his~~ a \*  
 43 license was first issued, be required to successfully complete a  
 44 course of study in the real estate field consisting of not less  
 45 than 90 hours of instruction, approved by the commissioner;

46 (b) After July 1, 1978, and before January 1, 1984, every  
 47 applicant for a salesperson's license shall be required to  
 48 successfully complete a course of study in the real estate field  
 49 consisting of 30 hours of instruction approved by the  
 50 commissioner before taking the examination specified in  
 51 subdivision 1. Every salesperson licensed after July 1, 1978,  
 52 and before January 1, 1984, shall, within one year of the date  
 53 ~~his~~ a license was first issued, be required to successfully \*  
 54 complete a course of study in the real estate field consisting  
 55 of 60 hours of instruction approved by the commissioner.

56 (c) After December 31, 1983, every applicant for a  
 57 salesperson's license shall be required to successfully complete  
 58 a course of study in the real estate field consisting of 30  
 59 hours of instruction approved by the commissioner before taking  
 60 the examination specified in subdivision 1. After December 31,  
 61 1983, every applicant for a salesperson's license shall be  
 62 required to successfully complete an additional course of study  
 63 in the real estate field consisting of 30 hours of instruction  
 64 approved by the commissioner before filing an application for  
 65 the license. Every salesperson licensed after December 31,  
 66 1983, shall, within one year of the date ~~his~~ a license was first \*  
 67 issued, be required to successfully complete a course of study  
 68 in the real estate field consisting of 30 hours of instruction  
 69 approved by the commissioner.

70 (d) The commissioner may approve courses of study in the  
 71 real estate field offered in educational institutions of higher  
 72 learning in this state or courses of study in the real estate  
 73 field developed by and offered under the auspices of the  
 74 national association of realtors, its affiliates, or private  
 75 real estate schools. The commissioner may by rule prescribe the



1 curriculum and qualification of those employed as instructors.

2 Subd. 7. INSTRUCTION; LICENSEES SUBSEQUENT TO JULY 1,  
3 1969. Every salesperson licensed prior to July 1, 1973, but  
4 subsequent to July 1, 1969, within two years of the date his a \*  
5 license was first granted, shall be required to successfully  
6 complete a course of study in the real estate field consisting  
7 of not less than 30 hours of instruction, approved by the  
8 commissioner. Upon the failure of a licensee covered by this  
9 subdivision to complete the required 30 hours of instruction,  
10 the licensee must pass a second examination more difficult in  
11 degree than the one required for granting of ~~his-salesman's a~~ \*  
12 salesperson's license. \*

13 No change for subd 8

14 Subd. 9. APPLICATION. Subdivisions 6 to 8 shall not  
15 apply to ~~salespersons salespeople~~ licensed in Minnesota prior to \*  
16 July 1, 1969.

17 No change for subd 10

18 Subd. 11. EXAMINATION ELIGIBILITY; REVOCATION. No  
19 applicant shall be eligible to take any examination if his a \*  
20 license as a real estate broker or salesperson has been revoked  
21 in this or any other state within two years of the date of the  
22 application.

23 No change for subd 12

24 Subd. 13. CONTINUING EDUCATION. (a) After July 1,  
25 1978, all real estate ~~salespersons salespeople~~ not subject to or \*  
26 who have completed the educational requirements contained in  
27 subdivision 6 and all real estate brokers shall be required to  
28 successfully complete 45 hours of real estate education, either  
29 as a student or a lecturer, in courses of study approved by the  
30 commissioner, within three years after their annual renewal date.

31 (b) For the purposes of administration, the commissioner  
32 shall classify by lot, the real estate brokers and ~~salespersons~~ \*  
33 salespeople subject to (a) above, in three classifications of \*  
34 substantially equal size. The first class shall complete 15  
35 hours of approved real estate study between July 1, 1978 and  
36 June 30, 1979 inclusive. The second class shall complete 30  
37 hours of approved real estate study between the dates of July 1,  
38 1978 and June 30, 1980 inclusive. The third class shall  
39 complete 45 hours of approved real estate study between the  
40 dates of July 1, 1978 and June 30, 1981. After the first  
41 period, each class shall complete the prescribed educational  
42 requirements during successive three year periods.

43 (c) The commissioner shall adopt rules defining the  
44 standards for course and instructor approval, and may adopt  
45 rules for the proper administration of this subdivision.

46 (d) Any program approved by Minnesota Continuing Legal  
47 Education shall be approved by the commissioner of commerce for  
48 continuing education for real estate brokers and salespeople if  
49 the program or any part thereof relates to real estate.

082\*#24S

50 82.24 TRUST ACCOUNT REQUIREMENTS.

51 Subdivision 1. GENERALLY. All trust funds received  
52 by a broker or ~~his-salespersons the broker's salespeople~~ shall \*  
53 be deposited forthwith upon receipt in a trust account,  
54 maintained by the broker for such purpose in a bank or an  
55 industrial loan and thrift company with deposit liabilities  
56 designated by the broker, except as such moneys may be paid to  
57 one of the parties pursuant to express written agreement between  
58 the parties to a transaction. The depository bank shall be a  
59 Minnesota bank or trust company or any foreign bank and shall  
60 authorize the commissioner to examine its records of such  
61 deposits upon demand by the commissioner. The industrial loan  
62 and thrift company shall be organized under chapter 53.

63 Subd. 2. LICENSEE ACTING AS PRINCIPAL. Any licensed  
64 real estate broker or salesperson acting in the capacity of  
65 principal in the sale of interests in real estate owned by ~~him~~ \*  
66 the licensee shall deposit in a Minnesota bank or trust company, \*  
67 any foreign bank which authorizes the commissioner to examine  
68 its records of such deposits, or an industrial loan and thrift  
69 company organized under chapter 53 with deposit liabilities, in  
70 a trust account, those parts of all payments received on  
71 contracts which are necessary to meet any amounts concurrently  
72 due and payable on any existing mortgages, contracts for deed or  
73 other conveyancing instruments, and reserve for taxes and  
74 insurance or any other encumbrance on such receipts. Such  
75 deposits shall be maintained until disbursement is made under



1 the terms of the encumbrance pertaining thereto and proper  
2 accounting on such property made to the parties entitled thereto.  
3 No change for subd 3  
4 Subd. 4. COMMINGLING FUNDS. A broker or salesperson  
5 shall deposit only trust funds in a trust account and shall not  
6 commingle personal funds or other funds in a trust account,  
7 except that a broker or salesperson may deposit and maintain a  
8 sum not to exceed \$500 in a trust account from ~~his~~ personal \*  
9 funds, which sum shall be specifically identified and used to  
10 pay service charges relating to the trust account.

11 No change for subd 5 to 7

082\*#25S

12 82.25 INVESTIGATION AND SUBPOENAS.

13 No change for subd 1 to 2

14 Subd. 3. For the purpose of any investigation hearing or  
15 proceeding under this chapter, the commissioner or any person  
16 designated by ~~him~~ the commissioner may administer oaths or \*  
17 affirmations, and may subpoena witnesses, compel their  
18 attendance, take evidence, and compel the production of  
19 documents or other tangible items which the commissioner deems  
20 relevant or material to the inquiry.

21 No change for subd 4

082\*#26S

22 82.26 LEGAL ACTIONS; INJUNCTIONS.

23 Whenever it appears to the commissioner that any person has  
24 engaged or is about to engage in any act or practice  
25 constituting a violation of this chapter or any rule or order  
26 hereunder, ~~he~~ the commissioner may bring an action in the name \*  
27 of the state in the district court of the appropriate county to  
28 enjoin the acts or practices and to enforce compliance with this  
29 chapter or any rule or order hereunder, or ~~he~~ may refer the \*  
30 matter to the attorney general. Upon a proper showing, a  
31 permanent or temporary injunction, restraining order, or other  
32 appropriate relief shall be granted.

082\*#27S

33 82.27 DENIAL, SUSPENSION AND REVOCATION OF LICENSES.

34 Subdivision 1. The commissioner may by order deny, suspend  
35 or revoke any license or may censure a licensee if ~~he~~ the \*  
36 commissioner finds (1) that the order is in the public interest, \*  
37 and (2) that the applicant or licensee or, in the case of a  
38 broker, any officer, director, partner, employee or agent or any  
39 person occupying a similar status or performing similar  
40 functions, or any person directly or indirectly controlling the  
41 broker or controlled by the broker:

42 (a) Has filed an application for a license which is  
43 incomplete in any material respect or contains any statement  
44 which, in light of the circumstances under which it is made, is  
45 false or misleading with respect to any material fact;

46 (b) Has engaged in a fraudulent, deceptive or dishonest  
47 practice;

48 (c) Is permanently or temporarily enjoined by any court of  
49 competent jurisdiction from engaging in or continuing any  
50 conduct or practice involving any aspect of the real estate  
51 business;

52 (d) Has failed to reasonably supervise ~~his~~ brokers or \*  
53 salesperson so as to cause injury or harm to the public; or

54 (e) Has violated or failed to comply with any provision of  
55 this chapter or any rule or order under this chapter.

56 Subd. 2. The commissioner may promulgate rules and  
57 regulations further specifying and defining those actions and  
58 omissions which constitute fraudulent, deceptive or dishonest  
59 practices, and establishing standards of conduct for real estate  
60 brokers and ~~salespersons~~ salespeople. \*

61 Subd. 3. The commissioner shall issue an order requiring a  
62 licensee or applicant for a license to show cause why the  
63 license should not be revoked or suspended, or the licensee  
64 censured, or the application denied. The order shall be  
65 calculated to give reasonable notice of the time and place for  
66 hearing thereon, and shall state the reasons for the entry of  
67 the order. The commissioner may by order summarily suspend a  
68 license pending final determination of any order to show cause.  
69 If a license is suspended pending final determination of an  
70 order to show cause, a hearing on the merits shall be held  
71 within 30 days of the issuance of the order of suspension. All  
72 hearings shall be conducted in accordance with the provisions of  
73 chapter 14. After the hearing, the commissioner shall enter an



1 order making such disposition of the matter as the facts  
 2 require. If the licensee or applicant fails to appear at a  
 3 hearing ~~of which he has~~ after having been duly notified of it,  
 4 such person shall be deemed in default, and the proceeding may  
 5 be determined against ~~him~~ the licensee or applicant upon  
 6 consideration of the order to show cause, the allegations of  
 7 which may be deemed to be true.

8 Subd. 4. The commissioner may delegate to an  
 9 administrative law judge ~~his~~ the authority to conduct a  
 10 hearing. The examiner shall make proposed findings of fact and  
 11 submit them to the commissioner. The examiner shall have the  
 12 same power as the commissioner to compel the attendance of  
 13 witnesses, to examine them under oath, to require the production  
 14 of books, papers and other evidence, and to issue subpoenas and  
 15 cause the same to be served and executed in any part of the  
 16 state.

17 No change for subd 5 to 6

082\*#31S

18 82.31 NONRESIDENT SERVICE OF PROCESS.

19 Subdivision 1. Every nonresident, before being licensed as  
 20 a real estate broker or real estate ~~salesman~~ salesperson, shall  
 21 appoint the commissioner and ~~his~~ a successor or successors in  
 22 office as true and lawful attorney, upon whom may be served all  
 23 legal process in any action or proceedings against such person,  
 24 or in which such person may be a party, in relation to or  
 25 involving any transaction covered by this chapter or any rule or  
 26 order hereunder, which appointment shall be irrevocable.  
 27 Service upon such attorney shall be as valid and binding as if  
 28 due and personal service had been made upon such person. Any  
 29 such appointment shall be effective upon the issuance of the  
 30 license in connection with which the appointment was filed.

31 Subd. 2. The commission of any act which constitutes a  
 32 violation of this chapter or rule or order hereunder by any  
 33 nonresident person who has not theretofore appointed the  
 34 commissioner ~~his~~ as attorney in compliance with subdivision 1  
 35 shall be conclusively deemed an irrevocable appointment by such  
 36 person of the commissioner and ~~his~~ a successor or successors in  
 37 any action or proceedings against ~~him~~ the nonresident or in  
 38 which ~~he~~ the nonresident may be a party in relation to or  
 39 involving such violation; and such violation shall be a  
 40 signification of ~~his~~ agreement that all such legal process which  
 41 is so served shall be as valid and binding upon ~~him~~ the  
 42 nonresident as if due and personal service thereof had been made  
 43 upon-him.

44 Subd. 3. Service of process under this section may be made  
 45 by filing a copy of the process with the commissioner or ~~his~~ a  
 46 representative, but is not effective unless:

47 (a) The plaintiff, who may be the commissioner in an action  
 48 or proceeding instituted by ~~him~~ the commissioner, sends notice  
 49 of the service and a copy of the process by certified mail to  
 50 the defendant or respondent at ~~his~~ the address as shown by the  
 51 records at the office of the commissioner in the case of service  
 52 made on the commissioner as attorney pursuant to appointment in  
 53 compliance with subdivision 1, and at ~~his~~ the defendant's or  
 54 respondent's last known address in the case of service on the  
 55 commissioner as attorney pursuant to appointment by virtue of  
 56 subdivision 2; and

57 (b) The plaintiff's affidavit of compliance with this  
 58 subdivision is filed in the action or proceeding on or before  
 59 the return day of the process, if any, or within such further  
 60 time as the court or administrative law judge allows.

082\*#33S

61 82.33 CIVIL ACTIONS.

62 Subdivision 1. No person shall bring or maintain any  
 63 action in the courts of this state for the collection of  
 64 compensation for the performance of any of the acts for which a  
 65 license is required under this chapter without alleging and  
 66 proving that ~~he~~ the person was a duly licensed real estate  
 67 broker or salesperson at the time the alleged cause of action  
 68 arose.

69 No change for subd .2

082\*#34S

70 82.34 REAL ESTATE EDUCATION, RESEARCH AND RECOVERY FUND.

71 No change for subd 1 to 2

72 Subd. 3. Each real estate broker and real estate  
 73 salesperson entitled under this chapter to renew ~~his~~ a license,



1 when renewing for the first time after July 1, 1973, shall pay  
 2 in addition to the appropriate renewal fee a further fee of \$20  
 3 which shall be credited to the real estate education, research  
 4 and recovery fund. Any person who receives a new real estate  
 5 broker's or real estate salesperson's license after July 1, 1973  
 6 shall pay said fee of \$20 in addition to all other fees payable,  
 7 provided that in no case shall any real estate broker or real  
 8 estate salesperson be required under this subdivision to pay  
 9 said fee of \$20 more than once. The one time fee shall increase  
 10 to \$40 for any person who receives a new real estate broker's or  
 11 real estate salesperson's license after July 1, 1980. In  
 12 addition each real estate broker or real estate salesperson when  
 13 renewing ~~his~~ a license after July 1, 1980, shall each time pay a \*  
 14 fee of \$5 to be credited to the real estate education, research  
 15 and recovery fund.

16 Subd. 4. If at the end of any fiscal year prior to  
 17 calendar year 1981 following the establishment of the real  
 18 estate education, research and recovery fund, the amount  
 19 remaining in the fund is less than \$200,000, every licensed real  
 20 estate broker and real estate salesperson, when renewing ~~his~~ a \*  
 21 license, shall pay in addition to the annual renewal fee, a sum  
 22 not to exceed \$20 said sum having been determined by the  
 23 commissioner to be sufficient to restore the balance in the fund  
 24 to at least \$200,000.

25 Commencing with calendar year 1981, not to exceed \$400,000  
 26 of the fund shall be available for recovery purposes to satisfy  
 27 all claims authorized for payment each calendar year. This  
 28 shall be designated as the recovery portion of the fund.  
 29 Commencing in calendar year 1981, if the amount remaining in the  
 30 fund after payment of all amounts authorized during the  
 31 preceding calendar year for payment to claimants is less than  
 32 \$400,000 plus the amount appropriated pursuant to subdivision 6,  
 33 every licensed real estate broker and real estate salesperson,  
 34 when renewing ~~his~~ a license, shall pay, in addition to the \*  
 35 annual renewal fee and the \$5 fee set forth in subdivision 3, a  
 36 sum not to exceed \$35, said sum having been reasonably  
 37 determined by the commissioner to be necessary to restore the  
 38 balance in the fund.

39 No change for subd 5 to 7

40 Subd. 8. The court shall conduct a hearing upon such  
 41 application 30 days after service of the application upon the  
 42 commissioner. Upon petition of the commissioner, the court  
 43 shall continue the hearing up to 60 days further; and upon a  
 44 showing of good cause may continue the hearing for such further  
 45 period as the court deems appropriate. At the hearing the  
 46 aggrieved person shall be required to show that the person: \*

47 (a) He is not a spouse of debtor, or the personal \*

48 representative of such spouse; \*

49 (b) He has complied with all the requirements of this \*

50 section; \*

51 (c) He has obtained a judgment as set out in subdivision 7,  
 52 stating the amount thereof and the amount owing thereon at the  
 53 date of the application; \*

54 (d) He has made all reasonable searches and inquiries to \*

55 ascertain whether the judgment debtor is possessed of real or  
 56 personal property or other assets, liable to be sold or applied  
 57 in satisfaction of the judgment; \*

58 (e) By such search he has discovered no personal or real \*

59 property or other assets liable to be sold or applied, or ~~that~~ \*

60 he has discovered certain of them, describing them, owned by the \*

61 judgment debtor and liable to be so applied, and ~~that-he~~ has \*

62 taken all necessary action and proceedings for the realization  
 63 thereof, and that the amount thereby realized was insufficient  
 64 to satisfy the judgment, stating the amount so realized and the  
 65 balance remaining due on the judgment after application of the  
 66 amount realized;

67 (f) He has diligently pursued ~~his~~ remedies against all the \*  
 68 judgment debtors and all other persons liable to ~~him~~ that person \*  
 69 in the transaction for which ~~he~~ that person seeks recovery from \*  
 70 the real estate education, research and recovery fund; \*

71 (g) He is making said application no more than one year \*  
 72 after the judgment becomes final, or no more than one year after  
 73 the termination of any review or appeal of the judgment.

74 Subd. 9. Whenever the court proceeds upon an application  
 75 as set forth in subdivision 7, it shall order payment out of the  
 76 recovery portion of the fund only upon a determination that the



1 aggrieved party has a valid cause of action within the purview  
 2 of subdivision 7 and has complied with the provisions of  
 3 subdivision 8. The judgment shall be only prima facie evidence  
 4 of such cause of action and for the purposes of this section  
 5 shall not be conclusive. The commissioner may defend any such  
 6 action on behalf of the fund and shall have recourse to all  
 7 appropriate means of defense and review including examination of  
 8 witnesses. The commissioner may move the court at any time to  
 9 dismiss the application when it appears there are no triable  
 10 issues and the petition is without merit. The motion may be  
 11 supported by affidavit of any person or persons having knowledge  
 12 of the facts, and may be made on the basis that the petition,  
 13 and the judgment referred to therein, does not form the basis  
 14 for a meritorious recovery claim within the purview of  
 15 subdivision 7; provided, however, the commissioner shall give  
 16 written notice at least ten days before such motion. The  
 17 commissioner may, subject to court approval, compromise a claim  
 18 based upon the application of an aggrieved party;--He but shall \*  
 19 not be bound by any prior compromise or stipulation of the  
 20 judgment debtor.

21 Subd. 10. The commissioner may defend any such action on  
 22 behalf of the fund and shall have recourse to all appropriate  
 23 means of defense and review, including examination of  
 24 witnesses. The judgment debtor may defend any such action on  
 25 ~~his~~ the debtor's own behalf and shall have recourse to all \*  
 26 appropriate means of defense and review, including examination  
 27 of witnesses. Whenever an applicant's judgment is by default,  
 28 stipulation, or consent, or whenever the action against the  
 29 licensee was defended by a trustee in bankruptcy, the applicant  
 30 shall have the burden of proving ~~his~~ the cause of action for \*  
 31 fraudulent, deceptive or dishonest practices, or conversion of  
 32 trust funds. Otherwise, the judgment shall create a rebuttable  
 33 presumption of the fraudulent, deceptive or dishonest practices,  
 34 or conversion of trust funds. This presumption is a presumption  
 35 affecting the burden of producing evidence.

36 No change for subd 11 to 12

37 Subd. 13. Should the commissioner pay from the recovery  
 38 portion of the fund any amount in settlement of a claim or  
 39 toward satisfaction of a judgment against a licensed broker or  
 40 salesperson, the license of the broker or salesperson shall be  
 41 automatically suspended upon the effective date of an order by  
 42 the court as set forth herein authorizing payment from the  
 43 recovery portion of the fund. No such broker or salesperson  
 44 shall be granted reinstatement until ~~he~~ the person has repaid in \*  
 45 full, plus interest at the rate of 12 percent a year, twice the  
 46 amount paid from the recovery portion of the fund on ~~his~~ the \*  
 47 person's account, and has obtained a surety bond issued by an \*  
 48 insurer authorized to transact business in this state in the  
 49 amount of \$40,000. The bond shall be filed with the  
 50 commissioner, with the state of Minnesota as obligee,  
 51 conditioned for the prompt payment to any aggrieved person  
 52 entitled thereto, of any amounts received by the real estate  
 53 broker or salesperson or to protect any aggrieved person from  
 54 loss resulting from fraudulent, deceptive or dishonest practices  
 55 or conversion of trust funds arising out of any transaction when  
 56 the real estate broker or salesperson was licensed and performed  
 57 acts for which a license is required under this chapter. The  
 58 bond shall remain operative for as long as that real estate  
 59 broker or salesperson is licensed. No payment shall be made  
 60 from the recovery portion of the fund based upon claims against  
 61 any broker or salesperson who is granted reinstatement pursuant  
 62 to this subdivision. A discharge in bankruptcy shall not  
 63 relieve a person from the penalties and disabilities provided in  
 64 this section.

65 No change for subd 14 to 16

66 Subd. 17. When, upon the order of the court, the  
 67 commissioner has paid from the recovery portion of the fund any  
 68 sum to the judgment creditor, the commissioner shall be  
 69 subrogated to all of the rights of the judgment creditor to the  
 70 extent of the amount so paid and the judgment creditor shall  
 71 assign all ~~his~~ right, title and interest in the judgment to the \*  
 72 extent of the amount so paid to the commissioner and any amount  
 73 and interest so recovered by the commissioner on the judgment  
 74 shall be deposited to the fund.

75 No change for subd 18 to 20



## 1 82A.02 DEFINITIONS.

2 No change for subd 1 to 7

3 Subd. 8. COMMISSIONER. "Commissioner" means the  
4 commissioner of commerce of the state of Minnesota or ~~his-or-her~~ \*  
5 an authorized delegate. \*

6 No change for subd 9 to 19

## 082A#05S

## 7 82A.05 DISCLOSURE STATEMENT.

8 Subdivision 1. DELIVERY. A disclosure statement  
9 shall be delivered to each person to whom an offer is made  
10 before or concurrently with:11 (1) the first written offer other than offer by means of an  
12 advertisement; or

13 (2) any payment pursuant to a sale, whichever occurs first.

14 Each person to whom an offer is made must be afforded a  
15 reasonable opportunity to examine the disclosure statement and  
16 must be permitted to retain the statement. The seller shall  
17 obtain a receipt, signed by the person, acknowledging that ~~he-or~~ \*  
18 she the person has received a copy of the disclosure statement \*  
19 prior to the execution by the purchaser of any membership  
20 camping contract. All receipts shall be kept in files which are  
21 in the possession of the membership camping operator or broker  
22 subject to inspection by the commissioner, for a period of three  
23 years from the date of the receipt.

24 No change for subd 2 to 5

25 Subd. 6. SEPARATE DISCLOSURE. If the membership  
26 camping operator or that person's ~~salespersons~~ salespeople \*  
27 represents to a prospective purchaser that the operator plans to  
28 construct or install any amenities in the future, but the  
29 operator has not guaranteed to do so and has not provided  
30 assurances that the amenities will be installed pursuant to  
31 section 82A.04, subdivision 2, clause (13)(iv), the operator  
32 shall furnish a separate disclosure to the prospective  
33 purchaser. The separate disclosure shall be in 10-point bold  
34 type and shall state: NOTICE: PURCHASE THIS MEMBERSHIP CAMPING  
35 CONTRACT ONLY ON THE BASIS OF EXISTING AMENITIES. CONSTRUCTION  
36 OF PLANNED AMENITIES IS NOT GUARANTEED. CONSTRUCTION MAY BE  
37 DEFERRED, REVISED, OR CANCELED FOR A VARIETY OF REASONS. THE  
38 PLANNED AMENITIES FOR THIS CAMPGROUND ARE (Insert list of  
39 amenities, including estimated year of completion of each). IF  
40 THE SALESPERSON DESCRIBES A SIGNIFICANT AMENITY WHICH IS NOT ON  
41 THIS LIST, TELEPHONE COLLECT OR TOLL FREE TO (Insert  
42 headquarters telephone number) TO VERIFY THE OPERATOR'S PLAN FOR  
43 SUCH A FACILITY.44 The separate disclosure shall be delivered to each person  
45 to whom an offer is made before or concurrently with:46 (1) the first written offer other than offer by means of an  
47 advertisement; or

48 (2) any payment pursuant to a sale, whichever is first.

49 The seller shall obtain a receipt, signed by the person,  
50 acknowledging that the person has received a copy of the  
51 separate disclosure required herein prior to the execution by  
52 the purchaser of any membership camping contract. All receipts  
53 shall be kept in files which are in the possession of the  
54 membership camping operator or broker subject to inspection by  
55 the commissioner for a period of three years from the date of  
56 the receipt.

## 082A#06S

## 57 82A.06 EXEMPTIONS.

58 Subdivision 1. The following transactions are exempt from  
59 the provisions of this chapter:60 (1) an offer, sale, or transfer by any one person of not  
61 more than one membership camping contract in any 12-month  
62 period; unless the offer, sale, or transfer is effected by or  
63 through a broker;

64 (2) an offer or sale by a government or governmental agency;

65 (3) a bona fide pledge of a membership camping contract;

66 and

67 (4) any transaction which the commissioner by rule or order  
68 exempts as not being within the purposes of this chapter and the  
69 registration of which ~~he-or-she~~ the commissioner finds is not \*  
70 necessary or appropriate in the public interest or for the  
71 protection of purchasers.

72 No change for subd 2

## 082A#12S

73 82A.12 ENFORCEMENT; POWERS OF COMMISSIONER.



1 No change for subd 1 to 4  
 2 Subd. 5. INVESTIGATIONS. The commissioner may make  
 3 necessary public or private investigations within or outside of  
 4 this state to determine whether any person has violated or is  
 5 about to violate this chapter or any rule or order hereunder or  
 6 to aid in the enforcement of this chapter or in the prescribing  
 7 of rules and forms hereunder. For purposes of any investigation  
 8 or proceeding under this chapter, the commissioner or any person  
 9 designated by ~~him-or-her~~ the commissioner may require or permit \*  
 10 any person to file a statement in writing, under oath or  
 11 otherwise as the commissioner determines, setting forth the  
 12 facts and circumstances concerning the matter to be investigated;  
 13 administer oaths or affirmations, and upon ~~his-or-her~~ the \*  
 14 commissioner's own motion or upon request of any party may \*  
 15 subpoena witnesses, compel their attendance, take evidence, and  
 16 require the production of any matter which is relevant to the  
 17 investigation, including the existence, description, nature,  
 18 custody, condition, and location of any books, documents, or  
 19 other tangible things and the identity and location of persons  
 20 having knowledge of relevant facts, or any other matter  
 21 reasonably calculated to lead to the discovery of material  
 22 evidence. Upon failure to obey a subpoena or to answer  
 23 questions propounded by the investigating officer and upon  
 24 reasonable notice to all persons affected thereby, the  
 25 commissioner may apply to the district court for an order to  
 26 compel compliance.

082A#14S

27 82A.14 UNFAIR PRACTICES.  
 28 No membership camping operator shall:  
 29 (1) sell or offer to sell any membership camping contract  
 30 with respect to a campground located in this state which is  
 31 subject to a blanket encumbrance unless;  
 32 (i) each person holding an interest in a blanket  
 33 encumbrance shall have executed and delivered a nondisturbance  
 34 agreement and recorded the agreement in the real estate records  
 35 of the county in which the campground is located; or  
 36 (ii) a bond or irrevocable letter of credit has been  
 37 issued, or cash or a certified check in an amount sufficient to  
 38 cover payment of all amounts secured by the blanket encumbrance  
 39 has been deposited, in the name of the state for the benefit and  
 40 protection of purchasers of membership camping contracts and  
 41 subject to terms as approved by the commissioner. Any interest  
 42 accruing on amounts held in the account shall be payable, as and  
 43 when earned, to the membership camping operator. Any bond shall  
 44 be executed by an insurance company authorized to do business in  
 45 this state, which has sufficient net worth to satisfy the  
 46 indebtedness and which has given consent to be sued in this  
 47 state. Any irrevocable letter of credit shall be issued by a  
 48 bank or savings and loan association which has sufficient net  
 49 worth to satisfy the indebtedness and which has given its  
 50 consent to be sued in this state. The bond, cash, certified  
 51 check, or irrevocable letter of credit shall be in an amount  
 52 which is not less than 110 percent of the remaining principal  
 53 balance of every indebtedness or obligation secured by a blanket  
 54 encumbrance affecting the campground. The bond or agreement  
 55 accompanying the cash, certified check, or irrevocable bank  
 56 letter of credit shall provide for the payment of all amounts  
 57 secured by the blanket encumbrance, including costs, expenses,  
 58 and legal fees of the lien holder, if for any reason the blanket  
 59 encumbrance is enforced. The bond, cash, certified check, or  
 60 letter of credit may be reduced periodically in proportion to  
 61 the reductions in the amount secured by the blanket encumbrance;  
 62 or  
 63 (iii) the lender providing the major hypothecation loan to  
 64 the membership camping operator (the "hypothecation lender"),  
 65 and having a lien on or security interest in the membership  
 66 camping operator's interest in the campground, shall have  
 67 executed and delivered a nondisturbance agreement and recorded  
 68 the agreement in the real estate records of the county in which  
 69 the campground is located in this state. Each person holding an  
 70 interest in a blanket encumbrance superior to the interest held  
 71 by the hypothecation lender shall have executed, delivered, and  
 72 recorded an instrument stating that the person shall give the  
 73 hypothecation lender notice of, and at least 30 days'  
 74 opportunity to cure, any default under the blanket encumbrance  
 75 which entitles the person to foreclose upon the campground. The



1 instrument shall state that the notice and opportunity to cure  
2 shall be given before the person commences any foreclosure  
3 action affecting the campground and in accordance with the  
4 instrument. The hypothecation lender shall have guaranteed that  
5 it will cure or arrange for the cure of the default. Any holder  
6 of a blanket encumbrance inferior to the hypothecation lender  
7 who acquires the campground in foreclosure shall take the  
8 campground subject to the hypothecation lender's nondisturbance  
9 agreement. For purposes of this provision, a "hypothecation  
10 lender" is any lender extending a loan or line of credit to a  
11 membership camping operator secured by all or substantially all  
12 of the contract receivables arising from the membership camping  
13 operator's sale of membership camping contracts in this state.  
14 For purposes of this provision, "lender" means an insurance  
15 company or a federally or state chartered bank, savings and loan  
16 association, any other lending institution, the deposits of  
17 which are guaranteed or insured, by a federal agency, or any  
18 other person which has sufficient net worth to pay the  
19 obligations pursuant to this section if there are no reasonable  
20 grounds to believe that the lender will not be able to pay these  
21 obligations in the future; or

22 (iv) the operator can provide an alternative plan  
23 acceptable to the commissioner;

24 (2) sell any campground which is located in this state and  
25 available for use by purchasers, unless:

26 (i) the membership camping operator sells the campground to  
27 a person who takes the campground subject to all rights and  
28 interests of purchasers, and contractually agrees not to  
29 compromise the rights and interests of purchasers in regard to  
30 future conveyances of, or encumbrances placed on the campground;

31 (ii) the membership camping operator immediately  
32 substitutes for the use of purchasers another campground which  
33 is in the same general area and is at least as desirable for the  
34 purpose of camping and outdoor recreation as the previous  
35 campground. For purposes of this provision, "same general area"  
36 means a location within a 50-mile radius of the previous  
37 campground; or

38 (iii) the membership camping operator immediately  
39 substitutes for the use of purchasers another campground and the  
40 substitution is approved by two-thirds of all existing  
41 purchasers;

42 (3) substitute any campground located in this state and  
43 available for use by purchasers with a different campground,  
44 unless the substituted campground is in the same general area  
45 and is at least as desirable for the purpose of camping and  
46 outdoor recreation as the previous campground. For purposes of  
47 this provision, "same general area" means a location within a  
48 50-mile radius of the previous campground;

49 (4) sell membership camping contracts with respect to any  
50 campground located in this state that is not owned by the  
51 membership camping operator or leased by the membership camping  
52 operator for a lease term at least equal to the term of the  
53 membership camping contract with respect to the campground;

54 (5) fail to disclose the circumstances, if any, under which  
55 any reciprocal program that has been offered as an inducement to  
56 purchasers may be terminated;

57 (6) materially modify any campground rules or regulations  
58 or modify purchasers' rights to or the scope and nature of an  
59 amenity in a manner which significantly degrades or diminishes  
60 the material rights of any purchaser without prior notice to  
61 purchasers resident in this state; or materially adversely  
62 modify any material campground rules or regulations or  
63 materially adversely modify purchaser's rights to or the scope  
64 and nature of an amenity in a manner which the purchaser proves:

65 (i) significantly degrades or diminishes any material  
66 rights of that purchaser; and

67 (ii) has no compensating benefit to any other purchaser or  
68 groups of purchasers;

69 (7) terminate or provide for termination of a membership  
70 camping contract, except for good cause. "Good cause" shall  
71 mean failure of the purchaser to substantially or consistently  
72 comply with reasonable requirements imposed ~~upon him or her~~ by  
73 the membership camping contract and campground rules and  
74 regulations;

75 (8) terminate a membership camping contract without first  
76 giving written notice setting forth all reasons for the



1 termination to the purchaser at least 30 days prior to the  
 2 termination becoming effective;  
 3 (9) increase a purchaser's membership dues after the sale  
 4 of a contract in such a manner as to result in an increase  
 5 thereof greater than whichever of the following increases is  
 6 higher:  
 7 (i) the actual increase in costs of services or  
 8 improvements for which the membership dues are imposed; or  
 9 (ii) the increase in the United States city average  
 10 consumer price index for all urban consumers issued by the  
 11 United States Bureau of Labor Statistics or such other federally  
 12 prepared consumer price index or wage earner index as reasonably  
 13 selected by the operator in its discretion;  
 14 (10) require purchaser to certify the absence of any  
 15 misrepresentation or other violation of this chapter provided,  
 16 however, that a purchaser's acknowledgment of receipt of a copy  
 17 of the membership camping contract shall not be deemed to  
 18 constitute such a certification;  
 19 (11) require the purchaser to waive the right to assert  
 20 against the membership camping operator or any assignee any  
 21 claim or defense the purchaser may have against the membership  
 22 camping operator under the membership camping contract; or  
 23 (12) materially and repeatedly fail to maintain a  
 24 campground in this state in the manner contractually agreed upon.

082A#17S

25 82A.17 DENIAL; SUSPENSION; REVOCATION OF LICENSES.

26 Subdivision 1. GROUNDS. The commissioner may by  
 27 order deny a license application, suspend or revoke any license,  
 28 or may censure a licensee ~~if he or she finds~~ on finding that the  
 29 order is in the public interest, and that the applicant or  
 30 licensee:

- 31 (1) has filed an application for a license which is
- 32 incomplete in any material respect or contains any statement
- 33 which, in light of the circumstances under which it is made, is
- 34 false or misleading with respect to any material fact;
- 35 (2) has engaged in a fraudulent or deceptive practice;
- 36 (3) is permanently or temporarily enjoined by any court of
- 37 competent jurisdiction from engaging in or continuing any
- 38 conduct or practice involving any aspect of the membership
- 39\* camping contract business or any other statute designed to
- 40 protect consumers; or
- 41 (4) has materially or intentionally violated or failed to
- 42 comply with any provision of this chapter or any rule or order
- 43 under this chapter.

44 Subd. 2. ORDER TO SHOW CAUSE. The commissioner shall  
 45 issue an order requiring a licensee or applicant for a license  
 46 to show cause why the license should not be revoked or  
 47 suspended, or the licensee censured, or the application denied.  
 48 The order shall be calculated to give reasonable notice of the  
 49 time and place for hearing thereon, and shall state the reasons  
 50 for the entry of the order. If the commissioner finds that  
 51 there are reasonable grounds to believe that, unless an order is  
 52 issued promptly, there is an immediate and significant risk of  
 53 harm to purchasers, the commissioner may by order summarily  
 54 suspend a license pending final determination of any order to  
 55 show cause. If a license is suspended pending final  
 56 determination of an order to show cause, a hearing on the merits  
 57 shall be held within 30 days of the issuance of the order of  
 58 suspension. All hearings shall be conducted in accordance with  
 59 the provisions of chapter 14. After the hearing, the  
 60 commissioner shall enter an order making such disposition of the  
 61 matter as the facts require. If the licensee or applicant fails  
 62 to appear at a hearing of which ~~he or she~~ that person has been  
 63 duly notified, the person shall be deemed in default, and the  
 64 proceeding may be determined against ~~him or her~~ that person upon  
 65 consideration of the order to show cause, the allegations of  
 66 which may be deemed to be true.

082A#18S

67 82A.18 ENFORCEMENT; PENALTIES AND REMEDIES.

68 Subdivision 1. CIVIL ACTION. Whenever the  
 69 commissioner has reasonable cause to believe that any person has  
 70 engaged or is about to engage in any act or practice  
 71 constituting a violation of any provisions of this chapter or  
 72 any rule or order thereunder, ~~he or she~~ the commissioner may, in  
 73 addition to all other remedies, institute on behalf of the state  
 74 of Minnesota a civil action seeking appropriate relief. In



1 addition to all other penalties and remedies provided by this  
 2 chapter, whether administrative or judicial in nature, the  
 3 courts of this state shall have jurisdiction to grant such  
 4 temporary, interlocutory, or permanent injunctive relief as is  
 5 necessary to prevent and restrain violations of this chapter and  
 6 may upon a proper showing appoint a receiver for the property,  
 7 assets, business, and affairs of a membership camping operator.

8 No change for subd 2 to 3

082A#20S

9 82A.20 RULES AND OPINIONS.

10 Subdivision 1. RULEMAKING POWER. The commissioner  
 11 may adopt rules to carry out the provisions of this chapter.  
 12 For the purpose of rules and forms, the commissioner may  
 13 classify membership camping contracts, persons, or matters  
 14 within ~~his-or-her~~ the commissioner's jurisdiction, and prescribe \*  
 15 different requirements for different classes insofar as they are  
 16 consistent with this chapter. Rules shall be adopted in  
 17 accordance with chapter 14, and shall not be inconsistent with  
 18 the provisions of this chapter.

19 No change for subd 2

082A#22S

20 82A.22 SERVICE OF PROCESS.

21 Subdivision 1. CONSENT TO SERVICE. Every membership  
 22 camping operator or broker, on whose behalf an application for  
 23 registration or exemption is filed, shall file with the  
 24 commissioner, in such form as the commissioner may prescribe, an  
 25 irrevocable consent appointing the commissioner and the  
 26 commissioner's successors in office to be the membership camping  
 27 operator's or broker's attorney to receive service of any lawful  
 28 process in any noncriminal suit, action, or proceeding against  
 29 the membership camping operator or broker or ~~his-or-her~~ a \*  
 30 successor, executor, or administrator which arises under this  
 31 chapter or any rule or order thereunder after the consent has  
 32 been filed, with the same force and validity as if served  
 33 personally on the membership camping operator or the operator's  
 34 successor, executor, or administrator. Service may be made by  
 35 leaving a copy of the process in the office of the commissioner,  
 36 but it is not effective unless:

37 (1) the plaintiff, who may be the commissioner in a suit,  
 38 action, or proceeding instituted by ~~him-or-her~~ the commissioner, \*  
 39 sends notice of the service and a copy of the process by  
 40 certified mail to the defendant or respondent at that person's  
 41 last address on file with the commissioner; and

42 (2) the plaintiff's affidavit of compliance with this  
 43 section is filed in the case on or before the return day of the  
 44 process, if any, or within such further time as the court allows.

45 Subd. 2. APPOINTMENT OF COMMISSIONER. When any  
 46 person, including any nonresident of this state, engages in  
 47 conduct prohibited or made actionable by this chapter, or any  
 48 rule or order thereunder, and the person has not filed a consent  
 49 to service of process under subdivision 1 and personal  
 50 jurisdiction over this person cannot otherwise be obtained in  
 51 this state, that conduct shall be considered equivalent to the  
 52 person's appointment of the commissioner or the commissioner's  
 53 successor to be the person's attorney to receive service of any  
 54 lawful process in any noncriminal suit, action, or proceeding  
 55 against the person which grows out of that conduct and which is  
 56 brought under this chapter or any rule or order thereunder, with  
 57 the same force and validity as if served on the person  
 58 personally. Service may be made by leaving a copy of the  
 59 process in the office of the commissioner, and it is not  
 60 effective unless:

61 (1) the plaintiff, who may be the commissioner in a suit,  
 62 action, or proceeding instituted by the commissioner, forthwith  
 63 sends notice of the service and a copy of the process by  
 64 certified mail to the defendant or respondent at ~~his-or-her~~ that \*  
 65 person's last known address or takes other steps which are \*  
 66 reasonably calculated to give actual notice; and

67 (2) the plaintiff's affidavit of compliance with this  
 68 subdivision is filed in the case on or before the return day of  
 69 the process, if any, or within such further time as the court  
 70 allows.

71 Subd. 3. CONTINUANCES. When process is served under  
 72 this section, the court or the commissioner in a proceeding  
 73 before ~~him-or-her~~ the commissioner shall order such continuance \*  
 74 as may be necessary to afford the defendant or respondent



1 reasonable opportunity to defend.

082A#24S

2 82A.24 ADMINISTRATION.

3 No change for subd 1

4 Subd. 2. RESPONSIBILITIES OF DEPARTMENT. It is  
 5 unlawful for the commissioner or any of ~~his-or-her~~ the \*  
 6 commissioner's officers or employees to use for personal benefit \*  
 7 any information which is filed with or obtained by the  
 8 commissioner and which is not generally available to the  
 9 public. Nothing in this chapter authorizes the commissioner or  
 10 any of ~~his-or-her~~ the commissioner's officers or employees to \*  
 11 disclose any confidential information except among themselves or  
 12 to other administrators or regulatory authorities, or when  
 13 necessary or appropriate in a proceeding or investigation under  
 14 this chapter. No provision of this chapter either creates any  
 15 privilege or derogates from any privilege which exists at common  
 16 law or otherwise when documentary or other evidence is sought  
 17 under a subpoena directed to the commissioner or any of ~~his-or~~ \*  
 18 ~~her~~ the commissioner's officers or employees. \*

19 Subd. 3. PUBLIC DOCUMENTS. All applications and  
 20 other documents filed with the commissioner under this chapter,  
 21 except for loan or real estate agreements and building plans and  
 22 specifications which have not otherwise been made public by the  
 23 membership camping operator, shall be open to public inspection  
 24 in accordance with rules prescribed by the commissioner. Loan  
 25 or real estate agreements and building plans and specifications  
 26 which have not otherwise been made public by the operator shall  
 27 be classified as protected nonpublic data or private data on  
 28 individuals. The commissioner may publish information filed  
 29 with ~~him-or-her~~ the commissioner or obtained by ~~him-or-her~~ the \*  
 30 commissioner if, in the judgment of the commissioner, such \*  
 31 action is in the public interest.

32 No change for subd 4 to 5

33 Subd. 6. COPIES. The commissioner upon request shall  
 34 furnish to any person at a reasonable charge photostatic or  
 35 other copies, certified under ~~his-or-her~~ the seal of office if \*  
 36 certification is requested, of any entry in the register or any \*  
 37 order or other document on file in ~~his-or-her~~ the commissioner's  
 38 office except for documents not available to the public pursuant  
 39 to subdivision 3. Any copy so certified is admissible in  
 40 evidence under section 600.13.

41 No change for subd 7

083\*#20S

42 83.20 DEFINITIONS.

43 No change for subd 1

44 Subd. 2. "Agent" means any person who represents, or acts  
 45 for or on behalf of, a subdivider in disposing of subdivided  
 46 lands or lots in a subdivision, and includes a real estate  
 47 ~~salesman~~ salesperson or broker, but does not include an attorney \*  
 48 at law whose representation of another person consists solely of  
 49 rendering legal services.

50 No change for subd 3

51 Subd. 4. "Commissioner" means the commissioner of commerce  
 52 of the state of Minnesota or ~~his~~ the commissioner's authorized \*  
 53 delegate.

54 No change for subd 5 to 11

55 Subd. 12. "Subdivider" means a person whose interest in  
 56 subdivided land is offered or advertised, by ~~himself~~ the person \*  
 57 or ~~his~~ the person's agent, for disposition. \*

58 No change for subd 13 to 14

083\*#23S

59 83.23 REGISTRATION REQUIREMENT.

60 No change for subd 1

61 Subd. 2. NOTIFICATION. Unless the method of offer or  
 62 sale is adopted for the purpose of evasion of sections 83.20 to  
 63 83.42, 83.43 and 83.44, subdivided lands may be registered by  
 64 notification provided that all of the following requirements  
 65 have been met:

66 (a) the subdivision consists of not more than 100 separate  
 67 lots, units, parcels, or interests;

68 (b) at least 20 days prior to any offer pursuant to this  
 69 subdivision, the subdivider must supply the commissioner, on  
 70 forms which the commissioner may by rule prescribe, at least the  
 71 following information:

72 (1) the name and address of the subdivider and the form and  
 73 date of its organization if other than an individual;



- 1 (2) the location and legal description of the subdivision  
 2 and the total number of lots, parcels, units, or interests;  
 3 (3) either a title opinion prepared and signed by an  
 4 attorney licensed to practice law in the state wherein the  
 5 subdivided land is situated; or a certificate of title insurance  
 6 or its equivalent acceptable to the commissioner;  
 7 (4) a copy of each instrument which will be delivered to a  
 8 purchaser to evidence ~~his~~ the purchaser's interest in the \*  
 9 subdivided lands and a copy of each contract or other agreement  
 10 which a purchaser will be required to agree to or sign, together  
 11 with the range of selling prices, rates, or rentals at which it  
 12 is proposed to offer the lots, units, parcels, or interests in  
 13 the subdivision, a list of fees the purchaser may be required to  
 14 pay for amenities or membership in groups including, but not  
 15 limited to, homeowners' associations, country clubs, golf  
 16 courses, and other community organizations; and  
 17 (5) a copy of a signed and approved plat map or its  
 18 equivalent;  
 19 (c) a filing fee of \$100 has been paid;  
 20 (d) the subdivider is in compliance with the service of  
 21 process provisions of section 83.39.

22 The commissioner may by rule or order withdraw or further  
 23 condition registration by notification or increase or decrease  
 24 the number of lots, units, parcels, or interests in subdivided  
 25 lands permitted for registration by notification. If no stop  
 26 order is in effect, no proceeding is pending, and no order has  
 27 been issued under subdivision 4, a registration statement under  
 28 this section automatically becomes effective at 5:00 in the  
 29 afternoon on the 20th full business day after the filing of the  
 30 registration statement or the last amendment, or at such earlier  
 31 time as the commissioner by order determines.

32 The rulemaking authority in this subdivision does not  
 33 include emergency rulemaking authority pursuant to chapter 14.  
 34 No change for subd 3 to 4

083\*#24S

35 83.24 PUBLIC OFFERING STATEMENT.

36 Subdivision 1. DELIVERY. A public offering statement  
 37 shall be delivered to each person to whom an offer is made  
 38 before or concurrently with (a) the first written offer other  
 39 than offer by means of a public advertisement, or (b) any  
 40 payment pursuant to a sale, whichever occurs first. Each person  
 41 to whom an offer is made must be afforded a reasonable  
 42 opportunity to examine the public offering statement and must be  
 43 permitted to retain the statement. The subdivider or ~~his~~ \*  
 44 subdivider's agent shall obtain a receipt, signed by the person, \*  
 45 acknowledging ~~that-he-has-received~~ receipt of a copy of the \*  
 46 public offering statement prior to the execution of any contract  
 47 or agreement to purchase any lot, unit, parcel, or interest in  
 48 subdivided lands. All receipts shall be kept in files which are  
 49 in the possession of the subdivider or ~~his~~ subdivider's agent, \*  
 50 subject to inspection by the commissioner, for a period of three  
 51 years from the date of the receipt.

52 No change for subd 2

53 Subd. 3. FORM. A public offering statement shall be  
 54 in a format prescribed by rule and shall include the following:

- 55 (a) the name, principal address, and telephone number of  
 56 the subdivider and of its officers and agents in this state;  
 57 (b) a general description of the subdivided lands stating  
 58 the total number of lots, parcels, units, or interests to be  
 59 offered;  
 60 (c) a statement which discloses whether the subdivider owns  
 61 any rights or options to acquire an interest in adjacent  
 62 properties, and if so, a description of the options and the  
 63 locations and zoning status of the adjacent properties;  
 64 (d) a statement of the assistance, if any, that the  
 65 subdivider or ~~his~~ subdivider's agent will provide to the \*  
 66 purchaser in the resale of the property and whether or not the  
 67 subdivider or ~~his~~ the subdivider's agent will be in competition \*  
 68 in the event of resale;  
 69 (e) the material terms of any restrictions affecting the  
 70 subdivided lands and each unit or lot, including, but not  
 71 limited to, any encumbrances, easements, liens, and zoning  
 72 status; a statement of the subdivider's efforts to remove the  
 73 restrictions; and a statement of all existing taxes and existing  
 74 or proposed special taxes or assessments which affect the  
 75 subdivided lands;



1 (f) a statement of the use for which the property is to be  
 2 offered;  
 3 (g) information concerning existing or proposed  
 4 improvements and amenities and the completion dates thereof; and  
 5 (h) additional information as may be required at the  
 6 discretion of the commissioner to assure full and fair  
 7 disclosure to prospective purchasers.

8 The rulemaking authority in this subdivision does not  
 9 include emergency rulemaking authority pursuant to chapter 14.

10 No change for subd 4 to 5

083\*#25S

11 83.25 LICENSE REQUIRED.

12 Subdivision 1. No person shall offer or sell in this state  
 13 any interest in subdivided lands ~~until~~ without having obtained:

14 (1) ~~he has obtained~~ a license under chapter 82; and

15 (2) ~~he has obtained~~ an additional license to offer or  
 16 dispose of subdivided lands. This license may be obtained by  
 17 submitting an application in writing to the commissioner upon  
 18 forms prepared and furnished by the commissioner. Each  
 19 application shall be signed and sworn to by the applicant and  
 20 accompanied by a license fee of \$10. The commissioner may also  
 21 require an additional examination for this license.

22 No change for subd 2 to 3

083\*#27S

23 83.27 INQUIRY AND EXAMINATION.

24 The commissioner may investigate any subdivision required  
 25 to be registered under sections 83.20 to 83.42, 83.43 and 83.44  
 26 for the purpose of verifying statements contained in the  
 27 application for registration or the public offering statement.  
 28 For the purpose of such investigation, the commissioner may:

29 (a) use and rely upon any relevant information or data  
 30 concerning a subdivision obtained by ~~him~~ the commissioner from  
 31 the federal housing administration, the United States veterans  
 32 administration, or any state or federal agency having  
 33 supervisory duties over real estate subdivisions which are  
 34 comparable to those of the commissioner;

35 (b) require the subdivider to submit reports prepared by an  
 36 independent licensed or registered engineer concerning any  
 37 hazard to which, in the opinion of the commissioner, any  
 38 subdivision offered for disposition is subject, or concerning  
 39 any other factor which affects the utility of lots, units,  
 40 parcels, or interests within the subdivision and may require  
 41 evidence of compliance to remove or minimize all hazards stated  
 42 by competent engineering reports;

43 (c) conduct an on-site inspection of each subdivision. The  
 44 subdivider shall defray all actual and necessary expenses  
 45 incurred by the inspector in the course of the inspection;

46 (d) conduct an annual on-site reinspection of each  
 47 subdivision for each of the three years after registration and  
 48 thereafter make periodic on site inspections. The developer  
 49 shall defray all actual and necessary expenses incurred by the  
 50 inspector in the course of such inspection;

51 (e) require the subdivider to deposit the expenses to be  
 52 incurred in any inspection or reinspection, in advance, based  
 53 upon an estimate by the commissioner of the expenses likely to  
 54 be incurred. All such deposits shall be paid into the state  
 55 treasury and credited to the commissioner's investigation fund,  
 56 from which fund the commissioner shall have power to make  
 57 disbursements to pay such expenses. Any unexpended portion  
 58 shall be refunded. On field examinations made by the  
 59 commissioner or ~~his~~ the commissioner's employee away from the  
 60 office of the commissioner a per diem of \$10 for each such  
 61 person may be charged in addition to the actual expenses. Where  
 62 additional technical, expert, or special services are used, the  
 63 actual cost of such services may be charged in addition to  
 64 actual expenses;

65 (f) where an on-site inspection of any subdivision has been  
 66 made under sections 83.20 to 83.42, 83.43 and 83.44, an  
 67 inspection of additional subdivided lands for which a subsequent  
 68 application for registration is filed may be made.

083\*#28S

69 83.28 SALES CONTRACT; RESCISSION.

70 No change for subd 1 to 4

71 Subd. 5. NOTICE TO PURCHASER. The first contract,  
 72 agreement, or other evidence of indebtedness shall prominently  
 73 contain upon its face the following notice in bold type, which



1 shall be at least 4 point type larger than the body of the  
2 document, stating, in one of the following forms:

3 (a) Registration by notification: "Notice to Purchaser" --  
4 "You are entitled to rescind this agreement for any reason  
5 within five days from the date you actually received a legible  
6 copy of this document signed by all parties. The rescission  
7 must be in writing and mailed to the subdivider or ~~his~~  
8 subdivider's agent or the lender at the address stated in this  
9 document. Upon rescission you will receive a refund of all  
10 money paid." or;

11 (b) Registration by qualification: "Notice to Purchaser"  
12 -- "You are entitled to rescind this agreement for any reason  
13 within five days from the date you actually received a legible  
14 copy of this document signed by all parties and a public  
15 offering statement. The rescission must be in writing and  
16 mailed to the subdivider or ~~his~~ subdivider's agent or the lender  
17 at the address stated in this document. Upon rescission you  
18 will receive a refund of all money paid."

19 The contract, agreement, or other evidence of indebtedness  
20 shall contain sufficient space upon its face in immediate  
21 proximity to the above notice for the signature of each  
22 purchaser obligated under such instrument, acknowledging that  
23 such purchaser has read the notice.

24 Subd. 6. RESCISSION NOTICE. Rescission occurs when  
25 the purchaser gives written notice of rescission to the  
26 subdivider or ~~his~~ subdivider's agent or the lender at the  
27 address stated in the contract, agreement, or other evidence of  
28 indebtedness. Notice of rescission, if given by mail is  
29 effective when it is deposited in a mailbox properly addressed  
30 and postage prepaid. A notice of rescission given by the  
31 purchaser need not take a particular form and is sufficient if  
32 it indicates by any form of written expression the intention of  
33 the purchaser not to be bound by the contract, agreement, or  
34 other evidence of indebtedness.

35 No change for subd 7

083\*#29S

36 83.29 NOTICE OF FILING AND REGISTRATION.

37 No change for subd 1

38 Subd. 2. If the commissioner determines upon inquiry and  
39 examination:

40 (1) That any of the requirements of sections 83.20 to 83.42  
41 or the rules promulgated pursuant to sections 83.20 to 83.42  
42 have not been met;

43 (2) That the proposed promotional plan or advertising is or  
44 tends to be fraudulent, deceptive or misleading;

45 (3) That the sales of the lands would work or tend to work  
46 a fraud or deception on the purchasers thereof;

47 (4) That the sales of the lands would be unfair or  
48 inequitable to the purchasers thereof;

49 (5) That the subdivider has violated any of the provisions  
50 of sections 83.20 to 83.42 or any order or rule of the  
51 commissioner;

52 (6) That the subdivider is not in compliance with federal,  
53 state or local environmental quality standards;

54 ~~he~~ the commissioner may issue an order denying the  
55 application for registration; provided, however, that nothing in  
56 this section shall authorize the commissioner to deny an  
57 application based solely on the proposed sale price of the  
58 lands. The order shall state the reasons for denial. Every  
59 person whose application for registration has been denied shall  
60 have the right to a hearing provided a request for such hearing  
61 is filed with the commissioner within 30 days of the receipt of  
62 the order of denial. The order of denial shall inform the  
63 applicant of the right to this hearing.

64 No change for subd 3 to 5

083\*#31S

65 83.31 CHANGES SUBSEQUENT TO REGISTRATION.

66 Subdivision 1. REPORT OF SALES. The commissioner may  
67 by rule or order require the subdivider or ~~his~~ subdivider's  
68 agent to submit reports of sales.

69 The rulemaking authority in this subdivision does not  
70 include emergency rulemaking authority pursuant to chapter 14.

71 Subd. 2. REPORT OF MATERIAL CHANGES. A subdivider or  
72 ~~his~~ subdivider's agent shall within 30 days report any material  
73 changes in the information contained in the application for  
74 registration or the exhibits appended thereto on file with the



1 commissioner by submitting an application to amend accompanied  
2 by an amendment fee of \$25.  
3 No change for subd 3

083\*#32S

4 83.32 INSPECTION OF RECORDS.  
5 All records of a subdivider and ~~his~~ the subdivider's agents  
6 pertaining to the advertising or disposition of subdivided lands  
7 shall be maintained by the subdivider and ~~his~~ the subdivider's  
8 agents and be subject to inspection by the commissioner. The  
9 commissioner shall be promptly notified of any change of address  
10 affecting the location of the records of the subdivider and ~~his~~  
11 the subdivider's agents.

083\*#33S

12 83.33 BLANKET ENCUMBRANCE SALES AND OTHER PROHIBITED  
13 ACTS.  
14 Subdivision 1. COMPLIANCE WITH RULES. A person may  
15 not sell lots, units, parcels, or interests within a subdivision  
16 subject to a blanket encumbrance ~~unless he has~~ without having  
17 complied with such rules as the commissioner may promulgate  
18 concerning such sales, which rules shall be specific  
19 requirements for the protection of the purchaser.  
20 No change for subd 2

083\*#34S

21 83.34 INVESTIGATION AND PROCEEDINGS.  
22 No change for subd 1  
23 Subd. 2. For the purpose of any investigation or  
24 proceeding under sections 83.20 to 83.42, the commissioner or  
25 any person designated by ~~him~~ the commissioner may require or  
26 permit any person to file a statement in writing, under oath or  
27 otherwise as the commissioner determines, setting forth the  
28 facts and circumstances concerning the matter to be investigated;  
29 administer oaths or affirmations, and upon ~~his-own~~ the  
30 commissioner's or designee's motion or upon request of any party  
31 may subpoena witnesses, compel their attendance, take evidence,  
32 and require the production of any matter which is relevant to  
33 the investigation, including the existence, description, nature,  
34 custody, condition and location of any books, documents or other  
35 tangible things and the identity and location of persons having  
36 knowledge of relevant facts, or any other matter reasonably  
37 calculated to lead to the discovery of material evidence.  
38 No change for subd 3

083\*#35S

39 83.35 ENFORCEMENT; POWERS OF COMMISSIONER.  
40 Subdivision 1. REGISTRATION; REVOCATION OR SUSPENSION.  
41 After notice and hearing, the commissioner may suspend or  
42 revoke a registration ~~if he finds~~ on finding that the subdivider  
43 or person has:  
44 (1) violated any provision of sections 83.20 to 83.42,  
45 83.43 and 83.44 or any lawful order or rule of the commissioner;  
46 (2) directly or through an agent or employee knowingly  
47 engaged in any false, deceptive, or misleading advertising,  
48 promotional or sales methods to offer to dispose of an interest  
49 in subdivided lands;  
50 (3) made any material change in the advertising, plan of  
51 disposition, or development of the subdivided lands subsequent  
52 to the order of registration without obtaining prior approval  
53 from the commissioner;  
54 (4) offered or sold any subdivided lands which have not  
55 been registered with the commissioner unless the subdivided  
56 lands or sales thereof are exempt from registration pursuant to  
57 section 83.26;  
58 (5) been convicted, or if any of the subdivider's officers,  
59 directors, partners, principals, or agents has been convicted,  
60 of a crime involving fraud, deception, false pretenses,  
61 misrepresentation, false advertising, or dishonest dealing in  
62 real estate transactions, subsequent to the time of the filing  
63 of the application for registration;  
64 (6) disposed of, concealed, or diverted any funds or assets  
65 of any person so as to defeat the rights of subdivision  
66 purchasers;  
67 (7) failed faithfully to perform any stipulation or  
68 agreement made with the commissioner as an inducement to grant  
69 any registration, to reinstate any registration, or to permit  
70 any promotional plan or public offering statement;  
71 (8) made misrepresentations or concealed material facts in  
72 an application for registration;



1 (9) permanently or temporarily been enjoined by any court  
 2 of competent jurisdiction from engaging in or continuing any  
 3 conduct or practice involving any aspect of land sales; or  
 4 (10) failed to pay any filing or inspection fee required by  
 5 sections 83.20 to 83.42, 83.43 and 83.44.

6 No change for subd 2

7 Subd. 3. CEASE AND DESIST ORDER. The commissioner is  
 8 empowered to issue and cause to be served an order requiring a  
 9 person to cease and desist from violations of sections 83.20 to  
 10 83.42, 83.43 and 83.44. The order shall state the reasons for  
 11 its issuance and shall either order a hearing, which shall be  
 12 set for no later than 20 days from the date of the order, or  
 13 specify that upon the written request of the applicant, the  
 14 matter will be set for hearing within 15 days after receipt of  
 15 the request, provided that upon the request of the applicant a  
 16 hearing may be held subsequent to the expiration of either  
 17 period specified herein. All hearings shall be conducted in  
 18 accordance with the provisions of chapter 14. If the person to  
 19 whom a cease and desist order is issued fails to appear at the  
 20 hearing after being duly notified, he the person shall be deemed  
 21 in default, and the proceeding may be determined against him the  
 22 person upon consideration of the cease and desist order, the  
 23 allegations of which may be deemed to be true. If no hearing is  
 24 requested within 30 days, the order will become final. All  
 25 hearings must be conducted in accordance with chapter 14.

\*  
\*  
\*

26 Subd. 4. AMENDMENT; REGISTRATION SUSPENSION. Upon  
 27 receipt of an application to amend or other information  
 28 indicating a material change in the information on file with the  
 29 commissioner, and, if the commissioner determines such action to  
 30 be necessary or appropriate in the public interest or for the  
 31 protection of purchasers, he the commissioner may, by order,  
 32 suspend the registration until ~~such time as he is~~ satisfied that  
 33 the subdivider or his subdivider's agent has made the proper  
 34 changes in the public offering statement, advertising, and  
 35 promotional plan to provide full and fair disclosure of the  
 36 material change to the public.

\*  
\*  
\*

37 Subd. 5. HEARING. In the event the commissioner  
 38 issues an order under subdivision 4, the order shall include in  
 39 its terms a provision for a hearing within 10 days of the date  
 40 of the order, specifying a date, time, and place for the hearing.  
 41 Unless otherwise agreed, within 20 days of the close of the  
 42 hearing record, the commissioner shall issue an order either  
 43 vacating, modifying, or continuing the temporary order. If the  
 44 temporary order is continued or modified he the commissioner  
 45 shall state his reasons therefor.

\*  
\*

083\*#37S

46 83.37 PENALTIES; CIVIL REMEDIES.

47 No change for subd 1 to 3

48 Subd. 4. PROHIBITED PRACTICES; REMEDIES. In the  
 49 event of any prohibited practice as set forth in section 83.44,  
 50 in addition to any other remedies, and whether or not the  
 51 purchaser has in fact been damaged thereby, the purchaser may  
 52 recover the consideration paid for the lot, parcel, unit, or  
 53 interest in subdivided lands together with interest thereon at  
 54 the legal rate from the date of payment, property taxes paid,  
 55 costs, and reasonable attorneys fees, less the amount of any  
 56 income received from the subdivided lands, upon tender of  
 57 appropriate instruments of reconveyance. If the purchaser no  
 58 longer owns the lot, parcel, unit, or interest in subdivided  
 59 lands, he the purchaser may recover the amount that would be  
 60 recoverable upon a tender of a reconveyance, less the value of  
 61 the land when disposed of and less interest at the legal rate on  
 62 that amount from the date of sale.

\*

63 (a) a tender of reconveyance may be made at any time before  
 64 the entry of judgment.

65 (b) every person who directly or indirectly controls a  
 66 subdivider who may be liable under sections 83.20 to 83.42,  
 67 83.43 and 83.44, every general partner, officer, or director of  
 68 a subdivider, every person occupying a similar status or  
 69 performing a similar function, every employee of the subdivider  
 70 who materially aids in the disposition, and every agent who  
 71 materially aids in the disposition is also liable jointly and  
 72 severally with and to the same extent as the subdivider, unless  
 73 the person otherwise liable sustains the burden of proof that he  
 74 such a person did not know and in the exercise of reasonable  
 75 care could not have known of the existence of the facts by

\*  
\*



1 reason of which the liability is alleged to exist. There is a  
2 right to contribution as in cases of contract among persons so  
3 liable.

4 (c) every person whose name or occupation gives authority  
5 to a statement which with ~~his~~ the person's consent has been used \*  
6 in an application for registration, public offering statement, \*  
7 or advertising, if ~~he~~ the person is not otherwise associated \*  
8 with the subdivision and development plan in a material way, is \*  
9 liable only for false statements and omissions in ~~his-statement~~ \*  
10 statements and only if it is proved ~~he~~ the person knew or \*  
11 reasonably should have known of the existence of the true facts  
12 by reason of which the liability is alleged to exist.

13 (d) an action shall not be commenced pursuant to this  
14 subdivision later than three years from the date the person  
15 discovers any prohibited practice set forth in section 83.44.

16 No change for subd 5

083\*#38S

17 83.38 RULES AND REGULATIONS.

18 No change for subd 1 to 2

19 Subd. 3. For the purpose of rules and forms, the  
20 commissioner may by rule classify subdivisions, persons and  
21 matters within ~~his~~ the commissioner's jurisdiction, and \*  
22 prescribe different requirements for different classes.

083\*#39S

23 83.39 SERVICE OF PROCESS.

24 Subdivision 1. PROCEDURE. Every applicant for  
25 registration under sections 83.20 to 83.42, 83.43 and 83.44  
26 shall file with the commissioner, in a format as by rule may be  
27 prescribed, an irrevocable consent appointing the commissioner  
28 or commissioner's successor to be the applicant's attorney to  
29 receive service of any lawful process in any noncriminal suit,  
30 action, or proceeding against the applicant or ~~his-or-her~~ a \*  
31 successor, executor, or administrator which arises under  
32 sections 83.20 to 83.42, 83.43 and 83.44 or any rule or order  
33 thereunder after the consent has been filed, with the same force  
34 and validity as if served personally on the person filing the  
35 consent. Service may be made by leaving a copy of the process  
36 in the office of the commissioner, but it is not effective  
37 unless (a) the plaintiff, who may be commissioner in a suit,  
38 action, or proceeding instituted by ~~him-or-her~~ the commissioner, \*  
39 forthwith sends notice of the service and a copy of the process  
40 by registered mail to the defendant or respondent at ~~his-or-her~~ \*  
41 that person's last address on file with the commissioner, and \*  
42 (b) the plaintiff's affidavit of compliance with this  
43 subdivision is filed in the case on or before the return day of  
44 the process, if any, or within such further time as the court  
45 allows.

46 The rulemaking authority in this subdivision does not  
47 include emergency rulemaking authority pursuant to chapter 14.

48 Subd. 2. SERVICE ON COMMISSIONER. When any person,  
49 including any nonresident of this state, engages in conduct  
50 prohibited or made actionable by sections 83.20 to 83.42, 83.43  
51 and 83.44, or any rule or order thereunder, and the person has  
52 not filed a consent to service of process under subdivision 1  
53 and personal jurisdiction over this person cannot otherwise be  
54 obtained in this state, that conduct shall be considered  
55 equivalent to the person's appointment of the commissioner or  
56 the commissioner's successor to be the person's attorney to  
57 receive service of any lawful process in any noncriminal suit,  
58 action, or proceeding against the commissioner or the  
59 commissioner's successor, executor, or administrator which grows  
60 out of that conduct and which is brought under sections 83.20 to  
61 83.42, 83.43 and 83.44 or any rule or order thereunder, with the  
62 same force and validity as if served on the person personally.  
63 Service may be made by leaving a copy of the process in the  
64 office of the commissioner, and it is not effective unless (a)  
65 the plaintiff, who may be the commissioner in a suit, action, or  
66 proceeding instituted by the commissioner, forthwith sends  
67 notice of the service and a copy of the process by registered  
68 mail to the defendant or respondent at ~~his~~ that person's last \*  
69 known address or takes other steps which are reasonably  
70 calculated to give actual notice, and (b) the plaintiff's  
71 affidavit of compliance with this subdivision is filed in the  
72 case on or before the return day of the process, if any, or  
73 within such further time as the court allows.

74 Subd. 3. CONTINUANCE. When process is served under



1 this section, the court, or the commissioner in a proceeding  
 2 before ~~him~~ the commissioner, shall order such continuance as may  
 3 be necessary to afford the defendant or respondent reasonable  
 4 opportunity to defend.

083\*#40S

5 83.40 SCOPE OF SECTIONS 83.20 TO 83.42, 83.43 AND 83.44.

6 No change for subd 1 to 2

7 Subd. 3. EXCLUSIONS. An offer or sale is not made in  
 8 this state when a publisher circulates or there is circulated on  
 9 ~~his~~ the publisher's behalf in this state any bona fide newspaper  
 10 or other publication of general, regular, and paid circulation  
 11 which is not published in this state, or a radio or television  
 12 program originating outside this state is received in this state.

13 No change for subd 4

083\*#43S

14 83.43 CRIMINAL PENALTIES.

15 Any person who willfully violates any provision of section  
 16 83.23 or section 83.44 or any order of the commissioner under  
 17 sections 83.20 to 83.42, this section, and section 83.44 of  
 18 which ~~he~~ the person has notice, may be fined not more than  
 19 \$10,000 or imprisoned not more than five years or both. Each of  
 20 the acts specified shall constitute a separate offense and a  
 21 prosecution or conviction for any one of the offenses shall not  
 22 bar prosecution or conviction for any other offense.

083A#02S

23 83A.02 POWERS AND DUTIES.

24 ~~It shall be the duty of~~ The commissioner of natural  
 25 resources ~~and he shall have power and authority:~~

26 (1) ~~To~~ determine the correct and most appropriate names of  
 27 the lakes, streams, places and other geographic features in the  
 28 state, and the spelling thereof;

29 (2) ~~To~~ pass upon and give names to lakes, streams, places,  
 30 and other geographic features in the state for which no single,  
 31 generally accepted name has been in use;

32 (3) in cooperation with the county boards and with their  
 33 approval, ~~to~~ change the names of lakes, streams, places, and  
 34 other geographic features, with the end in view of eliminating,  
 35 as far as possible, duplication of names within the state;

36 (4) ~~To~~ prepare and publish an official state dictionary of  
 37 geographic names and ~~to~~ publish the same, either as a completed  
 38 whole or in parts, when ready;

39 (5) ~~To~~ serve as the state representative of the United  
 40 States geographic board and ~~to~~ cooperate with that board to the  
 41 end that there shall be no conflict between the state and  
 42 federal designations of geographic features in the state.

084\*#01S

43 84.01 DEPARTMENT OF NATURAL RESOURCES; COMMISSIONER  
 44 APPOINTMENT.

45 No change for subd 1 to 2

46 Subd. 3. Subject to the provisions of Laws 1969, Chapter  
 47 1129, and to other applicable laws the commissioner shall  
 48 organize the department and employ two assistant commissioners,  
 49 both of whom shall serve at the pleasure of the commissioner in  
 50 the unclassified service, one of whom shall have responsibility  
 51 for coordinating and directing the planning of every division  
 52 within the agency, and such other officers, employees, and  
 53 agents as ~~he~~ the commissioner may deem necessary to discharge  
 54 the functions of ~~his~~ the department, define the duties of such  
 55 officers, employees, and agents and to delegate to them any  
 56 of ~~his~~ the commissioner's powers, duties, and responsibilities  
 57 subject to ~~his~~ the control of, and under ~~such the~~  
 58 conditions ~~as he may prescribe~~ prescribed by, the commissioner.  
 59 Appointments to exercise delegated power shall be by written  
 60 order filed with the secretary of state.

61 Subd. 4. Before entering upon the duties of ~~his~~ office the  
 62 commissioner of natural resources shall take and subscribe an  
 63 oath and give ~~his~~ bond to the state of Minnesota, to be approved  
 64 by the governor and filed with the secretary of state, in the  
 65 sum of \$50,000 conditioned for the faithful performance of ~~his~~  
 66 the duties.

67 Subd. 5. The commissioner of natural resources may request  
 68 from time to time, as ~~he~~ the commissioner deems necessary,  
 69 information and advice on technical natural resource matters  
 70 from advisory task forces or individuals having specialized  
 71 knowledge or experience in such matters. A task force shall  
 72 expire and the terms, compensation and removal of members shall



1 be as provided in section 15.059. The expenses allowed shall be  
2 paid from any money appropriated to the commissioner for  
3 salaries, supplies, and expenses.

084\*#024S

4 84.024 PURPOSE.

5 The purpose of Laws 1967, Chapter 905 is to centralize the  
6 operating authority of the department of natural resources in a  
7 commissioner and ~~his~~ a deputy in lieu of the commissioner and \*  
8 several operating divisional directors; to coordinate the  
9 management of the public domain; to eliminate duplication of  
10 effort and function; and to best serve the public in the  
11 development of a long range program to conserve the natural  
12 resources of the state.

084\*#025S

13 84.025 CONTRACTS FOR PROFESSIONAL AND MAINTENANCE  
14 SERVICES.

15 Subd. 7. CONTRACTS. The commissioner of natural  
16 resources may contract with the federal government, local  
17 governmental units, the University of Minnesota, and other  
18 educational institutions, and private persons as may be  
19 necessary in the performance of ~~his~~ duties. Contracts made \*  
20 pursuant to this section for professional services shall not be  
21 subject to the provisions of chapter 16, as they relate to  
22 competitive bidding.

23 No change for subd 8

084\*#026S

24 84.026 CONTRACTS FOR PROVISION OF NATURAL RESOURCES  
25 SERVICES.

26 The commissioner of natural resources is authorized to  
27 enter into contractual agreements with any public or private  
28 entity for the provision of statutorily prescribed natural  
29 resources services by the department. The contracts shall  
30 specify the services to be provided and the amount and method of  
31 reimbursement. Funds generated in a contractual agreement made  
32 pursuant to this section shall be deposited in the special  
33 revenue fund and are appropriated to the department for purposes  
34 of providing the services specified in the contracts. All such  
35 contractual agreements shall be processed in accordance with the  
36 provisions of section 16.098. The commissioner shall report  
37 revenues collected and expenditures made under this section to  
38 the ~~chairmen chairs~~ of the committees on appropriations in the \*  
39 house and finance in the senate by January 1 of each  
40 odd-numbered year.

084\*#027S

41 84.027 POWERS AND DUTIES.

42 Subdivision 1. POWERS. The commissioner of natural  
43 resources shall be the administrative and executive head of the  
44 department. Subject to the provisions hereof and other  
45 applicable laws, ~~he~~ the commissioner shall have the powers and \*  
46 duties herein prescribed. The enumeration of specific powers  
47 and duties herein shall not limit or exclude other powers or  
48 duties.

49 Subd. 2. DUTIES. The commissioner shall have charge  
50 and control of all the public lands, parks, timber, waters,  
51 minerals, and wild animals of the state and of the use, sale,  
52 leasing, or other disposition thereof, and of all records  
53 pertaining to the performance of ~~his~~ the commissioner's \*  
54 functions relating thereto.

55 No change for subd 3

56 Subd. 4. POWERS. The commissioner shall have all  
57 existing powers and duties now or heretofore vested in or  
58 imposed upon the state auditor in any capacity and not  
59 heretofore transferred to any other officer or agency with  
60 respect to the public lands, parks, timber, waters, and minerals  
61 of the state, and the records thereof; provided, that nothing  
62 herein shall divest the state auditor of any power or duty  
63 otherwise prescribed by law with respect to auditing,  
64 accounting, disbursement, or other disposition of funds  
65 pertaining to the matters herein specified, nor of any power or  
66 duty expressly vested in or imposed upon ~~him~~ the state auditor \*  
67 by the following provisions of law:

68 (1) The provisions of Mason's Minnesota Statutes 1927,  
69 Section 76, so far as the same pertain to the crediting of  
70 payments on account of state lands, timber, or other products to  
71 the proper funds, or to the depositing and keeping of  
72 conveyances and abstracts of title; also all other provisions



1 pertaining to the filing or keeping of deeds, grants, or  
2 conveyances to the state or abstracts or other evidence of title  
3 to state property;

4 (2) All provisions pertaining to escheated property;

5 (3) Mason's Minnesota Statutes 1927, Sections 2220, 6442 to  
6 6449, 6646, 6660, and 8223.

7 Subd. 5. POWERS. The commissioner shall have all  
8 the powers and duties prescribed for the state auditor by  
9 Mason's Supplement 1940, Sections 5620-1 to 5620-13, 6452-1 to  
10 6452-13, and 4031-75 to 4031-88, with respect to the receipt,  
11 filing, keeping, and certification of reports, lists, and  
12 records of descriptions of lands, reserving to the state auditor  
13 all other powers and duties therein prescribed for ~~him~~ the state  
14 auditor. The county auditor shall make and transmit to the \*  
15 state auditor all the certificates and reports therein required \*  
16 except certificates and reports of land descriptions, which  
17 shall be made and transmitted to the commissioner.

18 Subd. 6. POWERS. The commissioner shall have all  
19 the powers and duties prescribed for the state auditor by  
20 Mason's Supplement 1940, Sections 5620-13 1/2 to 5620-13 1/2j,  
21 as amended, and 2139-27b to 2139-27k, as amended, with respect  
22 to the receipt, filing, and keeping of reports of sales of land  
23 and the execution of conveyances, reserving to the state auditor  
24 all other powers and duties therein prescribed for ~~him~~ the state  
25 auditor. The county auditors shall make and transmit to the \*  
26 commissioner all the certificates and reports therein required \*  
27 to be made to the state auditor with respect to such sales and  
28 conveyances. The county treasurers shall make all reports of  
29 collections thereunder in duplicate and shall transmit a copy of  
30 each report to the commissioner of finance and the commissioner.

31 No change for subd 7

32 Subd. 8. SELECTION OF LANDS FOR CERTAIN PURPOSES.

33 The commissioner of natural resources may select from any  
34 available lands owned by the United States in this state such  
35 lands as ~~he~~ the commissioner deems suitable in lieu of any \*  
36 deficiencies which may have occurred in grants of school lands  
37 or other lands heretofore made to the state under any act of  
38 congress, and may, with the approval of the executive council,  
39 accept on behalf of the state any grants or patents of lands so  
40 selected issued by the United States to the state.

41 This subdivision shall not be deemed to amend, supersede,  
42 or repeal any existing law, but shall be supplementary thereto.

43 Subd. 9. CONDEMNATION WITH LANDOWNER'S CONSENT.

44 ~~Whenever the commissioner of natural resources is~~ If authorized \*  
45 by law to acquire any interest in real estate, ~~he~~ the \*  
46 commissioner of natural resources may acquire by condemnation \*  
47 with the written consent of the landowner, that real estate \*  
48 which ~~he~~ the commissioner deems to be in the best interests of \*  
49 the state. This subdivision shall apply only in those  
50 situations where condemnation is not otherwise authorized for  
51 the acquisition.

084\*#0272S

52 84.0272 PROCEDURE IN ACQUIRING LANDS.

53 When the commissioner of natural resources is authorized to  
54 acquire lands or interests in lands the procedure set forth in  
55 this section shall apply. The commissioner of natural resources  
56 shall first prepare a fact sheet showing the lands to be  
57 acquired, the legal authority for their acquisition, and the  
58 qualities of the land that make it a desirable acquisition. The  
59 commissioner of natural resources shall cause the lands to be  
60 appraised. An appraiser shall before entering upon the duties  
61 of ~~his~~ office take and subscribe an oath ~~that he will~~ to  
62 faithfully and impartially discharge ~~his~~ the duties as appraiser \*  
63 according to the best of ~~his~~ the appraiser's ability and that ~~he~~ \*  
64 the appraiser is not interested directly or indirectly in any of \*  
65 the lands to be appraised or the timber or improvements thereon \*  
66 or in the sale thereof and has entered into no agreement or  
67 combination to purchase the same or any part thereof, which oath  
68 shall be attached to the report of the appraisal. The  
69 commissioner of natural resources shall not agree to pay more  
70 than ten percent above the appraised value. New appraisals may  
71 be made at the discretion of the commissioner of natural  
72 resources.

084\*#0273S

73 84.0273 CORRECTION OF BOUNDARY LINES RELATING TO CERTAIN  
74 STATE LANDHOLDINGS.



1 In order to correct errors in legal descriptions affecting  
 2 the ownership interests of the state and adjacent landowners,  
 3 the commissioner of natural resources may, in the name of the  
 4 state, with the approval of the state executive council, convey,  
 5 without monetary consideration, by quitclaim deed in such form  
 6 as the attorney general approves, such rights, titles, and  
 7 interests of the state in state lands for such rights, titles  
 8 and interests in adjacent lands as are necessary for the purpose  
 9 of correcting legal descriptions of boundaries. The  
 10 commissioner's recommendations to the executive council shall  
 11 include ~~his~~ the commissioner's determination of the value, if  
 12 any, of the rights, titles, and interests involved. The  
 13 provisions of this section are not intended to replace or  
 14 supersede laws relating to land exchange or disposal of surplus  
 15 state property.

084\*#0274S

16 84.0274 LANDOWNERS' BILL OF RIGHTS.

17 No change for subd 1 to 2

18 Subd. 3. CONDEMNATION LIMITS. No lands shall be  
 19 acquired by the commissioner of natural resources by means of  
 20 condemnation unless the owner requests that ~~his~~ the owner's  
 21 lands be condemned or the condemnation is specifically  
 22 authorized by law.

23 No change for subd 4

24 Subd. 5. OWNER'S RIGHTS. When the state proposes to  
 25 purchase in fee or any lesser interest in land which will be  
 26 administered by the commissioner of natural resources, the  
 27 landowner shall have the following rights:

28 (a) The right to be informed of the specific intended use  
 29 of the property and of any change in the intended use of the  
 30 property which occurs during the acquisition process. The owner  
 31 shall also be informed that the documents regarding the purchase  
 32 will be public records if the land is purchased by the state;

33 (b) The right to be paid a fair price for the property.  
 34 The price shall include the fair market value of the land plus:

35 (1) All necessary incidental costs such as abstracting and  
 36 recording fees related to the sale. The costs of clearing title  
 37 defects, paying taxes, and attorney's fees are not reimbursable;  
 38 and

39 (2) Any penalties incurred by the owner where the property  
 40 is security for a loan or advance of credit that contains a  
 41 provision requiring or permitting the imposition of a penalty if  
 42 the loan or advance of credit is prepaid;

43 (c) The right to payment, at the owner's election, in a  
 44 lump sum or in up to four annual installments;

45 (d) The right to have the property fairly appraised by the  
 46 state. The state's appraiser shall physically inspect the  
 47 property and shall allow the owner ~~to accompany him~~ along when  
 48 the appraisal is made. The state's appraiser shall certify in  
 49 the appraisal report ~~that he has~~ to having physically inspected  
 50 the property and having given the landowner an opportunity to  
 51 ~~accompany him~~ go along on inspections. The landowner shall be  
 52 given a resume of the state's certified appraisal. The resume  
 53 shall include the appraiser's conclusions as to value, acreage  
 54 and type of land, value of buildings and other improvements,  
 55 value of timber, special damages and any special elements of  
 56 value;

57 (e) The right to retain a qualified independent appraiser  
 58 to conduct an appraisal at any time prior to certification of  
 59 the state's appraisal of the property and to be reimbursed for  
 60 appraisal fees as provided in section 117.232, subdivision 1, if  
 61 the land is sold to the state and to have that appraisal  
 62 considered along with the state's in certifying the selling  
 63 price;

64 (f) The right to have the state acquire the property by  
 65 means of condemnation upon the owner's request with the  
 66 agreement of the commissioner;

67 (g) The right to receive or waive relocation assistance,  
 68 services, payments and benefits as provided in sections 117.52  
 69 and 117.521;

70 (h) The right to accept the state's offer for the property  
 71 and contest the state's offer for relocation and moving expenses;

72 (i) The right to continue occupancy of the property until  
 73 full payment is received, provided that when the owner elects to  
 74 receive payment in annual installments pursuant to clause (c),  
 75 the owner may retain occupancy until the first payment is made;



1 and

2 (j) The right to seek the advice of counsel regarding any  
3 aspect of the land transaction.

4 No change for subd 6

5 Subd. 7. DISCLOSURE. When the state proposes to  
6 purchase lands for natural resources purposes, the landowner  
7 shall be given a written statement in ~~layman's~~ lay terms of the \*  
8 rights and responsibilities provided for in subdivisions 5 and  
9 6. Before a purchase can be made, the landowner must sign a  
10 statement acknowledging in writing that the statement has been  
11 provided and explained to ~~him~~ the landowner. Within 60 days \*  
12 following the date of final approval of Laws 1980, Chapter 45B,  
13 the commissioner of natural resources shall submit a proposed  
14 form for the statement to the legislative commission on  
15 Minnesota resources. The commission shall review the proposed  
16 form for compliance with the intent of this section and shall  
17 make any changes which it deems proper.

084\*#029S

18 84.029 RECREATIONAL AREAS ON PUBLIC LAND.

19 Subdivision 1. ESTABLISHMENT, DEVELOPMENT, MAINTENANCE  
20 AND OPERATION. In addition to other lawful authority, the  
21 commissioner of natural resources may establish, develop,  
22 maintain, and operate recreational areas, including but not  
23 limited to trails and canoe routes, for the use and enjoyment of  
24 the public on any state owned or leased land under ~~his~~ the  
25 commissioner's jurisdiction. Each employee of the department of \*  
26 natural resources, while engaged in ~~his~~ employment in connection \*  
27 with such recreational areas, has and possesses the authority \*  
28 and power of a peace officer when so designated by the  
29 commissioner.

30 No change for subd 2

084\*#03S

31 84.03 ADDITIONAL DUTIES AND POWERS.

32 So far as practicable the commissioner shall collect and  
33 arrange statistics and other information in reference to the  
34 lands and general and special resources of the state.

35 ~~He~~ The commissioner is hereby authorized and empowered to \*  
36 take such measures as ~~he~~ the commissioner may deem advisable to \*  
37 advertise, both within and without the state, sales of all state  
38 lands, and to secure, compile, and issue such valuable  
39 statistics of the resources of the state.

40 ~~He~~ The commissioner may adopt and promulgate reasonable \*  
41 rules and regulations, not inconsistent with law, governing the  
42 use and enjoyment of state land reserved from sale, state parks,  
43 state water access sites, state trails, state monuments, state  
44 scientific and natural areas, state wilderness areas, and  
45 recreational areas owned by other state, local and federal  
46 agencies and operated under agreement by the department of  
47 natural resources, which shall have the force and effect of  
48 law. A reasonable fee may be fixed, charged, and collected by  
49 the commissioner for the privilege of the use of any or all of  
50 the foregoing privileges and facilities.

51 The commissioner, on or before November 15 of each even  
52 numbered year, shall report to the legislature ~~his~~ the \*  
53 commissioner's acts and doings, with recommendation for the \*  
54 improvement or conservation of state parks, state water access  
55 sites, state trails, and state monuments, state scientific and  
56 natural areas, state forests, state wildlife management areas,  
57 public hunting grounds, public shooting grounds, food and cover  
58 planting areas, wildlife lands, recreational or public hunting  
59 areas, state wild and scenic rivers, state wilderness areas, and  
60 all other recreational lands under the jurisdiction of the  
61 department of natural resources, and for desirable accessions  
62 thereto, such report to include an inventory of the tracts and  
63 parcels of land, and rights, interests, and easements therein,  
64 held by the state or withdrawn from sale for any of these  
65 purposes, with the value thereof, and a list of the name,  
66 location, size, and description of each state trail, state  
67 scientific and natural area, state wildlife management area,  
68 state water access site, and state wild, scenic, or recreational  
69 river designated by ~~him~~ the commissioner, and each public \*  
70 hunting grounds, public shooting grounds, food and cover  
71 planting area, wildlife lands, and recreational or public  
72 hunting area acquired by ~~him~~ the commissioner since ~~his~~ the last \*  
73 report. ~~He~~ The commissioner shall maintain a long range plan \*  
74 governing the use of the public domain under ~~his~~ the \*



1 commissioner's jurisdiction. \*

084\*#081S

2 84.081 DEPARTMENT DIVISIONS AND BUREAUS.

3 No change for subd 1 to 2

4 Subd. 3. DIRECTORS MAY EMPLOY ASSISTANTS. Each

5 director, with the approval of the commissioner, may employ such

6 assistants as may be necessary for the work of ~~his~~ the \*

7 director's division. Each director, with the approval of the \*

8 commissioner, may designate one ~~of-his-employees~~ employee as \*

9 deputy director, and may revoke such designation at any time,

10 regardless of the civil service status of such employee and

11 without affecting such status. Each deputy director may

12 exercise all of the powers of the director, subject to ~~his~~ the \*

13 director's direction and control, including powers delegated by \*

14 the commissioner unless otherwise prescribed by ~~him~~ the \*

15 commissioner. \*

084\*#082S

16 84.082 VACANCIES.

17 In case of a vacancy in the office of commissioner or of

18 any director, ~~his~~ the respective deputy shall have all of the \*

19 powers and perform all of the duties thereof until a successor,

20 either as an acting or regular incumbent, has been appointed and

21 has qualified; provided, no deputy commissioner serving as

22 commissioner in the event of a vacancy shall have power to

23 discharge a director or to revise or change the assignments of

24 activities among the divisions of the department or to designate

25 another deputy. While serving in such vacated office a deputy

26 shall receive the same salary as the regular incumbent.

084\*#083S

27 84.083 ASSIGNMENT AND DELEGATION OF DUTIES.

28 Subdivision 1. Each division shall have charge of

29 administering the activities indicated by its title and such

30 other duties and functions as may be assigned by the

31 commissioner, subject to the right of the commissioner to revise

32 and change assignments of any and all activities or of specific

33 duties or functions at any time as ~~he~~ the commissioner may see \*

34 fit, including but not limited to the right to abolish or revise

35 existing divisions or to establish new divisions. The

36 commissioner may, by written order filed in the office of the

37 secretary of state, delegate to the directors or

38 other designated employees ~~designated-by-him~~, any of the powers \*

39 or duties vested in or imposed upon the commissioner by this act

40 or by any other law upon such conditions as ~~he~~ the commissioner \*

41 may prescribe and subject to modification or revocation at ~~his~~ \*

42 the commissioner's pleasure. Such delegated powers and duties \*

43 may be exercised or performed by the respective directors or \*

44 other employees in their own names or in the name of the

45 commissioner, as ~~he~~ the commissioner may direct. \*

46 NOTE: Laws 1973, Chapter 615, Section 3, provides in

47 part: All authority of the commissioner to revise or abolish

48 divisions within the department as described in chapter 84 shall

49 expire July 1, 1975.

50 No change for subd 2

084\*#086S

51 84.086 SEALS, UNIFORMS AND BADGES.

52 No change for subd 1

53 Subd. 2. COMMISSIONER MAY FURNISH BADGES AND UNIFORMS.

54 (a) The commissioner may provide for the issuance at state

55 expense of such badges and uniforms as ~~he-may-deem~~ the \*

56 commissioner deems necessary and suitable for officers or \*

57 employees of the department and its divisions.

58 (b) Uniforms for conservation officers and their

59 supervisors shall be equipped with distinctive emblems, and

60 shall be distinctive from the uniforms of any division or

61 section of the department of natural resources, the state

62 patrol, or any other state department or agency.

084\*#089S

63 84.089 VOLUNTEERS IN NATURAL RESOURCES PROGRAM.

64 No change for subd 1 to 2

65 Subd. 3. Except as otherwise provided in this section, a

66 volunteer is not a state employee and is not subject to the

67 provisions of law relating to state employment, including but

68 not limited to those relating to hours of work, rates of

69 compensation, leave, unemployment compensation, and state

70 employee benefits. A volunteer accepted under this section is a

71 state employee for the purposes of section 176.011, subdivision



1 9, and the provisions of chapter 176, relating to workers'  
2 compensation apply to him the volunteer. \*

084\*#111S  
3 84.111 WATER CRAFT; METHODS OF HARVEST; HOURS OF HARVEST.  
4 No change for subd 1 to 3  
5 Subd. 4. It is unlawful to harvest any wild rice in any  
6 public waters between three o'clock p.m. and nine o'clock a.m.  
7 following except as otherwise expressly permitted in writing by  
8 an authorized committeeman committee member or other agent of \*  
9 the commissioner pursuant to regulations of the commissioner.  
10 No change for subd 5

084\*#14S  
11 84.14 DIRECTOR OF WILD RICE HARVEST.  
12 No change for subd 1  
13 Subd. 2. The director may, with the approval of the  
14 commissioner, appoint deputies or committeemen committee members \*  
15 to assist him in any or all of his the director's duties. The \*  
16 deputies or committeemen committee members shall be in the \*  
17 unclassified service of the state and shall serve without  
18 compensation unless otherwise provided for by law. The  
19 director, deputies, and committeemen committee members appointed \*  
20 for the purpose of regulating the harvesting of wild rice may be  
21 authorized by the commissioner to enforce the laws and  
22 regulations in relation thereto in the same manner as  
23 conservation officers are authorized so to do.  
24 No change for subd 3 to 6

084\*#15S  
25 84.15 COMMISSIONER MAY RESTRICT HARVEST.  
26 Subdivision 1. The commissioner may ~~in his discretion~~ \*  
27 restrict or prohibit the harvesting of wild rice grain on public  
28 waters of any designated area when, upon investigation of  
29 conditions, it shall be determined necessary or advisable to  
30 protect against undue depletion of the crop so as to retard  
31 reseedling or restocking of such area or so as to endanger its  
32 effective use as a natural food for waterfowl.  
33 No change for subd 2

084\*#153S  
34 84.153 PROPERTY; LEASING, RENTING.  
35 The commissioner is hereby authorized at public or private  
36 vendue and at such prices and under such terms and conditions as  
37 he the commissioner may prescribe, to lease any buildings or \*  
38 lands not now authorized to be leased, acquired in the name of  
39 the state of Minnesota by any of the several divisions of the  
40 department which are not presently needed for the uses and  
41 purposes of any of the divisions of the department. The  
42 purposes for which such leases may be executed shall be in the  
43 furtherance of the interests of conservation and such uses shall  
44 not result in any permanent injury to the land. No such lease  
45 shall be made for a term to exceed two years and shall contain a  
46 provision for cancellation at any time by the commissioner upon  
47 three months written notice. All money received from these  
48 leases shall be credited to the fund from which the property was  
49 acquired.  
50 The commissioner is hereby authorized to rent or lease to  
51 employees of the various divisions of the department such  
52 cabins, buildings, or living quarters as are now or may  
53 hereafter be constructed upon state owned lands under the  
54 control of the several divisions of the department, when this  
55 occupancy is found to be necessary or beneficial to the work of  
56 the department. These leases or rental agreements shall be upon  
57 a month to month basis and provide for surrender by the lessee  
58 upon demand at any time his the lessee's services with the state \*  
59 may be terminated, without the necessity of any written notice.  
60 All receipts from rents shall be paid in to the state treasurer  
61 and credited to the fund charged with the cost of maintenance of  
62 such buildings and are hereby appropriated for such use.  
63 All instruments and transactions so negotiated shall be  
64 approved as to form, validity, and execution by the attorney  
65 general.  
66 Hunting of wild game is prohibited on any land which has  
67 been posted by the lessee to prohibit hunting. Such prohibition  
68 shall apply to all persons including the lessee.

084\*#154S  
69 84.154 LAC QUI PARLE WATER CONTROL PROJECT.  
70 No change for subd 1  
71 Subd. 2. COMMISSIONER MAY COMPLETE LAC QUI PARLE AND



1 BIG STONE LAKE PROJECTS. Inasmuch as the cessation of the  
 2 work relief program of the Federal government and the entry of  
 3 the United States into the present war prevented completion of  
 4 certain contemplated features of the Lac qui Parle and Big Stone  
 5 Lake water control projects heretofore undertaken by the  
 6 executive council, in cooperation with Federal agencies, and it  
 7 is desirable that such projects be completed in order to secure  
 8 effective control and utilization of the waters affected for the  
 9 purposes of prevention and control of floods, water  
 10 conservation, improvement of conditions for game and fish, and  
 11 other authorized public uses, the commissioner of natural  
 12 resources is authorized to construct all works and improvements  
 13 pertaining or incidental to said projects which he the  
 14 commissioner deems necessary for such purposes, and to maintain  
 15 and operate the same so far as not transferred to the United  
 16 States pursuant to law.

\*  
\*

17 Subd. 3. POWERS OF COMMISSIONER. The commissioner  
 18 of natural resources may use for any project herein authorized  
 19 any land of the state under his the commissioner's jurisdiction  
 20 or control so far as is not inconsistent with the laws governing  
 21 the same, may acquire by purchase, gift, or condemnation any  
 22 additional lands or interests in lands required for such  
 23 projects, including lands or interests in adjacent states if  
 24 authorized by the laws thereof, may accept gifts or grants of  
 25 money or property from the United States or any other source for  
 26 such projects, may use and apply any money or property so  
 27 received in accordance with the terms of the gift or grant so  
 28 far as is not inconsistent with the provisions of this act or  
 29 other laws, may act in behalf of the state as sponsor for any  
 30 such project undertaken or authorized by the United States, may  
 31 make any sponsor's contributions required for any such project  
 32 out of moneys appropriated by Laws 1943, Chapter 476, or  
 33 otherwise made available therefor, and may cooperate with the  
 34 United States or any adjacent state or any authorized agency of  
 35 either in constructing, maintaining and operating any such  
 36 project upon such terms and conditions as he the commissioner  
 37 may deem proper not inconsistent with the laws of this state.

\*

\*

38 Subd. 4. MAY SELL OR LEASE LAND. The commissioner  
 39 of natural resources may, in behalf of the state, with the  
 40 approval of the governor, sell or lease to the United States any  
 41 part of the lands or interests in lands heretofore or hereafter  
 42 acquired by the state for the purposes of such projects, with  
 43 any structures or improvements thereon, upon such terms and  
 44 conditions as he the commissioner may deem proper, providing for  
 45 the continued maintenance and operation of such projects for the  
 46 purposes herein specified; provided that the provisions of this  
 47 section shall not be deemed to repeal or supersede the  
 48 provisions of Laws 1941, Chapters 142 and 518, with respect to  
 49 lands or interests heretofore acquired, so far as applicable  
 50 thereto; provided, that the governor shall not approve any such  
 51 sale or lease without first consulting the legislative advisory  
 52 commission and securing their recommendation, which shall be  
 53 advisory only. Failure or refusal of the commission to make a  
 54 recommendation promptly shall be deemed a negative  
 55 recommendation.

\*

56 No change for subd 5 to 6

084\*#155S

57 84.155 CONSERVATION PROJECTS; BELTRAMI ISLAND, PINE  
 58 ISLAND.

59 No change for subd 1 to 3

60 Subd. 4. LANDS TO BE UNDER MANAGEMENT OF COMMISSIONER.

61 All public lands except tax forfeited lands, owned by the  
 62 state of Minnesota, as well as lands owned by the United States  
 63 and leased by the state of Minnesota within the Beltrami and  
 64 Pine Island projects shall be under the management and control  
 65 of the commissioner, who shall have authority to negotiate for  
 66 and enter into on behalf of the state of Minnesota, leases for  
 67 hay stumpage and timber stumpage at such fees and prices as he  
 68 the commissioner may determine reasonable and just.

\*  
\*

69 Subd. 5. COMMISSIONER TO MAKE RULES. Within the  
 70 boundaries of the Beltrami Island and Pine Island areas, the  
 71 commissioner is hereby given full power and authority to make,  
 72 establish, promulgate, and enforce all necessary rules and  
 73 regulations for the care, preservation, protection, breeding,  
 74 propagation, and disposition of any and all species of wild life  
 75 therein and the regulation, issuance, sale, and revocation of



1 special licenses or special permits for hunting, fishing,  
2 trapping, camping and other uses within the areas not  
3 inconsistent with the terms of this section. The commissioner  
4 shall have the power and authority to declare the terms and  
5 conditions of such licenses and permits and the charges to be  
6 made therefor. He The commissioner may issue regulations \*  
7 specifying and controlling the terms under and by which any wild  
8 animals may be taken, captured, or killed therein or under and  
9 by which fur bearing animals having commercial value may be sold  
10 and transported. He The commissioner may regulate and effect \*  
11 the sale of merchantable timber from such lands as are owned or  
12 leased by the state; provided, ~~his~~ authority as to the leased \*  
13 lands shall not exceed that provided in the leases.

14 No change for subd 6

084\*#158S

15 84.158 GRANT OF FLOWAGE EASEMENTS.

16 The commissioner of natural resources is hereby authorized  
17 in behalf of the state and with the approval of the governor to  
18 grant flowage easements upon state owned lands, or tax-forfeited  
19 lands, in the region of upper Red Lake upon such terms and  
20 conditions as ~~he~~ the commissioner may deem expedient. \*

084\*#161S

21 84.161 COMMISSIONER MAY ACQUIRE LAND FOR CERTAIN  
22 PURPOSES.

23 The commissioner of natural resources is hereby authorized  
24 to acquire on behalf of the department of natural resources,  
25 state of Minnesota, all dam site and flowage easements and other  
26 interests in land by gift, purchase, condemnation or otherwise  
27 which may be necessary to accomplish the purposes of this  
28 section and to construct all dams, structures and control works  
29 needed to restore and control the water levels of Goose and Mud  
30 Lakes, Cass county, Minnesota, which authority to condemn shall  
31 include the condemnation of state-owned land whether held in  
32 trust or otherwise and whether or not the same be set aside as  
33 lake shore property or other special use under other provisions  
34 of law and the commissioner may further use any land of the  
35 state under ~~his~~ the commissioner's jurisdiction for this project; \*  
36 all for the purpose of improving habitat for fish, wild fowl and  
37 game, wild rice and for forestry and fire protection.

084\*#162S

38 84.162 ADDITIONAL POWERS OF COMMISSIONER.

39 The commissioner of natural resources is hereby authorized  
40 to enter into contracts and agreements with the United States  
41 and any authorized agency thereof for the use by the state of  
42 any flowage rights and other interests in land held by the  
43 United States needed for the flowage of land for this project  
44 and the commissioner of natural resources may acquire such  
45 property in fee and may further contract and cooperate with the  
46 United States for the operation and control of the levels of  
47 said water and the construction and maintenance of any of the  
48 structures needed therefor upon such terms and conditions as ~~he~~ \*  
49 the commissioner may deem necessary and proper not otherwise \*  
50 inconsistent with law.

084\*#415S

51 84.415 LICENSES, PERMITS.

52 Subdivision 1. UTILITY COMPANIES, PERMIT TO CROSS STATE  
53 OWNED LANDS. The commissioner of natural resources shall, on  
54 or before January 1, 1974, promulgate in the manner provided by  
55 chapter 15, regulations containing standards and criteria  
56 governing the sale of licenses permitting the passage of  
57 utilities over public lands and waters. The regulations shall  
58 include provisions to insure that all projects for which  
59 licenses are sold will have a minimum adverse impact on the  
60 environment. The commissioner of natural resources may, at  
61 public or private sale and for such price and upon such terms as  
62 are specified in the regulations (except where prohibited by  
63 law) grant licenses permitting passage over, under, or across  
64 any part of any school, university, internal improvement, swamp,  
65 tax-forfeited or other land or public water under the control of  
66 the commissioner of natural resources, of telephone, telegraph,  
67 and electric power lines, cables or conduits, underground or  
68 otherwise, or mains or pipe lines for gas, liquids, or solids in  
69 suspension. Any such license shall be cancelable upon  
70 reasonable notice by the commissioner for substantial violation  
71 of its terms, or if at any time its continuance will conflict  
72 with a public use of the land or water over or upon which it is



1 granted, or for any other cause. All such land or public water  
 2 shall remain subject to sale or lease or other legal use, but in  
 3 case of sale, lease or other use there may be excepted from the  
 4 grant or other disposition of land or public water all rights  
 5 included in any license over, under, or across it, and the  
 6 license may contain an agreement that there will be such  
 7 exception. The commissioner may charge a fee in lieu of but not  
 8 less than that authorized by subdivision 5 if ~~he issues~~ issuing \*  
 9 a license containing an agreement that there will be such an  
 10 exception. All rights so excepted shall be reserved to the  
 11 state and be cancelable by the commissioner for the same reasons  
 12 or cause as they might have been canceled before such sale,  
 13 lease or other use of the land or water. Upon such  
 14 cancellation, which shall be only after reasonable notice to the  
 15 licensee, all rights granted by the license shall be vested in  
 16 the state and may be granted again by the commissioner on the  
 17 terms and conditions ~~he the commissioner~~ may prescribe, but \*  
 18 subject to cancellation for the same reasons or causes as they  
 19 might have been originally canceled unless ownership of the fee  
 20 and of the license are merged. Any license granted before April  
 21 13, 1951, may be governed by it if the licensee and commissioner  
 22 so agree. Reasonable notice as used in this subdivision means a  
 23 90 day written notice addressed to the record owner of the  
 24 license at the last known address, and upon cancellation the  
 25 commissioner may grant extensions of time to vacate the premises  
 26 affected.

27 Subd. 2. Repealed, 1967 c 536 s 3

28 Subd. 3. APPLICATION, FORM. The application for  
 29 license or permit shall be in quadruplicate, and shall include  
 30 with each copy a legal description of the lands or waters  
 31 affected, a metes and bounds description of the required right  
 32 of way, a map showing said features, and a detailed design of  
 33 any structures necessary, or in lieu thereof shall be in such  
 34 other form, and include such other descriptions, maps or  
 35 designs, as the commissioner ~~in his discretion~~ may require. The \*  
 36 commissioner may at any time order such changes or modifications  
 37 respecting construction or maintenance of structures or other  
 38 conditions of the license or permit as ~~he the commissioner~~ deems \*  
 39 necessary to protect the public health and safety.

40 No change for subd 4 to 5

084\*#42S

41 84.42 VIOLATIONS; PENALTIES.

42 Subdivision 1. Any person violating any of the provisions  
 43 of sections 84.09 to 84.15, or any of the orders of the  
 44 commissioner promulgated in pursuance of the provisions thereof,  
 45 shall be guilty of a misdemeanor; and, upon a second conviction  
 46 within a period of three years, ~~his~~ the person's license shall \*  
 47 become null and void and no license of the same kind shall be \*  
 48 issued to ~~him~~ the person for one year after the date of such  
 49 conviction; and any person violating, or threatening to violate,  
 50 any provisions of sections 84.09 to 84.15 and Laws 1939, Chapter  
 51 231, may be restrained by injunction proceedings brought in the  
 52 name of the state by the attorney general or by any county  
 53 attorney.

54 Subd. 2. Repealed, 1965 c 45 s 73

084\*#45S

55 84.45 COMMISSIONER, POWERS AND DUTIES.

56 The commissioner of natural resources shall ~~have power and~~ \*  
 57 ~~it shall be his duty to~~ designate such wilderness areas within \*  
 58 the limits hereinbefore authorized as ~~he the commissioner~~ shall \*  
 59 determine after investigation to be necessary for the purposes  
 60 of sections 84.43 to 84.52, and to add to, withdraw from, or  
 61 otherwise modify such designations from time to time as the  
 62 fulfillment of such purposes may require. Such designations  
 63 shall be made by regulations adopted as provided by and subject  
 64 to the laws relating to regulations of administrative agencies  
 65 of the state, and may be modified or rescinded in like manner;  
 66 provided, that in addition to or in connection with the  
 67 proceedings required under said laws, the commissioner of  
 68 natural resources or ~~his~~ an authorized agent shall hold a public \*  
 69 hearing on any proposal for a designation or a change therein \*  
 70 hereunder at a place designated by ~~him~~ the commissioner in a \*  
 71 county containing lands affected thereby, of which at least two  
 72 weeks published notice shall be given in each county affected,  
 73 and at least 30 days notice shall be given by mail to the county  
 74 auditor of each such county.



084\*#46S

1 84.46 COMMISSIONER OF TRANSPORTATION; AIRCRAFT CHECKING  
2 STATIONS.

3 Subdivision 1. The commissioner of transportation shall  
4 ~~have power and it shall be his duty~~ as soon as practicable after \*  
5 the passage of Laws 1949, Chapter 630, to designate as aircraft  
6 checking stations at least three airports having suitable  
7 facilities for the landing of aircraft equipped for flying and  
8 landing in wilderness areas. Such checking stations shall be  
9 located so as to cover the commonly used approaches to such  
10 wilderness areas by air from all sides, as far as practicable,  
11 and each such station shall be within 100 miles of the nearest  
12 point on the boundary of such wilderness areas. The designation  
13 of such checking stations shall be made by regulations adopted  
14 as provided by and subject to the laws relating to regulations  
15 of the commissioner of transportation, and may be modified or  
16 rescinded in like manner from time to time as may be necessary  
17 for the purposes of sections 84.43 to 84.52. The commissioner  
18 of natural resources shall appoint attendants for such checking  
19 stations and shall prescribe their powers and duties, subject to  
20 the provisions hereof. Officers or employees of other state  
21 departments or governmental subdivisions of the state may be  
22 appointed as such attendants with the approval of their  
23 appointing authorities.

24 Subd. 2. The provisions of this subdivision shall apply to  
25 all aircraft and pilots thereof except as otherwise provided  
26 herein. From and after the designation of not less than three  
27 checking stations as hereinbefore provided, no such aircraft  
28 pilot shall fly an aircraft into or over any wilderness area at  
29 a height less than 2,000 feet from the ground, except as may be  
30 necessary for safety, without first landing at a checking  
31 station designated hereunder and making a written report to the  
32 attendant, on a form prescribed by the commissioner of natural  
33 resources, containing the following information: type and  
34 federal registration number of the aircraft; name, address, and  
35 license number of the pilot; names and addresses of the  
36 passengers; purpose of flight; proposed line of flight and  
37 destination within the wilderness areas; proposed period of stay  
38 therein, and proposed checking station for reporting on  
39 departure therefrom. The attendant shall deliver to the pilot a  
40 countersigned copy of the report, which the pilot shall retain  
41 in ~~his~~ possession at all times while in the wilderness areas on \*  
42 the trip covered thereby. During the period of such trip as  
43 stated in the report, the aircraft shall not be operated,  
44 landed, or kept at any place within the wilderness areas except  
45 as specified in the report, and shall not remain within such  
46 areas after the expiration of such period. Upon leaving such  
47 areas at any time after entering the same, the pilot, before  
48 landing the aircraft at any other place, shall immediately  
49 proceed to and land at the checking station designated for  
50 checking out in ~~his~~ the pilot's report, and shall check out by \*  
51 submitting ~~his~~ a copy of the report to the attendant, who shall \*  
52 endorse the same to show such checking-out and return the same  
53 to the pilot; provided, that if by reason of weather conditions  
54 or otherwise it is impracticable for the pilot to check out at  
55 the station designated in the report, ~~he~~ the pilot may check out \*  
56 at any other checking station established hereunder, submitting \*  
57 a written statement of ~~his~~ reasons therefor. All records made \*  
58 hereunder shall be kept on file at the checking stations, and \*  
59 shall be subject to inspection by the commissioner of  
60 transportation, the commissioner of natural resources, or their  
61 authorized agents, and by any conservation officer or other law  
62 enforcement officer.

63 No change for subd 3 to 4

084\*#47S

64 84.47 PERMITS TO PRIVATE PROPERTY OWNERS.

65 Subdivision 1. In case there shall be any private property  
66 situated within any such area and such private property, at the  
67 time such area is designated, is improved and used for purposes  
68 for which air transportation is essential, written permits shall  
69 be issued by the commissioner of transportation which shall  
70 authorize the operation of aircraft without check in or check  
71 out for the transportation of persons, their lawful possessions  
72 and materials to such extent as is necessary for the  
73 continuation of the use of the property affected existing at the  
74 time of the designation of the area, such permits to be issued



1 upon the following conditions:

2 (a) The owner, lessee or operator of such private property  
3 shall have a licensed seaplane base on or adjacent to his the \*  
4 property.

5 (b) Such permits shall thereupon be issued to the owner or  
6 operator of any aircraft to fly to, from, and between such bases  
7 and such other points as may be designated in the permit,  
8 provided such aircraft owner or operator has first complied with  
9 reasonable standards as to safety, equipment, and insurance to  
10 be established by the commissioner of transportation as provided  
11 by law.

12 (c) If the private property affected is situated in a  
13 wilderness area designated by the commissioner of natural  
14 resources as hereinbefore provided, a permit shall be issued for  
15 such aircraft operation as may be necessary for the continuation  
16 of any lawful use of the property; whether existing at the time  
17 of the designation of such area or thereafter developed.

18 (d) A permit shall be effective until the end of the  
19 calendar year in which it is issued, and shall be renewable  
20 annually upon the continued existence of the conditions  
21 authorizing its original issue. Every permit shall be subject  
22 to suspension or revocation, as the commissioner of  
23 transportation shall determine, upon conviction of the permittee  
24 of any violation of the provisions of sections 84.43 to 84.52.

25 (e) Every holder of a permit hereunder shall keep daily  
26 written records in duplicate, on forms prescribed by the  
27 commissioner of natural resources, of all aircraft operations  
28 under the permit, containing the following information as to  
29 each flight, in addition to such other information as may be  
30 required by law or by regulations of the commissioner of natural  
31 resources: type and federal registration number of the  
32 aircraft; name, address, and license number of the pilot; names  
33 and addresses of passengers; purposes of flight, place, date,  
34 and time of beginning and termination of flight, line of flight  
35 and destinations. On or before the fifth of each month the  
36 permittee shall mail one of the duplicates of such records for  
37 all flights during the preceding calendar month to the  
38 commissioner of natural resources, who shall keep the same on  
39 file and subject to inspection in like manner as hereinbefore  
40 provided for inspection of copies of reports at checking  
41 stations.

42 No change for subd 2

084\*#48S

43 84.48 TWO-WAY RADIO SYSTEM.

44 No aircraft shall fly into or over any such area except at  
45 the altitudes authorized in section 84.46, without being  
46 equipped with a two-way radio system, provided that this  
47 requirement shall not become effective until prescribed by order  
48 of the commissioner of transportation and provided further that  
49 when it has been so prescribed, the operator of each such  
50 aircraft shall report his the operator's presence and location \*  
51 by radio to such station as may be designated by the \*  
52 commissioner of transportation and at such times during his the \*  
53 operator's stay within the area as the commissioner of \*  
54 transportation may prescribe. Orders of the commissioner of  
55 transportation under this section shall be prescribed by  
56 regulations adopted, modified, or rescinded as may be necessary  
57 for the purposes of sections 84.43 to 84.52 in accordance with  
58 the laws relating to his the commissioner's regulations in other \*  
59 cases.

084\*#51S

60 84.51 INSPECTION.

61 Every aircraft while landed at a checking station to report  
62 as herein provided shall be subject to inspection by the  
63 commissioner of natural resources or his an authorized agents \*  
64 agent, or by any conservation officer, any of whom may, without \*  
65 a warrant, examine and search such aircraft for wild animals  
66 illegally taken or possessed or for other things declared  
67 contraband by the laws relating to wild animals, and may seize  
68 and confiscate in the name of the state any such contraband  
69 which may thereupon be found.

084\*#53S

70 84.53 TOPOGRAPHIC SURVEY; COMMISSIONER OF NATURAL  
71 RESOURCES.

72 The commissioner of natural resources is authorized to make  
73 or provide for a topographic survey of the state and maps



1 thereof, including preliminary aerial surveys incidental  
 2 thereto, so far as funds may be made available therefor, and  
 3 subject to the provisions hereof. For that purpose ~~he~~ the \*  
 4 commissioner may cooperate with the United States Geological \*  
 5 Survey or any other federal, state, or local public agency or  
 6 governmental subdivision, or with any private agency, under  
 7 conditions mutually agreed upon. ~~He~~ The commissioner may accept \*  
 8 gifts or grants of money or property for the purposes hereof,  
 9 and the same are hereby appropriated therefor. All surveys and  
 10 maps made hereunder shall conform with standards prescribed or  
 11 approved by the United States Geological Survey or other federal  
 12 authority.

084\*#58S

13 84.58 PERMIT FOR UNDERGROUND STORAGE.

14 No change for subd 1 to 2

15 Subd. 3. ~~\*~~ TIME OF HEARING. Within 20 days after the  
 16 receipt of the application together with all data requested by \*  
 17 ~~him~~ the commissioner shall fix a time and place for a hearing \*  
 18 thereon.

19 Subd. 4. NOTICE OF HEARING. Notice of hearing on  
 20 any application shall recite the date, place and time fixed by  
 21 the commissioner for the public hearing thereon and the notice  
 22 shall show the location of waters and property affected and be  
 23 published by the applicant, or by the commissioner if the  
 24 proceeding is initiated by ~~him~~ the commissioner, once each week \*  
 25 for two successive weeks in a legal newspaper published in the  
 26 county in which a part or all of the affected waters are  
 27 located. Notice shall also be mailed by the commissioner to the  
 28 county auditor and the chief executive official of any  
 29 municipality affected.

30 Subd. 5. PROCEDURE AT HEARING. The hearing shall be  
 31 public and shall be conducted by the commissioner or a referee  
 32 appointed by ~~him~~ the commissioner. All affected persons shall \*  
 33 have an opportunity to be heard. All testimony shall be taken  
 34 under oath and the right of cross-examination shall be  
 35 accorded. The commissioner shall provide a stenographer, at the  
 36 expense of the applicant, to take testimony and a record of the  
 37 testimony and all proceedings at the hearing shall be taken and  
 38 preserved. The commissioner shall not be bound by judicial  
 39 rules of evidence or of pleading and procedure.

40 No change for subd 6 to 8

084\*#62S

41 84.62 CERTIFICATE OF USE.

42 No use shall be made of said gas or liquid storage  
 43 reservoir by the applicant unless and until the right to use the  
 44 property involved in said project has been filed with, and a \*  
 45 certificate of use issued by, the commissioner of natural \*  
 46 ~~resources and-a-certificate-of-use-issued-by-him.~~ \*

084\*#621S

47 84.621 STORAGE OF GAS OR LIQUID UNDERGROUND IN NATURAL  
48 FORMATIONS.

49 No change for subd 1 to 3

50 Subd. 4. The commissioner may require the applicant to  
 51 demonstrate ~~that-he-is-capable~~ a capability of paying damages \*  
 52 resulting from the operation of the storage.

53 No change for subd 5 to 7

084\*#631S

54 84.631 ROAD EASEMENTS ACROSS TRAILS ESTABLISHED ON  
55 ACQUIRED RAILROAD RIGHTS-OF-WAY.

56 The commissioner, on behalf of the state, may convey a road  
 57 easement across any abandoned railroad right-of-way which has  
 58 been acquired by the state for trail purposes, and which is  
 59 under ~~his~~ the commissioner's jurisdiction, to a private person \*  
 60 requesting an easement for access to property owned by the  
 61 person only if the following requirements are met: (1)  
 62 alternative methods to obtain access to the property have been  
 63 sought and exhausted by the person seeking the easement through  
 64 the establishment of a town or other local government road; and  
 65 (2) the commissioner determines that the hardship to the person  
 66 being deprived of access outweighs any adverse effects to the  
 67 state-owned land caused by encumbering the state-owned land with  
 68 a road easement. ~~If-the-commissioner-determines~~ On determining \*  
 69 that an easement will be granted under this subdivision, ~~he~~ the \*  
 70 commissioner shall require the applicant to pay the market value \*  
 71 of the easement, and shall provide in the easement that it shall  
 72 revert to the state in the event of nonuse. The commissioner



1 may impose other terms and conditions of use as ~~he~~-determines  
2 necessary and appropriate under the circumstances.

084\*#81S

3 84.81 DEFINITIONS.

4 No change for subd 1 to 7

5 Subd. 8. "Commissioner" means the commissioner of natural  
6 resources acting directly or through ~~his~~ the commissioner's  
7 authorized agent.

8 No change for subd 9 to 11

084\*#82S

9 84.82 SNOWMOBILE REGISTRATION.

10 No change for subd 1 to 3

11 Subd. 4. RENEWAL. Every owner of a snowmobile shall  
12 renew ~~his~~ its registration in such manner as the commissioner  
13 shall prescribe, upon payment of the same registration fees  
14 provided in subdivision 3 hereof.

15 No change for subd 5 to 8

084\*#84S

16 84.84 TRANSFER OR TERMINATION OF SNOWMOBILE OWNERSHIP.

17 Within 15 days after the transfer of ownership, or any part  
18 thereof, other than a security interest, or the destruction or  
19 abandonment of any snowmobile, written notice thereof shall be  
20 given to the commissioner in such form as ~~he~~ the commissioner  
21 shall prescribe. Every owner or part owner of a snowmobile  
22 shall, upon failure to give such notice, be subject to the  
23 penalties imposed by Laws 1967, Chapter 876.

084\*#86S

24 84.86 RULES AND REGULATIONS.

25 Subdivision 1. With a view of achieving maximum use of  
26 snowmobiles consistent with protection of the environment the  
27 commissioner of natural resources shall adopt rules and  
28 regulations in the manner provided by chapter 14, for the  
29 following purposes:

30 (1) Registration of snowmobiles and display of registration  
31 numbers.

32 (2) Use of snowmobiles insofar as game and fish resources  
33 are affected.

34 (3) Use of snowmobiles on public lands and waters under the  
35 jurisdiction of the commissioner of natural resources.

36 (4) Uniform signs to be used by the state, counties, and  
37 cities, which are necessary or desirable to control, direct, or  
38 regulate the operation and use of snowmobiles.

39 (5) Specifications relating to snowmobile mufflers.

40 (6) A comprehensive snowmobile information and safety  
41 education and training program, including but not limited to the  
42 preparation and dissemination of snowmobile information and  
43 safety advice to the public, the training of snowmobile  
44 operators, and the issuance of snowmobile safety certificates to  
45 snowmobile operators who successfully complete the snowmobile  
46 safety education and training course. For the purpose of  
47 administering such program and to defray a portion of the  
48 expenses of training and certifying snowmobile operators, the  
49 commissioner shall collect a fee of not to exceed \$5 from each  
50 person who receives the training and shall deposit the fee in  
51 the snowmobile trails and enforcement account and the amount  
52 thereof is appropriated annually to the commissioner of natural  
53 resources for the administration of such programs. The  
54 commissioner shall cooperate with private organizations and  
55 associations, private and public corporations, and local  
56 governmental units in furtherance of the program established  
57 under this clause. The commissioner shall consult with the  
58 commissioner of public safety in regard to training program  
59 subject matter and performance testing that leads to the  
60 certification of snowmobile operators.

61 (7) The operator of any snowmobile involved in an accident  
62 resulting in injury requiring medical attention or  
63 hospitalization to or death of any person or ~~causing~~ causing damage to an  
64 extent of \$100 or more, shall promptly forward a written report  
65 of the accident to the commissioner on such form as ~~he~~ the  
66 commissioner shall prescribe.

67 No change for subd '2

084\*#87S

68 84.87 OPERATION; REGULATIONS BY MUNICIPALITIES.

69 Subdivision 1. OPERATION ON STREETS AND HIGHWAYS.

70 (a) No person shall operate a snowmobile upon the roadway,  
71 shoulder, or inside bank or slope of any trunk, county state



1 aid, or county highway in this state and, in the case of a  
 2 divided trunk or county highway, on the right of way between the  
 3 opposing lanes of traffic, except as provided in sections 84.81  
 4 to 84.90. No person shall operate a snowmobile within the right  
 5 of way of any trunk, county state aid, or county highway between  
 6 the hours of one-half hour after sunset to one-half hour before  
 7 sunrise, except on the right hand side of such right of way and  
 8 in the same direction as the highway traffic on the nearest lane  
 9 of the roadway adjacent thereto. No snowmobile shall be  
 10 operated at any time within the right of way of any interstate  
 11 highway or freeway within this state.

12 (b) A snowmobile may make a direct crossing of a street or  
 13 highway at any hour of the day provided:

14 (1) The crossing is made at an angle of approximately 90  
 15 degrees to the direction of the highway and at a place where no  
 16 obstruction prevents a quick and safe crossing; and

17 (2) The snowmobile is brought to a complete stop before  
 18 crossing the shoulder or main traveled way of the highway; and

19 (3) The driver yields the right of way to all oncoming  
 20 traffic which constitutes an immediate hazard; and

21 (4) In crossing a divided highway, the crossing is made  
 22 only at an intersection of such highway with another public  
 23 street or highway; and

24 (5) If the crossing is made between the hours of one-half  
 25 hour after sunset to one-half hour before sunrise or in  
 26 conditions of reduced visibility, only if both front and rear  
 27 lights are on; and

28 (6) A snowmobile may be operated upon a bridge, other than  
 29 a bridge that is part of the main traveled lanes of an  
 30 interstate highway, when required for the purpose of avoiding  
 31 obstructions to travel when no other method of avoidance is  
 32 possible; provided the snowmobile is operated in the extreme  
 33 right hand lane, the entrance to the roadway is made within 100  
 34 feet of the bridge and the crossing is made without undue delay.

35 (c) No snowmobile shall be operated upon a public street or  
 36 highway unless it is equipped with at least one headlamp, one  
 37 tail lamp, each of minimum candlepower as prescribed by  
 38 regulations of the commissioner, reflector material of a minimum  
 39 area of 16 square inches mounted on each side forward of the  
 40 handle bars, and with brakes each of which shall conform to  
 41 standards prescribed by rule of the commissioner pursuant to the  
 42 authority vested in ~~him~~ the commissioner by section 84.86, and  
 43 each of which shall be subject to approval of the commissioner  
 44 of public safety. \*

45 (d) A snowmobile may be operated upon a public street or  
 46 highway other than as provided by clause (b) in an emergency  
 47 during the period of time when and at locations where snow upon  
 48 the roadway renders travel by automobile impractical.

49 (e) All provisions of chapter 169 shall apply to the  
 50 operation of snowmobiles upon streets and highways, except for  
 51 those relating to required equipment, and except those which by  
 52 their nature have no application.

53 (f) Any sled, trailer, or other device being towed by a  
 54 snowmobile must be equipped with reflective materials as  
 55 required by rule and regulation of the commissioner.

56 No change for subd 1a to 3

084\*#872S

57 84.872 YOUTHFUL SNOWMOBILE OPERATORS; PROHIBITIONS.

58 Notwithstanding anything in section 84.87 to the contrary,  
 59 no person under 14 years of age shall make a direct crossing of  
 60 a trunk, county state aid, or county highway as the operator of  
 61 a snowmobile, or operate a snowmobile upon a street or highway  
 62 within a municipality. A person 14 years of age or older, but  
 63 less than 18 years of age, may make a direct crossing of a  
 64 trunk, county state aid, or county highway only if ~~he~~ the person  
 65 has in ~~his~~ immediate possession a valid snowmobile safety  
 66 certificate issued by the commissioner. No person under the age  
 67 of 14 years shall operate a snowmobile on any public land or  
 68 water under the jurisdiction of the commissioner unless  
 69 accompanied by one of the following listed persons on the same  
 70 or an accompanying snowmobile, or on a device towed by the same  
 71 or an accompanying snowmobile: ~~his~~ the person's parent, legal  
 72 guardian, or other person 18 years of age or older. However, a  
 73 person 12 years of age or older may operate a snowmobile on  
 74 public lands and waters under the jurisdiction of the  
 75 commissioner if ~~he~~ the person has in ~~his~~ immediate possession a \*



1 valid snowmobile safety certificate issued by the commissioner.  
2 It is unlawful for the owner of a snowmobile to permit the  
3 snowmobile to be operated contrary to the provisions of this  
4 section.

5 When the judge of a juvenile court, or any of its duly  
6 authorized agents, shall determine that any person, while less  
7 than 18 years of age, has violated the provisions of sections  
8 84.81 to 84.88, or any other state or local law or ordinance  
9 regulating the operation of snowmobiles, the judge, or duly  
10 authorized agent, shall immediately report such determination to  
11 the commissioner and may recommend the suspension of the  
12 person's snowmobile safety certificate. The commissioner is  
13 hereby authorized to suspend the certificate, without a hearing.  
084\*#873S

14 84.873 SIGNAL FROM OFFICER TO STOP.

15 It is unlawful for a snowmobile operator, after having  
16 received a visual or audible signal from any law enforcement  
17 officer to come to a stop, to (a) operate a snowmobile in wilful  
18 or wanton disregard of such signal, or (b) interfere with or  
19 endanger the law enforcement officer or any other person or  
20 vehicle, or (c) increase his speed or attempt to flee or elude  
21 the officer. \*

084\*#88S

22 84.88 PENALTIES.

23 No change for subd 1

24 Subd. 2. A person registered as owner of a snowmobile may  
25 be fined not to exceed \$300 if a snowmobile bearing his the  
26 person's registration number is operated contrary to the  
27 provisions of sections 84.81 to 84.88, 100.26, subdivision 1, or  
28 100.29, subdivisions 28 or 29. The registered owner may not be  
29 so fined if (a) the snowmobile was reported as stolen to the  
30 commissioner or a law enforcement agency at the time of the  
31 alleged unlawful act, or if (b) the registered owner  
32 demonstrates that the snowmobile either was stolen or was not in  
33 use at the time of the alleged unlawful act, or if (c) the  
34 registered owner furnishes to law enforcement officers upon  
35 request the identity of the person in actual physical control of  
36 the snowmobile at the time of such violation. The provisions of  
37 this subdivision do not apply to any person who rents or leases  
38 a snowmobile if such person keeps a record of the name and  
39 address of the person or persons renting or leasing such  
40 snowmobile, the registration number thereof, the departure date  
41 and time, and expected time of return thereof. Such record  
42 shall be preserved for at least six months and shall be prima  
43 facie evidence that the person named therein was the operator  
44 thereof at the time it was operated contrary to sections 84.81  
45 to 84.88, 100.26, subdivision 1, or 100.29, subdivisions 28 or  
46 29. The provisions of this subdivision do not prohibit or limit  
47 the prosecution of a snowmobile operator for violating any of  
48 the sections referred to in this subdivision. \*

084\*#90S

49 84.90 LIMITATIONS ON THE OPERATION OF RECREATIONAL MOTOR  
50 VEHICLES.

51 No change for subd 1

52 Subd. 2. Within the seven county metropolitan area, no  
53 person shall enter and operate a recreational motor vehicle on  
54 lands not his-own owned by the person, except where otherwise  
55 allowed by law, without the written or oral permission of the  
56 owner, occupant, or lessee of such lands. Written permission  
57 may be given by a posted notice of any kind or description that  
58 the owner, occupant, or lessee prefers, so long as it specifies  
59 the kind of vehicles allowed, such as by saying "Recreational  
60 Vehicles Allowed", "Snowmobiles Allowed", "Trail Bikes Allowed",  
61 "All-Terrain Vehicles Allowed", or words substantially similar. \*

62 Subd. 3. Outside the seven county metropolitan area, no  
63 person shall enter on any land not his-own owned by the person  
64 for the purpose of operating a recreational motor vehicle after  
65 being notified, either orally or by written or posted notice, by  
66 the owner, occupant, or lessee not to do so. Where posted  
67 notice is used, signs shall bear letters not less than two  
68 inches high and shall state one of the following: "Recreational  
69 Vehicles Prohibited", "Snowmobiles Prohibited", "Trail Bikes  
70 Prohibited", "All-Terrain Vehicles Prohibited", or words  
71 substantially similar. In lieu of the above notice an owner,  
72 occupant or lessee may post any sign prohibiting recreational  
73 motor vehicles which has been adopted by rule or regulation of \*



1 the commissioner of natural resources. The notice or sign shall  
2 be posted at corners and ordinary ingress and egress to the  
3 property and when so posted shall serve so as to raise a  
4 conclusive presumption that a person operating a recreational  
5 motor vehicle thereon had knowledge ~~that he had entered~~ of  
6 entering upon such posted lands. Failure to post notice as  
7 provided in this subdivision shall not deprive a person of the  
8 right to bring a civil action for damage to ~~his~~ one's person or  
9 property as otherwise provided by law. \*

10 Subd. 4. It is unlawful for a person to post, mutilate, or  
11 remove any notice or sign provided in this section upon any  
12 lands or waters over which ~~he~~ the person has no right, title,  
13 interest, or license. It is unlawful for a person other than a  
14 duly constituted legal authority to so post any public lands,  
15 including but not limited to tax forfeited lands, as above  
16 described. It is unlawful for a person to mutilate, destroy,  
17 damage, or remove any shelter, comfort station or other trail  
18 facility on any trail established on state owned land or on any  
19 recreational trail which is funded in whole or in part by state  
20 grant-in-aid funds. \*

21 No change for subd 5 to 7

084\*#925S

22 84.925 EDUCATION AND TRAINING PROGRAM.

23 No change for subd 1

24 Subd. 2. YOUTHFUL OPERATORS. (a) A person under the  
25 age of 14 years may not operate a three-wheel off-road vehicle  
26 on any public land or water under the jurisdiction of the  
27 commissioner unless accompanied by an adult on the vehicle or on  
28 an accompanying three-wheel off-road vehicle or on a device  
29 towed by the same or an accompanying three-wheel off-road  
30 vehicle. However, a person 12 years of age or older may operate  
31 a three-wheel off-road vehicle on public lands and waters under  
32 the jurisdiction of the commissioner if ~~he~~ the person has in ~~his~~  
33 immediate possession a valid three-wheel off-road vehicle safety  
34 certificate issued by the commissioner. \*

35 (b) It is unlawful for the owner of a three-wheel off-road  
36 vehicle to allow the vehicle to be operated contrary to the  
37 provisions of this section.

084\*#926S

38 84.926 VEHICLE USE ALLOWED ON PUBLIC LANDS BY THE  
39 COMMISSIONER.

40 On a case by case basis, after notice and public hearing,  
41 the commissioner may allow vehicles on public trails under ~~his~~  
42 the commissioner's jurisdiction during specified times. \*

084A#04S

43 84A.04 LIST OF LANDS.

44 The auditor of each county in which a portion of this  
45 preserve and hunting ground is situated shall certify to the  
46 commissioner of natural resources a list of all the lands within  
47 the boundaries of the preserve and hunting ground, except lands  
48 lying within the boundaries of any incorporated city, which have  
49 been bid in for the state at the delinquent tax sale held in the  
50 year 1928 for the non-payment of taxes or special drainage  
51 assessments and not redeemed or assigned to an actual purchaser,  
52 which certificate shall contain the following information:

53 (1) The legal description of each parcel of such lands;

54 (2) The amount of principal and interest of delinquent  
55 drainage assessments, if any, or instalments thereof, for all  
56 years prior to the date of such report, against each such parcel  
57 of land; and

58 (3) The amount of drainage assessments thereof assessed  
59 against each such parcel of land which have been or are to be  
60 extended upon the tax rolls of such county for collection with  
61 the taxes for the year 1927 and subsequent years.

62 On or before June fifteenth, of each year thereafter, such  
63 county auditor shall certify to the commissioner of natural  
64 resources a supplemental report giving the information contained  
65 in the original report covering such lands within this preserve  
66 and hunting ground bid in for the state at the annual tax sale  
67 of that year and not included in the previous report.

68 When redemption is made of any parcel of such land within  
69 the preserve and hunting ground which has been bid in for the  
70 state at any tax sale for taxes heretofore levied or when the  
71 tax liens on such land are assigned to an actual purchaser, the  
72 county auditor shall report the same forthwith to the  
73 commissioner of natural resources, and the county treasurer



1 shall transmit forthwith the proceeds of such redemption to the  
2 state treasurer.

3 After each distribution has been made of the tax  
4 collections on the June and November tax settlements, such  
5 county auditor shall certify to the commissioner of natural  
6 resources the following information relating to bonds issued to  
7 finance or refinance public drainage ditches lying wholly or  
8 partly within this preserve and hunting ground and the  
9 collection of assessments levied on account of such ditches:

10 (1) The amount of principal and interest to become due on  
11 such bonds prior to the next ensuing tax settlement and  
12 distribution;

13 (2) The amount of moneys collected from such drainage  
14 assessments and credited to the funds of these ditches; and

15 (3) The amount of the deficit in the ditch fund of the  
16 county chargeable to such ditches.

17 Upon the approval of this certificate by the commissioner  
18 of natural resources, ~~he~~ the commissioner shall draw a warrant \*  
19 or warrants on the state treasurer, payable out of the Red Lake  
20 game preserve fund, for the amount of the deficit in favor of  
21 such county.

22 As to all public drainage ditches which lie wholly within  
23 this preserve and hunting ground, the maximum amount of money  
24 which shall be paid to or for the benefit of such county, in the  
25 manner above provided, shall never exceed the principal and  
26 interest of the bonds issued to finance and refinance such  
27 ditches outstanding at the time of the passage and approval of  
28 sections 84A.01 to 84A.11, less moneys on hand in the county  
29 ditch fund to the credit of such ditches, and such liability  
30 shall be reduced, from time to time, by the amount of any and  
31 all payments of assessments hereafter extended, made by the  
32 owners of lands heretofore assessed for benefits on account of  
33 such ditches. As to all public drainage ditches which lie  
34 partly within and partly without the boundaries of this preserve  
35 and hunting ground, the maximum amount which shall be paid to or  
36 for the benefit of such county shall never exceed the percentage  
37 of bonds issued to finance and refinance such ditches so  
38 outstanding, less moneys on hand in the county ditch fund to the  
39 credit of such ditches at the time of the passage and approval  
40 of sections 84A.01 to 84A.11, which bears the same proportion to  
41 the whole amount of such bonds as the original benefits assessed  
42 against lands within the game preserve bear to the original  
43 total benefits assessed to the entire system of such ditches,  
44 and such liability shall be reduced, from time to time, by the  
45 payments of all assessments hereafter extended, made by the  
46 owners of lands in this preserve and hunting ground, of  
47 assessments for benefits heretofore assessed on account of any  
48 such ditch. The commissioner of natural resources shall have  
49 authority to provide and prescribe the forms for any reports  
50 required by sections 84A.01 to 84A.11 ~~to-be-made-to-him~~, and to \*  
51 require any further and additional information from any \*  
52 officials of these counties which ~~he~~ the commissioner of finance \*  
53 deems necessary for the proper administration of sections 84A.01  
54 to 84A.11.

084A#08S

55 84A.08 LANDS CLASSIFIED.

56 Upon receipt by the commissioner of finance of the reports  
57 of county auditor specified in section 84A.04, ~~he~~ the \*  
58 commissioner shall certify a copy thereof to the department, \*  
59 which shall classify all such lands as to their suitability for  
60 agriculture or for afforestation or reforestation or for  
61 ownership and use by the state for preserving, propagating,  
62 breeding and hunting of wild life of the kinds specified in  
63 section 84A.01, and after the title to any such lands has been  
64 acquired by the state, in the manner provided, such lands may be  
65 reclassified, from time to time. All such lands which shall  
66 become the absolute property of the state under the provisions  
67 of sections 84A.01 to 84A.11, which have been classified as  
68 suitable for agriculture and timber, from any lands so acquired,  
69 shall be subject to sale by the state, as provided by law.

084A#20S

70 84A.20 REFORESTATION AREAS TO BE SET OFF.

71 For the purpose of vesting and revesting the state with  
72 title to lands suitable primarily for the development of forests  
73 and the prevention of forest fires, and for experimenting in and  
74 practically advancing afforestation and reforestation, or for



1 the purpose of impounding, controlling, and regulating the  
2 waters of meandered lakes and the flow of natural streams in the  
3 state, or for either or any of such purposes, or for other  
4 public state purposes, the board of county commissioners of any  
5 county within which such lands are located and in which on  
6 January 1, 1931, the taxes on more than 35 percent of the  
7 taxable land are delinquent and of which on January 1, 1931, the  
8 bonded ditch indebtedness, including accrued interest, equals or  
9 exceeds nine percent of the assessed valuation of the county,  
10 exclusive of money and credits, may by resolution duly adopted  
11 propose to the state of Minnesota that one or more areas in the  
12 county containing this land be taken over by the state for  
13 afforestation, reforestation, flood control projects, or other  
14 public state purposes, to be managed, controlled, and used for  
15 the development of forests and the prevention of forest fires,  
16 and for the purpose of experimenting in and practically  
17 advancing afforestation, reforestation, or for the purpose of  
18 impounding, controlling, and regulating the waters of meandered  
19 lakes and the flow of natural streams, or for other public state  
20 purposes, on lands to be acquired by the state within such  
21 projects, as hereinafter set forth. Each such area shall  
22 include lands which have been assessed for all or part of the  
23 cost of the establishment and construction of public drainage  
24 ditches under the laws of this state, and on which such  
25 assessments or instalments thereof are overdue, delinquent, and  
26 unpaid. A duly certified copy of each such resolution of the  
27 county board shall be submitted to and filed with the department  
28 and considered and acted upon by the department; if approved by  
29 the department, it shall then be submitted to, considered, and  
30 acted upon by the executive council and if approved by the  
31 executive council the proposition shall be formally accepted by  
32 the governor ~~and his~~. Acceptance shall be communicated in \*  
33 writing to and filed with the auditor of the county. State  
34 lands which have been sold as provided by law and for which  
35 certificates of sale have been issued shall be considered  
36 taxable lands within the meaning of this section and, if the  
37 taxes against such lands or the interest of the purchaser  
38 therein are delinquent, shall be considered lands on which the  
39 taxes are delinquent within the meaning of this section until  
40 such time as the title of the certificate holder shall have been  
41 terminated by the commissioner in accordance with the provisions  
42 of section 92.16.

084A#23S

43 84A.23 COUNTY AUDITOR TO MAKE LIST OF LANDS.

44 As soon as practicable after the approval and acceptance of  
45 any such project the auditor of each county in which the same is  
46 situated shall certify to the commissioner of finance a list of  
47 all the lands within the boundaries of the project, except lands  
48 lying within the boundaries of any city, which have been bid in  
49 for the state at the delinquent tax sale held in the year 1928  
50 for the non-payment of taxes or special drainage assessments and  
51 not redeemed or assigned to an actual purchaser, which  
52 certificate shall contain the following information:

53 (1) The legal description of each parcel of such lands;

54 (2) The amount of the principal and interest of delinquent  
55 drainage assessments, if any, or instalments thereof for all  
56 years prior to the date of such report against each such parcel  
57 of land; and

58 (3) The amount of drainage assessments thereof assessed  
59 against each such parcel of land, which have been or are to be  
60 extended upon the tax rolls of such county for collection with  
61 the taxes for the year 1927 and subsequent years.

62 On or before June fifteenth of each year thereafter such  
63 county auditor shall certify to the commissioner of finance a  
64 supplemental report giving the information contained in the  
65 original report covering such lands within each such project bid  
66 in for the state at the annual tax sale of that year and not  
67 included in the previous reports.

68 When redemption is made of any parcel of such land within  
69 any such project which has been bid in for the state at any tax  
70 sale for taxes heretofore levied, or when tax liens on these  
71 lands are assigned to an actual purchaser, the county auditor  
72 shall report the same forthwith to the commissioner of finance,  
73 and the county treasurer shall transmit forthwith the proceeds  
74 of the redemption or assignment to the state treasurer.

75 Forthwith upon the approval and acceptance of any such



1 project and thereafter, after each distribution has been made of  
 2 the tax collections on the June and November tax settlements,  
 3 such county auditor shall certify to the commissioner of finance  
 4 the following information relating to bonds issued to finance or  
 5 refinance public drainage ditches lying, wholly or partly,  
 6 within such projects, and the collection of assessments levied  
 7 on account of such ditches:

8 (1) The amount of principal and interest to become due on  
 9 such bonds prior to the next ensuing tax settlement and  
 10 distribution;

11 (2) The amount of moneys collected from such drainage  
 12 assessments and credited to the funds of the ditches; and

13 (3) The amount of the deficit in the ditch fund of the  
 14 county chargeable to such ditches.

15 Upon the approval of the certificate by the commissioner of  
 16 finance, ~~he~~ the commissioner shall draw a warrant or warrants on  
 17 the state treasurer, payable out of the fund pertaining to such  
 18 project, for the amount of the deficit in favor of such county. \*

19 As to all public drainage ditches which lie wholly within  
 20 any such project, the maximum amount of money which shall be  
 21 paid to or for the benefit of the county in the manner above  
 22 provided shall never exceed the principal and interest of the  
 23 bonds issued to finance or refinance such ditches outstanding at  
 24 the time of the passage and approval of sections 84A.20 to  
 25 84A.30, less moneys on hand in the county ditch fund to the  
 26 credit of such ditches, and such liabilities shall be reduced  
 27 from time to time by the amount of any and all payments of  
 28 assessments hereafter extended, made by the owners of lands  
 29 heretofore assessed for benefits on account of such ditches. As  
 30 to all public drainage ditches which lie partly within and  
 31 partly without the boundaries of any such project, the maximum  
 32 amount which shall be paid from the fund pertaining to such  
 33 project to or for the benefit of such county shall never exceed  
 34 the percentage of bonds issued to finance and refinance such  
 35 ditches so outstanding, less moneys on hand in the county ditch  
 36 fund to the credit of such ditches at the time of the passage  
 37 and approval of sections 84A.20 to 84A.30, which bears the same  
 38 proportion to the whole amount of these bonds as the original  
 39 benefits assessed against lands within the project bear to the  
 40 original total benefits assessed to the entire system of such  
 41 ditches, and this liability shall be reduced from time to time  
 42 by the payments of all assessments hereafter extended, made by  
 43 the owners of lands within such project of assessments for  
 44 benefits heretofore assessed on account of any such ditch.

45 The commissioner of finance shall have authority to provide  
 46 and prescribe the forms for any reports required by sections  
 47 84A.20 to 84A.30 ~~to-be-made-to-him~~, and to require any further  
 48 and additional information from any officials of any such county  
 49 which ~~he~~ the commissioner of finance deems necessary for the  
 50 proper administration of sections 84A.20 to 84A.30. \*

084A#27S

51 84A.27 REPORTS, CERTIFICATION.

52 Upon receipt of the commissioner of finance of the reports  
 53 of the county auditor specified in section 84A.23 ~~he~~ the  
 54 commissioner shall certify a copy thereof to the department,  
 55 which shall classify all such lands as to their suitability for  
 56 agriculture or for afforestation, reforestation, or for the  
 57 purpose of impounding, controlling, and regulating the waters of  
 58 meandered lakes and the flow of natural streams, or for other  
 59 public state purposes; and after the title to any such lands has  
 60 been acquired by the state in the manner provided in sections  
 61 84A.20 to 84A.30 such lands may be reclassified from time to  
 62 time. All such lands which become the absolute property of the  
 63 state under the provisions of sections 84A.20 to 84A.30 which  
 64 have been classified as suitable for agriculture, and timber  
 65 from any lands so acquired, shall be subject to sale by the  
 66 state as provided by law. \*

084A#31S

67 84A.31 STATE REFORESTATION PROJECTS.

68 For the purpose of vesting and revesting the state with  
 69 title to lands suitable primarily for the development of forests  
 70 and prevention of forest fires, and for experimenting in and  
 71 practically advancing afforestation and reforestation, and for  
 72 the purpose of impounding, controlling, and regulating the water  
 73 of meandered lakes and the flow of natural streams of the state,  
 74 and for the purpose of creating and establishing wild game and



1 fishing reserves, or for either or any of these purposes, or for  
2 any other public state purpose, the board of county  
3 commissioners of any county within which such lands are located,  
4 and in which, on January 1, 1933, the taxes on more than 25  
5 percent of the acreage of the lands in any town in the county,  
6 as shown by the tax books thereof, are delinquent, and in which,  
7 on January 1, 1933, the taxes or ditch assessments on more than  
8 50 percent of the acreage of the lands included in the area or  
9 project herein provided for, as shown by the tax books of the  
10 county, are delinquent, and of which, on January 1, 1933, the  
11 bonded ditch indebtedness of any county wherein any of the lands  
12 are located equals or exceeds 15 percent of the assessed value  
13 of the county for the year 1932, as fixed and determined by the  
14 Minnesota tax commission, exclusive of money and credits, may by  
15 resolution duly adopted propose to the state of Minnesota that  
16 any "area in the county consisting of one or more townships, or  
17 part of any township, containing such lands be taken over by the  
18 state for afforestation, reforestation, flood control projects,  
19 wild game and fishing reserves, or other public state purpose,  
20 to be managed, controlled, and used for the development of  
21 forests and prevention of forest fires, and for the purpose of  
22 experimenting in and practically advancing afforestation,  
23 reforestation, or for the purpose of impounding, controlling,  
24 and regulating the waters of meandered lakes and the flow of  
25 natural streams, or for the purpose of creating and establishing  
26 wild game and fishing reserves, or for either or any such  
27 purposes," or for any other public state purpose, on lands to be  
28 acquired by the state within such projects, as herein set  
29 forth. Each such area shall include lands which have been  
30 assessed for all or part of the cost of the establishment,  
31 construction, or repair of public drainage ditches under the  
32 laws of this state, and on which the assessments or instalments  
33 thereon are overdue, delinquent, and unpaid. A duly certified  
34 copy of the resolutions of the county board shall be submitted  
35 to and filed with the department, or such department as shall be  
36 established in lieu thereof, and considered and acted upon by  
37 the department; if approved by the department, it shall then be  
38 submitted to, considered and acted upon by the executive  
39 council; or such department as shall be established in lieu  
40 thereof, and, if approved by the executive council, the  
41 proposition shall be formally accepted by the governor ~~and his~~.  
42 Acceptance shall be communicated in writing to and filed with  
43 the auditor of the county. State school, swamp, indemnity, and  
44 institutional lands which have heretofore been, or shall  
45 hereafter be, sold as provided by law and for which certificates  
46 of sale have been issued at the time of the passage of the  
47 resolution by the county board, and all lands owned by the  
48 conservator of rural credit shall be considered taxable lands,  
49 within the meaning of this section; and, if the taxes or ditch  
50 lien instalments on such lands or the interest of the purchaser  
51 therein are delinquent, shall be considered lands on which the  
52 taxes are delinquent within the meaning of this section.

084A#33S

## 53 84A.33 COUNTY AUDITORS TO CERTIFY TAX DELINQUENT LANDS.

54 As soon as practicable after the approval and acceptance of  
55 any such project, the auditor of each county in which the same  
56 is situated shall certify to the commissioner of finance a list  
57 of all lands within the boundaries of any such project, except  
58 lands lying within the boundaries of any incorporated city, upon  
59 which taxes are delinquent for three years or more, which have  
60 been bid in for the state at any delinquent tax sale heretofore  
61 or hereafter held in the non-payment of taxes, and which have  
62 not been redeemed or assigned to any actual purchaser, and which  
63 certificates shall contain the following information:

- 64 (1) The legal description of each parcel of such land;  
65 (2) The name and number of the ditch and the amount of the  
66 principal and interest of each delinquent drainage assessment as  
67 it appears on the tax books of the county for all years prior to  
68 the date of such certificate against each such parcel of land,  
69 together with interest thereon at six percent per annum since  
70 the due date of the instalment.

71 On or before the fifteenth day of June in each year  
72 thereafter, the county auditor shall certify to the commissioner  
73 of finance a list of all lands within the boundaries of any such  
74 project, except lands lying within the boundaries of any city,  
75 and except lands which have been described in any previous



1 certificate, and upon which taxes are delinquent for three years  
2 or more and which have been bid in for the state at any  
3 delinquent tax sale heretofore or hereafter held for the  
4 non-payment of taxes, and which have not been redeemed or  
5 assigned to an actual purchaser, and which certificate shall  
6 contain the following information:

7 (1) The legal description of each parcel of such land,  
8 contained in any prior certificate upon which all taxes have  
9 been redeemed;

10 (2) The legal description of each parcel of such lands  
11 which, on May fourteenth of the year in which the certificate is  
12 furnished, is delinquent for three years or more;

13 (3) The name and number of the ditch and the amount of the  
14 principal and interest of each delinquent ditch assessment  
15 instalment as it appears on the tax books of the county for all  
16 years prior to the date of such certificate against each such  
17 parcel of land, together with interest thereon at the rate of  
18 six percent per annum since the due date of each instalment;  
19 provided, that the certificate shall not contain the delinquent  
20 drainage assessment instalments included in any certificate  
21 theretofore furnished.

22 When the delinquent drainage assessment instalment on any  
23 such parcel of land included in any such certificate of the  
24 county auditor is redeemed, paid, or assigned to any person the  
25 county auditor shall forthwith report the same to the  
26 commissioner of finance and the county treasurer shall forthwith  
27 remit to the state treasurer the amount so paid in the county  
28 treasury on account of any such delinquent drainage assessment  
29 instalment or instalments.

30 Forthwith upon the approval and acceptance of any such  
31 project and thereafter, after each distribution has been made of  
32 the tax collections for the June and November tax settlements,  
33 such county auditor shall certify to the commissioner of finance  
34 the following information relating to bonds issued to finance or  
35 refinance public drainage ditches lying wholly or partly within  
36 such projects, and the collection of assessments levied on  
37 account of such ditches:

38 (1) The amount of principal and interest to become due on  
39 such bonds prior to the next ensuing tax settlement and  
40 distribution;

41 (2) The amount of moneys collected from such drainage  
42 assessments and credited to the funds of such ditches, not  
43 already transmitted to the state treasurer as provided in  
44 sections 84A.31 to 84A.42.

45 (3) The amount of the deficit in the ditch fund of the  
46 county chargeable to such ditches.

47 Forthwith upon the approval of this certificate of the  
48 county auditor by the commissioner of finance, ~~he~~ the  
49 commissioner shall draw a warrant or warrants on the state  
50 treasurer, payable out of the fund herein provided for, and  
51 transmit the same to the county treasurer of the county, and  
52 these moneys shall be credited to the proper ditch of the county  
53 and placed in the ditch bond fund of the county, which is hereby  
54 created, and used to pay the ditch bonded indebtedness of the  
55 county assumed by the state under sections 84A.31 to 84A.42, and  
56 for no other purpose. The total amount of such warrants so to  
57 be drawn by the commissioner of finance shall not exceed in any  
58 one year the total amount of the deficit hereinafter provided  
59 for under this section.

60 The state shall be subrogated to all title, right,  
61 interest, or lien of the county in or on the lands so certified  
62 within these projects.

63 As to all public drainage ditches which lie wholly within  
64 any such project, the maximum amount of money which shall be  
65 paid to, or for the benefit of, the county, in the manner above  
66 provided, shall never exceed the principal and interest of the  
67 bonds issued to finance or refinance any such ditch outstanding  
68 at the time of the passage and approval of sections 84A.31 to  
69 84A.42, less moneys on hand in the county ditch fund to the  
70 credit of any such ditch, and these liabilities shall be reduced  
71 from time to time by the amount of any and all payments of  
72 assessments hereafter extended made by the owners of lands  
73 heretofore assessed for benefits on account of such ditches. As  
74 to all public drainage ditches which lie partly within and  
75 partly without the boundaries of any such project the maximum  
76 amount which shall be paid from the fund pertaining to such



1 project to or for the benefit of the county shall never exceed  
 2 the percentage of bonds issued to finance and refinance any such  
 3 ditch so outstanding, less moneys on hand in the county ditch  
 4 fund to the credit of any such ditch at the time of the passage  
 5 and approval of sections 84A.31 to 84A.42, which bears the same  
 6 proportion to the whole amount of such bonds as the original  
 7 benefits assessed against these lands within the project bear to  
 8 the original total benefits assessed to the entire system for  
 9 any such ditch, and this liability shall be reduced from time to  
 10 time by the payments of all assessments hereafter extended made  
 11 by the owners of lands within the project of assessments for  
 12 benefits heretofore assessed on account of any such ditch.

13 The commissioner of finance shall have authority to provide  
 14 and prescribe the forms for any required reports ~~required-to-be~~  
 15 ~~made-to-him~~ and to require any further and additional  
 16 information from any officials of any such county which ~~he~~ the  
 17 commissioner of finance deems necessary for the proper  
 18 administration thereof.

\*  
\*  
\*  
\*

084A#37S

19 84A.37 COMMISSIONER OF FINANCE TO CERTIFY LIST TO  
 20 DEPARTMENT.

21 Upon receipt by the commissioner of finance of the reports  
 22 of the county auditor specified in section 84A.33, ~~he~~ the  
 23 commissioner shall certify a copy thereof to the department,  
 24 which shall classify all such lands as to their suitability for  
 25 agriculture or for afforestation, reforestation, or for the  
 26 purpose of impounding, controlling, and regulating the waters of  
 27 meandered lakes and flow of natural streams, or for other public  
 28 state purposes; and, after the title to any such land has been  
 29 acquired by the state in the manner herein provided, such lands  
 30 may be reclassified from time to time. All such lands which  
 31 become the absolute property of the state under the provisions  
 32 of sections 84A.31 to 84A.42 which have been classified as  
 33 suitable for agriculture, and timber from any lands so acquired,  
 34 shall be subject to sale or rental by the state, as provided by  
 35 law.

\*  
\*

084A#55S

36 84A.55 CERTAIN GAME PRESERVES, AREAS, PROJECTS; CONTROL.

37 No change for subd 1 to 8

38 Subd. 9. The commissioner may make necessary  
 39 investigations and surveys for and may undertake projects for  
 40 the drainage of any state owned lands within any game preserve,  
 41 conservation area, or other area subject to the provisions  
 42 hereof so far as ~~he~~ the commissioner shall determine that such  
 43 lands will be benefited thereby in furtherance of the purposes  
 44 for which the area was established, and may pay the cost thereof  
 45 out of any funds appropriated and available therefor. If the  
 46 commissioner shall determine after investigation that any  
 47 project for the construction, repair, or improvement of any  
 48 public ditch or ditch system undertaken by any county or other  
 49 public agency as otherwise provided by law will benefit such  
 50 lands in furtherance of said purposes, ~~he~~ the commissioner may  
 51 cooperate in such project by joining in the petition therefor or  
 52 consenting thereto or approving the same upon such conditions  
 53 as ~~he~~ the commissioner shall determine, and shall authorize the  
 54 imposition of assessments therefor upon such lands in such  
 55 amounts as ~~he~~ the commissioner shall determine, or may make lump  
 56 sum contributions to the county or other public funds  
 57 established for the payment of the cost of the project;  
 58 provided, such assessments or contributions shall not in any  
 59 case exceed the value of such benefits to such state owned lands  
 60 as determined by the commissioner and specified by ~~his~~ written  
 61 certificates or other statement filed in the proceedings, and  
 62 shall be payable only out of funds appropriated and available  
 63 therefor in such amounts as the commissioner may determine. The  
 64 commissioner of natural resources shall establish by rule before  
 65 January 1, 1986, the criteria for determining benefits to  
 66 state-owned lands held or used for the purpose of protecting or  
 67 propagating wildlife, providing hunting or fishing for the  
 68 public, or other purposes relating to conservation, development,  
 69 or use of soil, water, forests, wild animals, or related natural  
 70 resources.

\*  
\*  
\*  
\*  
\*

71 No change for subd 10 to 14

084B#10S

72 84B.10 ENVIRONMENTAL PROTECTION.

73 Before any lands are conveyed to the United States pursuant



1 to sections 84B.01 to 84B.10, the state shall enter into a  
 2 written agreement with the secretary of the interior or ~~his~~ a \*  
 3 designee pursuant to which the parties agree to cooperate to  
 4 maintain in the park the highest standards relating to air,  
 5 land, and water quality, whether these highest standards be  
 6 state or federal, consistent with the lawful authority possessed  
 7 by the state of Minnesota and the secretary of the interior in  
 8 ~~his~~ the administration of the national park system to maintain \*  
 9 air, land, and water quality in the park.

084B#11S

10 84B.11 CITIZEN'S COUNCIL ON VOYAGEURS NATIONAL PARK.  
 11 Subdivision 1. The governor shall appoint, except for the  
 12 legislative members, a citizen's council on Voyageurs National  
 13 Park, consisting of 17 members as follows:  
 14 Four residents of Koochiching county;  
 15 Four residents of St. Louis county;  
 16 Five residents of the state at large from outside  
 17 Koochiching and St. Louis counties;  
 18 Two members of the state senate to be appointed by the  
 19 committee on committees;  
 20 Two members of the state house of representatives to be  
 21 appointed by the speaker of the house.  
 22 The governor shall designate one of the appointees to serve  
 23 as ~~chairman~~ chair and the committee may elect such other \*  
 24 officers as it deems necessary. Members shall be appointed so  
 25 as to represent differing viewpoints and interest groups on the  
 26 facilities included in and around the park. Legislator members  
 27 shall serve for the term of the legislative office to which they  
 28 were elected. The terms, compensation and removal of  
 29 nonlegislator members shall be as provided in section 15.059.  
 30 This section is repealed June 30, 1987.

31 No change for subd 2 to 3

085\*#0115S

32 85.0115 NOTICE OF ADDITIONS AND DELETIONS.  
 33 The commissioner of natural resources shall publish a  
 34 notice and description of proposed additions to and deletions  
 35 from legislatively designated boundaries of state parks in a  
 36 legal newspaper of general circulation in each county that is  
 37 affected, and shall mail a copy of such notice and description  
 38 to the ~~chairman~~ chair of the affected county board or boards and \*  
 39 to each affected landowner.

085\*#015S

40 85.015 STATE TRAILS.  
 41 No change for subd 1 to 11  
 42 Subd. 12. Heartland Trail, Hubbard and Cass counties.  
 43 (a) The trail shall originate at mile post 90.92 at Park  
 44 Rapids in Hubbard county and shall extend in an easterly  
 45 direction along the Burlington Northern Railroad right-of-way to  
 46 the south line of Oak Avenue in Walker in Cass county. The  
 47 trail shall then continue from the section line between sections  
 48 9 and 16, Township 142 North, Range 31 West, in a northerly  
 49 direction along the Burlington Northern Railroad right-of-way to  
 50 mile post 137.78, approximately 2 miles south of Cass Lake in  
 51 Cass county, and there terminate.  
 52 (b) The trail shall be developed primarily for riding and  
 53 hiking.  
 54 (c) In addition to the authority granted in subdivision 1,  
 55 lands and interests in lands for the Heartland Trail may be  
 56 acquired by eminent domain. Before acquiring any land or  
 57 interest in land by eminent domain the commissioner of  
 58 administration shall obtain the approval of the governor. The  
 59 governor shall consult with the legislative advisory commission  
 60 before granting ~~his~~ approval. Recommendations of the legislative \*  
 61 advisory commission shall be advisory only. Failure or refusal  
 62 of the commission to make a recommendation shall be deemed a  
 63 negative recommendation.  
 64 Subd. 13. Arrowhead Region Trails, in Cook, Lake, St.  
 65 Louis, Koochiching and Itasca counties.  
 66 (a) (1) The Taconite Trail shall originate at Ely in St.  
 67 Louis county and extend southwesterly to Tower in St. Louis  
 68 county, thence westerly to McCarthy Beach state park in St.  
 69 Louis county, thence southwesterly to Grand Rapids in Itasca  
 70 county and there terminate;  
 71 (2) The Northshore Trail shall originate in Duluth in St.  
 72 Louis county and extend northeasterly to Two Harbors in Lake  
 73 county, thence northeasterly to Grand Marais in Cook county,



1 thence northeasterly to the international boundary in the  
2 vicinity of the north shore of Lake Superior, and there  
3 terminate;

4 (3) The Grand Marais to International Falls Trail shall  
5 originate in Grand Marais in Cook county and extend  
6 northwesterly, outside of the Boundary Waters Canoe Area, to Ely  
7 in St. Louis county, thence southwesterly along the route of the  
8 Taconite Trail to Tower in St. Louis county, thence  
9 northwesterly through the Pelican Lake area in St. Louis county  
10 to International Falls in Koochiching county, and there  
11 terminate.

12 (b) The trails shall be developed primarily for riding and  
13 hiking.

14 (c) In addition to the authority granted in subdivision 1,  
15 lands and interests in lands for the Arrowhead Region Trails may  
16 be acquired by eminent domain. Before acquiring any land or  
17 interest in land by eminent domain the commissioner of  
18 administration shall obtain the approval of the governor. The  
19 governor shall consult with the legislative advisory commission  
20 before granting ~~his~~ approval. Recommendations of the \*  
21 legislative advisory commission shall be advisory only. Failure  
22 or refusal of the commission to make a recommendation shall be  
23 deemed a negative recommendation.

24 No change for subd 14

085\*#021S

25 85.021 ACQUISITION OF LAND, MINNESOTA VALLEY TRAIL.

26 Subdivision 1. ACQUISITION OF ENTIRE TRACT. Whenever \*  
27 The commissioner of natural resources determines on determining \*  
28 that it is necessary to acquire any interest in a part of a  
29 tract or parcel of real estate for purposes of the Minnesota \*  
30 valley trail, ~~he~~ may acquire in fee the whole or any additional \*  
31 parts of the tract or parcel that ~~he~~ the commissioner deems to \*  
32 be in the best interests of the state.

33 No change for subd 2

34 Subd. 3. LEASING. The commissioner may lease for  
35 the term between the acquisition and sale thereof and for a fair  
36 rental rate and upon terms and conditions that ~~he~~ the \*  
37 commissioner deems proper, any excess real estate acquired under \*  
38 the provisions of this section and any real estate acquired in  
39 fee for natural resources purposes and not presently needed  
40 therefor. All rents received from the leases shall be paid into  
41 the state treasury.

085\*#22S

42 85.22 STATE PARKS WORKING CAPITAL FUND.

43 No change for subd 1 to 2a

44 Subd. 3. CHARGES SUFFICIENT TO DEFRAY EXPENSES. The \*  
45 commissioner of natural resources shall adjust ~~his~~ the schedule \*  
46 of charges for operating facilities within state parks so as to  
47 produce income sufficient to defray all expenses required to  
48 provide proper operations of said facilities.

49 Subd. 4. Repealed, 1965 c 901 s 72

085\*#33S

50 85.33 ST. CROIX WILD RIVER AREA; LIMITATIONS ON POWER  
51 BOATING.

52 No change for subd 1 to 2

53 Subd. 3. REGULATIONS BELOW THE MOUTH OF THE SNAKE  
54 RIVER. After October 1, 1974, if the commissioner of natural  
55 resources has not established regulations relating to the use of  
56 watercraft on that part of the St. Croix river south of the  
57 mouth of the Snake river but north of the nine foot navigational  
58 channel at mile 24.5, measured from the mouth of the St. Croix  
59 river, pursuant to the request of a local governmental unit in  
60 the manner provided by section 361.26, ~~he~~ the commissioner may \*  
61 establish such regulations pursuant to section 361.26  
62 notwithstanding the absence of a request from a local  
63 governmental unit and notwithstanding the absence of approval of  
64 the regulations by a majority of the counties affected.

65 No change for subd 4 to 5

085\*#41S

66 85.41 USER FEES.

67 Subdivision 1. ON' PERSON. While skiing on cross  
68 country ski trails, a person between the ages of 16 and 64 years  
69 shall carry on-his-person in immediate possession a valid cross \*  
70 country ski license. A landowner who grants an easement for a  
71 grant-in-aid ski trail is not required to have a license when  
72 skiing on ~~his-own~~ the landowner's property. \*



1 Subd. 2. LICENSE AGENTS. County auditors are  
 2 appointed agents of the commissioner for the sale of annual  
 3 cross country ski licenses and daily permits. A county auditor  
 4 may appoint subagents within the county or within adjacent  
 5 counties to sell licenses and permits. Upon appointment the  
 6 auditor shall notify the commissioner of the name and address of  
 7 the subagent. The auditor may revoke the appointment of a  
 8 subagent at any time. Upon demand of the commissioner, the  
 9 auditor shall revoke a subagent's appointment. The auditor  
 10 shall furnish license and permit blanks on consignment to any  
 11 subagent who furnishes a surety bond in favor of the county in  
 12 an amount at least equal to the value of the blanks to be  
 13 consigned to that subagent. The county auditor shall be  
 14 responsible for all blanks issued to, and user fees received by  
 15 agents, except in St. Louis county or in a county where the  
 16 county auditor does not retain fees paid for license purposes.  
 17 In these counties, the responsibilities imposed upon the county  
 18 auditor are imposed upon the county. The commissioner may  
 19 promulgate additional regulations pursuant to section 98.50,  
 20 subdivision 2.

21 Any resident desiring to sell annual cross country ski  
 22 licenses and daily permits may either purchase for cash or  
 23 obtain on consignment license and permit blanks from a county  
 24 auditor in groups of not less than ten individual blanks. In  
 25 selling licenses, the resident shall be deemed a subagent of the  
 26 county auditor and the commissioner, and ~~he~~ shall observe all  
 27 rules and regulations promulgated by the commissioner for the  
 28 accounting and handling of licenses pursuant to section 98.50,  
 29 subdivision 10. \*

30 The county auditor shall promptly deposit all monies  
 31 received from the sale of licenses and permits with the county  
 32 treasurer, and shall promptly transmit any reports required by  
 33 the commissioner, plus 96 percent of the price to each annual  
 34 licensee, exclusive of the issuing fee, for each annual license  
 35 sold or consigned by ~~him~~ the auditor and subsequently sold to a  
 36 licensee during the accounting period. The county auditor shall  
 37 retain as a commission four percent of all annual license fees,  
 38 excluding the issuing fee for licenses consigned to subagents. \*

39 Unsold blanks in the hands of any subagent shall be  
 40 redeemed by the commissioner if presented for redemption within  
 41 the time prescribed by the commissioner. Any blanks not  
 42 presented for redemption within the period prescribed shall be  
 43 conclusively presumed to have been sold, and the subagent  
 44 possessing the same or to whom they are charged shall be  
 45 accountable.

46 No change for subd 3 to 5

085A#01S

47 85A.01 CREATION; ORGANIZATION.

48 No change for subd 1 to 1a

49 Subd. 2. The board shall annually elect from among its  
 50 members a ~~chairman~~ chair and other officers necessary for the  
 51 performance of its duties. \*

52 No change for subd 3 to 4

086\*#08S

53 86.08 PERSONNEL.

54 No change for subd 1

55 Subd. 2. LIAISON OFFICERS. The commission shall  
 56 request each department or head of all state agencies with a  
 57 direct interest and responsibility in any phase of outdoor  
 58 recreation to appoint, and the latter shall appoint for ~~his~~ the  
 59 agency, a liaison officer who shall work closely with the  
 60 commission and its staff. \*

086\*#11S

61 86.11 DUTIES.

62 No change for subd 1 to 4

63 Subd. 5. REPORTS AND RECOMMENDATIONS. The  
 64 commission shall present by November 15 of each even numbered  
 65 year a report as of that time of its review, a compilation of  
 66 its data, and its recommendations to the legislature. In  
 67 addition the commission shall report to the legislature from  
 68 time to time setting forth its findings as a result of its  
 69 investigations and studies, and shall make such recommendations  
 70 as it deems proper to assist the legislature in formulating  
 71 legislation. Any data compiled by the commission will be made  
 72 available to any standing or interim committee of the  
 73 legislature upon request of the ~~chairman~~ chair of the respective \*



1 committee.  
2 No change for subd 6 to 9  
086\*#31S  
3 86.31 CONSERVATION WORK PROJECTS.  
4 To the extent of funds provided herein the commissioner of  
5 natural resources is authorized to engage in work projects  
6 authorized by law for the conservation of the natural resources  
7 and property of the state not otherwise undertaken ~~by-him~~ by \*  
8 reason of the unavailability of appropriated funds.  
086\*#33S  
9 86.33 APPROVAL OF PROJECT BY GOVERNOR.  
10 Subdivision 1. MANNER OF APPROVAL. All such projects  
11 shall be first approved by the governor upon the recommendation  
12 of the commissioner of natural resources and after consultation  
13 with the legislative advisory commission in the same manner as  
14 ~~he the governor~~ consults with such commission in making \*  
15 expenditures from the general contingent fund as provided by  
16 section 3.30.  
17 No change for subd 2 to 3  
086\*#71S  
18 86.71 FEDERAL LAND AND WATER FUND; ACCEPTANCE OF FUNDS;  
19 DISTRIBUTION.  
20 No change for subd 1  
21 Subd. 2. The governor may designate a state agency or  
22 agencies to act ~~for-him~~ in applying for, receiving, and \*  
23 accepting federal funds under the provisions of subdivision 1.  
24 Such designation of a state department or agency shall be filed  
25 in the office of the secretary of state.  
26 Subd. 3. The governor or any state department or agency  
27 designated ~~by-him~~ shall comply with any and all requirements of \*  
28 federal law and any rules and regulations promulgated thereunder  
29 to enable the application for, the receipt of, and the  
30 acceptance of such federal funds. The expenditure of any such  
31 funds received shall be governed by the laws of the state except  
32 insofar as federal requirements may otherwise provide. All such  
33 moneys received by the governor or any state department or  
34 agency designated ~~by-him~~ for such purpose shall be deposited in \*  
35 the state treasury and are hereby appropriated annually in order  
36 to enable the governor or the state department or agency  
37 designated ~~by-him~~ for such purpose to carry out the purposes for \*  
38 which the funds are received. None of such federal moneys so  
39 deposited in the state treasury shall cancel and they shall be  
40 available for expenditure in accordance with the requirements of  
41 federal law.  
42 No change for subd 4 to 5  
086A#05S  
43 86A.05 CLASSIFICATION AND PURPOSES.  
44 No change for subd 1 to 5  
45 Subd. 6. STATE WILDERNESS AREA; PURPOSE; RESOURCE AND  
46 SITE QUALIFICATIONS; ADMINISTRATION. (a) A state wilderness  
47 area shall be established to preserve, in a natural wild and  
48 undeveloped condition, areas which offer outstanding  
49 opportunities for solitude and primitive types of outdoor  
50 recreation.  
51 (b) No unit shall be authorized as a state wilderness area  
52 unless its proposed location substantially satisfies the  
53 following criteria:  
54 Appears to have been primarily affected by the forces of  
55 nature, with the evidence of ~~man~~ humanity being substantially \*  
56 unnoticeable or where the evidence of ~~man~~ humanity may be \*  
57 eliminated by restoration.  
58 (c) State wilderness areas shall be administered by the  
59 commissioner of natural resources in a manner which is  
60 consistent with the purposes of this subdivision, and shall be  
61 managed only to the extent necessary to control fire, insects,  
62 and disease, and to preserve existing wilderness or reestablish  
63 wilderness conditions. There shall be no development of public  
64 roads, permanent dwellings, or recreational facilities except  
65 trails for nonmotorized traffic. Motorized traffic shall not be  
66 allowed. No commercial utilization of timber or minerals shall  
67 be allowed. Facilities existing at the time of establishment  
68 shall be removed.  
69 No change for subd 7 to 13  
086A#09S  
70 86A.09 DEVELOPMENT AND ESTABLISHMENT OF UNITS.  
71 No change for subd 1 to 2



1 Subd. 3. MASTER PLAN; REVIEW AND APPROVAL. All  
 2 master plans required by this section shall be submitted to the  
 3 commissioner of energy, planning and development for review  
 4 pursuant to this subdivision. The commissioner of energy,  
 5 planning and development shall review the master plan to  
 6 determine whether the plan: (a) provides for administration of  
 7 the unit in a manner that is consistent with the purposes for  
 8 which the unit was authorized and with the principals governing  
 9 the administration of the unit, as specified in section 86A.05  
 10 and the statutes relating to each type of unit; (b) recognizes  
 11 values and resources within the unit that are primarily the  
 12 responsibility of another managing agency to protect or develop,  
 13 and provides for their protection or development either through  
 14 a cooperative agreement with the other managing agency or  
 15 through designation of the appropriate area as a secondary  
 16 unit. In reviewing any master plan, the commissioner of energy,  
 17 planning and development shall consult with other state  
 18 agencies. Within 60 days after receiving the master plan, the  
 19 commissioner of energy, planning and development shall notify  
 20 the managing agency that the plan has been reviewed and forward  
 21 its recommendations for any changes it might suggest. The  
 22 managing agency shall review the recommendations and notify the  
 23 commissioner of energy, planning and development of the  
 24 disposition made of them. Failure to comment on a master plan  
 25 within the time specified shall be considered approval of the  
 26 plan by the commissioner of energy, planning and development.  
 27 If the director of the commissioner of energy, planning and  
 28 development feels that the master plan still fails significantly  
 29 to comply with this subdivision, ~~he~~ the commissioner may request \*  
 30 review of the master plan by the governor. In that event review  
 31 shall not be deemed completed until after the master plan has  
 32 been approved by the governor or 60 days have elapsed without  
 33 action by the governor to approve or reject the plan, whichever  
 34 occurs first.

35 No change for subd 4 to 5

086A#11S

36 86A.11 REGISTRY OF UNITS.

37 The commissioner of natural resources shall compile and  
 38 maintain a current registry of the name, location, size, and  
 39 description of all units of the outdoor recreation system under  
 40 ~~his~~ the commissioner's jurisdiction and under the jurisdiction \*  
 41 of the Minnesota historical society and the commissioner of  
 42 transportation. The commissioner of natural resources shall  
 43 publish and distribute the information contained in the registry  
 44 in a form and manner suitable to assist persons wishing to use  
 45 these units. The Minnesota historical society and the  
 46 commissioner of transportation shall cooperate with and assist  
 47 the commissioner of natural resources in preparing and  
 48 distributing the registry.

087\*#0221S

49 87.0221 OWNER'S DUTY OF CARE OR DUTY TO GIVE WARNINGS.

50 Except as specifically recognized by or provided in section  
 51 87.025, an owner (a) owes no duty of care to render or maintain  
 52 ~~his~~ the land safe for entry or use by other persons for \*  
 53 recreational purposes, (b) owes no duty to warn those persons of  
 54 any dangerous condition on the land, whether patent or latent,  
 55 (c) owes no duty of care toward those persons except to refrain  
 56 from willfully taking action to cause injury, and (d) owes no  
 57 duty to curtail ~~his~~ the land during its use for \*  
 58 recreational purposes.

087\*#023S

59 87.023 OWNER'S LIABILITY.

60 Except as provided in section 87.025, an owner who either  
 61 directly or indirectly invites or permits without charge any  
 62 person to use ~~his~~ the land for recreational purposes does not \*  
 63 thereby:

64 (a) Extend any assurance that the land is safe for any  
 65 purpose;

66 (b) Confer upon such person the legal status of an invitee  
 67 or licensee to whom a duty of care is owed;

68 (c) Assume responsibility for or incur liability for any  
 69 injury to person or property caused by an act or omission of  
 70 such persons.

087\*#026S

71 87.026 LAND USER'S LIABILITY.

72 Nothing in this chapter shall be construed to:



1 (a) Create a duty of care or ground of liability for injury  
 2 to persons or property;  
 3 (b) Relieve any person using the land of another for  
 4 recreational purposes from any obligation which ~~he~~ the person \*  
 5 may have in the absence of this chapter to exercise care in ~~his~~ \*  
 6 use of such land and in ~~his~~ the person's activities thereon, or \*  
 7 from the legal consequences of failure to employ such care.

088\*#01S

8 88.01 DEFINITIONS.  
 9 No change for subd 1 to 3  
 10 Subd. 4. PERSON. "Person" includes any natural \*  
 11 person acting either ~~for-himself-in-his-own-right~~ personally or \*  
 12 in any representative capacity, a corporation, a firm, a  
 13 copartnership, or an association of any nature or kind.  
 14 No change for subd 5 to 23

088\*#06S

15 88.06 DEAD OR DOWN TIMBER; REMOVAL. \*  
 16 The commissioner may permit, under ~~his~~ the commissioner's \*  
 17 direct supervision and control, any civilian conservation corps,  
 18 works progress administration, or other state or federal relief  
 19 agency actually engaged in the improvement and conservation of  
 20 state trust fund lands within the boundaries of any state forest  
 21 to clean up and remove all dead or down timber, underbrush,  
 22 rotting logs, stumps, and all other inflammable refuse and  
 23 debris which is deemed to be a fire hazard, or the removal of  
 24 any trees in forest stand improvement and cultural operations  
 25 which is advisable in the interest of good forest management;  
 26 and to use so much of these cuttings for firewood and other  
 27 forest development needs while these camps are thus actively  
 28 engaged in the improvement and care of these forests.

088\*#09S

29 88.09 FIRE PROTECTION, LANDS, ACQUISITION.  
 30 Subdivision 1. ACCEPTANCE OF LANDS. The  
 31 commissioner may on behalf of the state accept the title to any  
 32 tract of land, not exceeding 40 acres in area, or to accept any  
 33 easement in or upon any tract of land, which ~~he~~ the commissioner \*  
 34 deems necessary or convenient for the use of the state as  
 35 locations for fire lookout towers, warehouses, or other  
 36 buildings of any kind, or as locations for fire-breaks, or for  
 37 other use which ~~he~~ the commissioner may deem suitable. \*

38 Subd. 2. PURCHASE, LEASE, OR CONDEMNATION. The  
 39 commissioner may on behalf of the state, where no suitable state  
 40 lands are available, purchase, lease or acquire easements on  
 41 small tracts or parcels of lands, not exceeding 40 acres in  
 42 area, or costing more than \$1500 for any single tract, to be  
 43 used as locations for fire lookout towers, warehouses, or other  
 44 buildings of any kind, or as locations for fire-breaks, or for  
 45 any other use which ~~he~~ the commissioner may deem suitable; also \*  
 46 acquire by condemnation any tract of land, not exceeding 40  
 47 acres, for these purposes; also acquire, by gift, purchase, or  
 48 condemnation, any easement or right of way that may be necessary  
 49 to provide access to any tract of land so acquired.

088\*#10S

50 88.10 FIGHTING FOREST FIRES, AUTHORITY OF STATE FOREST  
 51 OFFICERS.  
 52 Subdivision 1. Under the direction of the commissioner,  
 53 forest officers are charged with preventing and extinguishing  
 54 forest fires in their respective districts and the performance  
 55 of such other duties as may be required by ~~him~~ the commissioner. \*  
 56 They may arrest without warrant any person found violating any  
 57 provisions of sections 88.03 to 88.22, take ~~him~~ the person \*  
 58 before a court of competent jurisdiction in the county charging  
 59 the person so arrested, and the person so charged shall be  
 60 arraigned and given a hearing on the complaint. The forest  
 61 officers shall not be liable in civil action for trespass  
 62 committed in the discharge of their duties. All authorized  
 63 state forest officers, including rangers, guards, township fire  
 64 wardens, smoke chasers, fire ~~foremen~~ supervisors or individuals \*  
 65 legally employed as fire fighters, may in the performance of  
 66 their duties of fire fighting go onto the property of any  
 67 person, company, or corporation and in so doing may set  
 68 backfires, dig or plow trenches, cut timber for clearing fire  
 69 lines, dig water holes, remove fence wires to provide access to  
 70 the fire or carry on all other customary activities necessary  
 71 for the fighting of forest, prairie or brush fires without  
 72 incurring a liability to anyone, except for damages arising out



1 of wilful or gross negligence.

2 No change for subd 2

088\*#11S

3 88.11 FOREST OFFICERS; AID FOR FIGHTING FIRES; REFUSAL;  
4 COMMANDEERING PROPERTY.

5 Subdivision 1. At any time forest officers, with the  
6 approval of the commissioner, may employ suitable persons to  
7 prevent and extinguish any fires. Each forest officer so  
8 employed shall be supplied with the necessary equipment. The  
9 commissioner, or any forest officer, may summon any male person  
10 of the age of 18 years and upward to assist in stopping any fire  
11 burning in the district under the care of such state employee  
12 and may incur any other necessary and reasonable expense for  
13 this purpose, but shall promptly report the matter to his the  
14 next superior officer or other state employee over him the  
15 forest officer.

\*  
\*  
\*

16 Subd. 2. Any able-bodied person so summoned who refuses or  
17 neglects or otherwise fails to assist in extinguishing such fire  
18 or who fails to make all reasonable efforts to that end, until  
19 released by the summoning state employee ~~who-summoned-him~~, shall  
20 be guilty of a misdemeanor and punished by a fine of not less  
21 than \$10 and not more than \$50 and the costs of prosecution, or  
22 by imprisonment in the county jail for not less than 10, nor  
23 more than 30, days. The forest officer shall have power to  
24 commandeer, for the time being, equipment, tools, appliances, or  
25 other property in the possession of any person either summoned  
26 to assist in extinguishing the fire or in the vicinity thereof,  
27 and ~~himself~~ to use, and to require the persons summoned ~~to-his~~  
28 ~~assistance~~ to use, the commandeered property in the fighting and  
29 extinguishing of the fire. The owner of any property so  
30 commandeered shall be promptly paid just compensation for the  
31 use thereof and all damages done to the commandeered property  
32 while in this use by the forest officer from any money available  
33 for these expenses under sections 88.03 to 88.21.

\*  
\*  
\*  
\*  
\*

088\*#12S

34 88.12 COMPENSATION OF FIGHTERS OF FOREST FIRES;  
35 EMERGENCY EXPENSES.

36 Subdivision 1. LIMITATION. The compensation and  
37 expenses of persons temporarily employed in emergencies in  
38 suppression or control of forest fires shall be fixed by the  
39 commissioner of natural resources or his an authorized agent and  
40 paid as provided by law. Such compensation shall not exceed the  
41 maximum rate for comparable labor established as provided by law  
42 or regulations, but shall not be subject to any minimum rate so  
43 established. The commissioner is authorized to draw and expend  
44 money appropriated for the purposes of sections 88.03 to 88.21 a  
45 reasonable sum, not to exceed \$5,000 at any one time, and  
46 through forestry officers or other authorized agent be used in  
47 paying emergency expenses, including just compensation for  
48 services rendered by persons summoned and for private property  
49 used, damaged, or appropriated under sections 88.03 to 88.21.  
50 The commissioner of finance is authorized to draw his a warrant  
51 for this sum when duly approved by the commissioner. The  
52 commissioner or agent in charge shall take proper sub-vouchers  
53 or receipts from all persons to whom these moneys are paid, and  
54 after these sub-vouchers have been approved ~~by-him~~ they shall be  
55 filed with the commissioner of finance. Authorized funds as  
56 herein provided at any time shall be deposited, subject to  
57 withdrawal or disbursement by check or otherwise for the  
58 purposes herein prescribed, in a bank authorized and bonded to  
59 receive state deposits; and the bond of this bank to the state  
60 shall cover and include this deposit.

\*  
\*  
\*  
\*  
\*  
\*  
\*

61 Subd. 2. CONTRACTS FOR SERVICES FOR FORESTRY OR FIRE  
62 PREVENTION WORK; COMMISSIONS TO PERSONS EMPLOYED. The  
63 commissioner is hereby authorized and empowered to contract for  
64 or accept the services of any and all persons whose aid is  
65 available, temporarily or otherwise, in forestry or fire  
66 prevention work, either gratuitously or for compensation not in  
67 excess of the limits provided by law with respect to the  
68 employment of labor by him the commissioner. He The  
69 commissioner may issue a commission, or other written evidence  
70 of authority, to any such person whose services are so arranged  
71 for; and may thereby empower such person to act, temporarily or  
72 otherwise, as fire warden, or in any other capacity, with such  
73 powers and duties as may be specified in the commission or other  
74 written evidence of authority, but not in excess of the powers

\*  
\*



1 conferred by law on forest officers.

088\*#13S

2 88.13 NOTICES OF CUTTING OF TIMBER; PENALTY.

3 No change for subd 1

4 Subd. 2. The commissioner of natural resources or ~~his~~ an \*  
5 agent may execute a statement certifying that as of a certain  
6 date, no report of cutting had been received, as specified  
7 herein; such certified statement to be admitted as evidence in  
8 any prosecution for failure to report cutting.

9 Subd. 3. Any person who fails to send the notice, as in  
10 this section required shall be guilty of a misdemeanor; and,  
11 upon conviction thereof, fined not less than \$25, or imprisoned  
12 in the county jail for not less than 20 days. The provisions of  
13 this section shall not apply to any person who shall be engaged  
14 in cutting cordwood or other fuel wood upon ~~his~~ one's own land \*  
15 or engaged in cutting timber for clearing any land actually  
16 owned and occupied by ~~him~~ the person. \*

17 No change for subd 4

088\*#14S

18 88.14 DISPOSAL OF SLASHINGS AND DEBRIS.

19 No change for subd 1

20 Subd. 2. When any person who has been directed by the  
21 commissioner, or forest officers to dispose of such slashings,  
22 debris, or refuse fails to comply with these directions ~~he~~ the \*  
23 person shall be deemed guilty of a misdemeanor; and, on \*  
24 conviction thereof, punished by a fine of not less than \$25, and  
25 not exceeding \$100, and costs of prosecution; or by imprisonment  
26 in the county jail for not less than ten and not exceeding 90  
27 days, and each day during which the failure to comply with the  
28 requirements of the commissioner continues shall be deemed a  
29 separate and distinct violation of sections 88.02 to 88.21; but  
30 any number of these offenses may be prosecuted as separate  
31 counts of one charge or information.

32 Subd. 3. When any such slashings, debris, or refuse are  
33 not disposed of or are left unattended contrary to the  
34 instructions of the commissioner, or forest officer, the  
35 commissioner, or any forest officer or fire warden, may go upon  
36 the premises with ~~such force of men~~ as many workers as may be \*  
37 necessary and burn or otherwise dispose of the same and the  
38 expense thereof shall be a lien upon the land on which they are  
39 situated and upon all contiguous lands of the same owner, and  
40 also upon all logs and other timber products cut or manufactured  
41 upon all these lands. This lien shall have the same effect and  
42 may be enforced in the same manner as a judgment in favor of the  
43 state for money. An itemized statement verified by the oath of  
44 the commissioner, or forest officer, of the amount of the costs  
45 and expenses incurred in burning or otherwise disposing of these  
46 slashings, debris, or refuse shall be filed, within 90 days from  
47 the time the disposal thereof is completed, in the office of the  
48 county recorder of the county in which the timber or timber  
49 products were cut or manufactured; and the amount of the lien  
50 shall be a valid claim that may be collected in a civil action  
51 from the person who cut or manufactured the wood, timber, or  
52 timber products from which the slashings, debris, or refuse were  
53 produced. Any moneys so collected shall be paid into the state  
54 treasury and credited to the forest service fund.

55 No change for subd 4 to 9

088\*#15S

56 88.15 CAMP FIRES.

57 Subdivision 1. EXTINGUISHMENT. Any road overseer or  
58 assistant of a road overseer or other local officer having  
59 charge of any highway, or any state trooper, who finds that any  
60 person has left a camp fire burning in ~~his~~ the officer's \*  
61 district shall extinguish the same and take prompt measures to  
62 prosecute the person who so left the fire.

63 Subd. 2. NOT TO BE LEFT BURNING. Every person who  
64 when the ground is not covered with snow starts a fire in the  
65 vicinity of forest or prairie land shall exercise every  
66 reasonable precaution to prevent the fire from spreading and  
67 shall before lighting the same clear the ground of all branches,  
68 brushwood, dry leaves, and other combustible material within a  
69 radius of five feet from the fire, and keep the fire under ~~his~~ \*  
70 immediate personal supervision and control at all times, and  
71 carefully extinguish the fire before quitting the place.

088\*#16S

72 88.16 STARTING FIRES; CAMPFIRES; INCINERATORS; BURNING



1 BAN.

2 No change for subd 1 to 2

3 Subd. 3. The occupant of any premises upon which any  
4 unauthorized fire is burning in the vicinity of forest lands,  
5 whether the fire was started by ~~him~~ the occupant or otherwise, \*  
6 shall promptly report the fire to the commissioner, or to the  
7 nearest forest officer or fire warden. Failure to make this  
8 report shall be deemed a violation of sections 88.03 to 88.22  
9 and the occupant of the premises shall be deemed prima facie  
10 guilty of negligence if the unreported fire spreads from the  
11 premises to the damage, loss, or injury of the state or any  
12 person.

088\*#17S

13 88.17 PERMISSION TO START FIRES; PROSECUTION FOR  
14 UNLAWFULLY STARTING FIRES.

15 Subdivision 1. Permission to set fire to any grass,  
16 stubble, peat, brush, raking of leaves, rubbish, garbage,  
17 branches, slashings or woods for the purpose of cleanup,  
18 clearing and improving land or preventing other fire shall be  
19 given whenever the same may be safely burned, upon such  
20 reasonable conditions and restrictions as the commissioner may  
21 prescribe, to prevent same from spreading and getting beyond  
22 control. This permission shall be in the form of a written  
23 permit signed by a regular forest officer or some other suitable  
24 person to be designated by ~~him~~ the officer, as town fire warden, \*  
25 these permits to be on forms furnished by the commissioner. Any  
26 person setting any fire or burning anything under such permit  
27 shall keep the permit ~~on his person~~ in immediate possession \*  
28 while so engaged and produce and exhibit the permit to any  
29 forest officer, when requested to do so.

30 Subd. 2. In any prosecution under sections 88.03 to 88.22  
31 for unlawfully starting or setting or having or permitting the  
32 continuation or spread of any fire or back-fire, proof upon the  
33 part of the prosecution that such fire or back-fire originated  
34 upon, or was permitted to burn upon, or that it spread from,  
35 lands or premises occupied by the person charged with the  
36 offense, and that this person had knowledge of the fire and made  
37 no effort to put it out, shall be prima facie evidence ~~that he~~ \*  
38 is-guilty of guilt. The burden of proof as to any matter in \*  
39 refutation of this prima facie guilt, or in extenuation or  
40 excuse, shall be and rest upon the person so appearing prima  
41 facie to be guilty.

088\*#19S

42 88.19 NEGLECT OR REFUSAL TO PERFORM DUTY.

43 Every forestry employee of the state who shall  
44 unjustifiably refuse or neglect to perform ~~his~~ a duty; every \*  
45 person who shall kindle a fire on or near forest, brush, or  
46 prairie land and leave it unquenched, or be a party thereto, or  
47 who shall set fire to brush, stumps, dry grass, field stubble,  
48 leaves, peat, rubbish, garbage, branches and slashings, or other  
49 material, and fail to extinguish the same before it has  
50 endangered the property of another; every person who shall  
51 negligently or carelessly set on fire, or cause to be set on  
52 fire, any woods, prairie, or other combustible material, whether  
53 ~~on his~~ the person's own land or not, by means whereof the \*  
54 property of another shall be endangered, or who shall  
55 negligently suffer any fire upon ~~his~~ one's own lands to extend \*  
56 beyond the limits thereof; every person who shall use other than  
57 incombustible wads for firearms, or carry a naked torch,  
58 firebrand, or exposed light in or near forest land, or who, upon  
59 any such land or in the vicinity thereof, or on or along any  
60 public or private road, trail, path, railroad right-of-way or  
61 roadbed, or other public or private way of any kind running over  
62 or along or in the vicinity of any such land, shall throw or  
63 drop any burning match, ashes of pipe, lighted cigar, or  
64 cigarette, or any other burning substance, and who fails to  
65 extinguish the same immediately; every person who drives upon or  
66 over forest lands in a motor vehicle with an open cut-out or  
67 without a muffler on the exhaust pipe; and every person who  
68 operates a tractor, chainsaw, steam or internal combustion  
69 engine in forested areas not equipped to prevent fires, shall be  
70 guilty of a misdemeanor; and, on conviction thereof, punished by  
71 a fine of not less than \$25 and not exceeding \$100 and costs of  
72 prosecution, or by imprisonment in the county jail for not less  
73 than ten and not exceeding 90 days.

088\*#20S



1 88.20 RAILROAD COMPANIES TO PROVIDE PATROLMEN PATROL \*  
 2 OFFICERS. \*  
 3 ~~When-in-the-judgment-of-the-commissioner-of-natural~~ \*  
 4 ~~resources~~ After making a judgment that there is danger of the \*  
 5 setting and spreading of fires from locomotive engines, ~~he~~ the \*  
 6 commissioner of natural resources shall order any railroad \*  
 7 company to provide patrolmen patrol officers with the necessary \*  
 8 equipment to follow each train throughout such fire patrol \*  
 9 district or districts as ~~he~~ the commissioner deems necessary to \*  
 10 prevent fires. When the commissioner has so notified a railroad \*  
 11 company to provide such a patrol after trains, the railroad \*  
 12 company shall immediately comply with the requirements of this \*  
 13 notice throughout the territory designated; and, upon its \*  
 14 failure so to do, the commissioner may employ patrolmen patrol \*  
 15 officers with the necessary equipment to patrol the rights of \*  
 16 way of the railroad, and the expense shall be charged to the \*  
 17 railroad company and may be recovered in a civil action in the \*  
 18 name of the state of Minnesota; and in addition thereto the \*  
 19 company shall be guilty of a misdemeanor. All moneys so \*  
 20 recovered shall be paid into the state treasury and credited to \*  
 21 the appropriation from which expenses were paid.

22 The commissioner may prescribe such other measures as are \*  
 23 considered by ~~him~~ the commissioner to be essential for the \*  
 24 immediate control of fire.

25 It is made the duty of any railroad company, acting \*  
 26 independently of the commissioner, to patrol its right of way \*  
 27 after the passage of each train when necessary to prevent the \*  
 28 spread of fires and to use the highest degree of diligence to \*  
 29 prevent the setting and spread of fire, to cause the \*  
 30 extinguishment of fires set by locomotives or found existing \*  
 31 upon their respective rights of way.

088\*#21S

32 88.21 RAILROADS; DUTIES; PENALTIES.

33 Subdivision 1. ~~When-the-commissioner-has~~ On having reason \*  
 34 to believe that a certain locomotive caused a fire ~~he~~ the \*  
 35 commissioner may require the railroad company to forward to ~~him~~ \*  
 36 the commissioner at once a written report covering the \*  
 37 inspection of the fire-protective appliances of such locomotive \*  
 38 made next after the occurrence of the fire. Such written report \*  
 39 shall be copied from the inspection book required to be kept by \*  
 40 the railroad company under subdivision 6.

41 Subd. 2. All railroad companies operating railroads within \*  
 42 this state shall keep their right-of-way cleared of all \*  
 43 combustible material and safely dispose of same within limits of \*  
 44 their right-of-way, as the commissioner may direct.

45 This section shall not be construed to prevent or prohibit \*  
 46 any railroad company from piling or keeping upon the \*  
 47 right-of-way cross ties or other material necessary in the \*  
 48 operation or maintenance of such railroad.

49 No railroad company or its employees shall leave a deposit \*  
 50 of fire or live coals or hot ashes in the immediate vicinity of \*  
 51 forest lands or lands likely to be overrun by fires, and \*  
 52 whenever engineers, conductors, or ~~trainmen~~ train workers \*  
 53 discover untended fires along the right-of-way, or in woodlands \*  
 54 adjacent to the railroad, they shall report the same promptly by \*  
 55 the most expeditious means available to the nearest station at \*  
 56 which an operator is on duty, or to the first available section \*  
 57 crew. In season of drouth, railroad companies shall give \*  
 58 particular instruction to their employees for the prevention and \*  
 59 prompt extinguishment of fires, and they shall cause warning \*  
 60 signs furnished by the commissioner of natural resources to be \*  
 61 posted at their stations, and where a fire occurs along the line \*  
 62 of the road, they shall concentrate such help and adopt such \*  
 63 measures as shall be available to effectively extinguish it.

64 Subd. 3. The commissioner of natural resources may permit \*  
 65 the railroad to use devices and appliances for experimental \*  
 66 purposes only by written permission during such limited periods \*  
 67 and upon such terms and conditions as ~~he~~ the commissioner may \*  
 68 prescribe; this written permission shall be subject to \*  
 69 revocation by the commissioner at any time, and such \*  
 70 experimental devices or appliances shall not be permanently \*  
 71 adopted unless authorized by law.

72 No change for subd 4

73 Subd. 5. Any locomotive inspector appointed by the \*  
 74 commissioner is authorized to inspect any locomotive operated in \*  
 75 the vicinity of forest, brush, peat, or grass lands, and to



1 enter upon any property for such purpose when he the inspector \*  
 2 may deem it necessary in order to see that all the provisions of  
 3 law relating to the subject matter are duly complied with. The  
 4 inspector shall have access to the records of every person  
 5 operating a railroad for any purpose, and authority to make  
 6 copies thereof, showing the locations and movements of all  
 7 locomotive engines within this state, and is authorized to use  
 8 such methods as he the inspector may deem advisable in making up \*  
 9 his records and substantiating his the inspector's findings. \*

10 Subd. 6. A record shall be kept of all examinations  
 11 required by this section, in a book to be furnished, by every  
 12 person operating a railroad for any purpose, showing:

13 (1) The place and number of each engine inspected;

14 (2) The date and hour of day of such inspection;

15 (3) A detailed statement, signed by the employee making the  
 16 same, of any and all repairs, replacements, or renewals made at  
 17 any time on, or in connection with, spark arresters.

18 The book shall always be open for inspection by the  
 19 commissioner or other authorized officer appointed by him the \*  
 20 commissioner. A record of all examinations required by this \*  
 21 section which is contained in official inspection records of a  
 22 railroad company, when such records are regularly required by  
 23 other governmental authority, may constitute a proper record of  
 24 examinations required by this section in the discretion of the  
 25 commissioner.

26 No change for subd 7 to 8

088\*#22S

27 88.22 FOREST FIRE PREVENTION; CLOSING FOREST ROADS AND  
 28 TRAILS; PROHIBITING OPEN FIRES AND SMOKING; REGULATING PRIVATE  
 29 AND PUBLIC DUMPING AREAS; PENALTIES.

30 Subdivision 1. When the commissioner of natural resources  
 31 shall determine that conditions conducive to forest fire hazards  
 32 exist in the forest areas of the state and that the presence of  
 33 persons in the forest areas tends to aggravate forest fire  
 34 hazards, render forest trails impassable by driving thereon  
 35 during wet seasons and hampers the effective enforcement of  
 36 state timber trespass and game laws, he the commissioner may by \*  
 37 written order, close any road or trail leading into any land  
 38 used for any conservation purposes, to all modes of travel  
 39 except that considered essential such as residents traveling to  
 40 and from their homes or in other cases to be determined by the  
 41 authorized forest officers assigned to guard the area. The  
 42 commissioner may also, upon such determination, by written  
 43 order, suspend the issuance of permits for open fires, revoke or  
 44 suspend the operation of a permit previously issued and, to the  
 45 extent he the commissioner deems necessary, prohibit the \*  
 46 building of all or some kinds of open fires in all or any part  
 47 of a forest area regardless of whether a permit is otherwise  
 48 required; and the commissioner also may, by written order,  
 49 prohibit smoking except at places of habitation or automobiles  
 50 or other enclosed vehicles properly equipped with an efficient  
 51 ash tray.

52 Subd. 2. The commissioner may close any public or private  
 53 dumping area, by posting such area as closed to dumping,  
 54 whenever he the commissioner deems it necessary for the \*  
 55 prevention of forest fires. Thereafter no person shall deposit  
 56 refuse of any kind within or adjacent to such closed area, or  
 57 along the road leading thereto.

58 The commissioner shall establish such minimum standards  
 59 governing public and private dumping areas as he the \*  
 60 commissioner deems necessary for the prevention of forest fires. \*

61 No change for subd 3

088\*#27S

62 88.27 FISHING RESTRICTIONS; BROOK TROUT.

63 When after investigation the director shall determine that  
 64 conditions conducive to forest fire hazards exist at any place  
 65 in the forest areas of the state in the vicinity of any waters  
 66 frequented by persons taking or attempting to take brook trout  
 67 and that the presence of persons attracted by the opportunities  
 68 for taking brook trout in such vicinity tends to aggravate fire  
 69 hazards he the director may by written order with the approval \*  
 70 of the director of game and fish, prohibit or restrict, upon  
 71 such conditions as the director of lands and forestry and the  
 72 director of game and fish may prescribe, the taking of brook  
 73 trout in such waters during such period in any year as they may  
 74 deem necessary for the purpose of reducing such fire hazards.



1 Every such order, together with the written approval of the  
 2 director of game and fish appended thereto, shall be filed in  
 3 the office of the director of lands and forestry and a duplicate  
 4 thereof filed in the office of the director of game and fish.  
 5 The director of lands and forestry shall cause a copy of the  
 6 order and approval to be published at least once in a qualified  
 7 legal newspaper published at the county-seat of each county  
 8 affected by the order, or in some other legal newspaper of the  
 9 county, if there be none published at the county-seat, and the  
 10 order shall take effect and be in force in each such county from  
 11 and after the date of publication therein.

12 After the taking effect of any such order it shall be,  
 13 unlawful to take or attempt to take brook trout in violation  
 14 thereof and any person who shall do so shall be guilty of a  
 15 misdemeanor.

16 Any such order may be modified or rescinded at any time.

17 This section shall not be deemed to supersede or repeal any  
 18 existing law relating to the taking of brook trout, but shall be  
 19 construed as supplementary thereto. No law relating to the  
 20 taking of brook trout hereafter enacted shall be construed as  
 21 inconsistent herewith unless it is expressly provided therein  
 22 that this section shall be superseded, amended, modified, or  
 23 repealed, in whole or in part, or unless the future law  
 24 specifically relates to the subject matter of this section.

088\*#31S

25 88.31 SURVEYS AND PLATS.

26 Upon the filing of the petition and bond, as provided in  
 27 section 88.30, with the auditor of any county, he the auditor \*  
 28 shall notify the county board of the county, and the county  
 29 board shall, within 30 days thereafter, appoint a competent \*  
 30 civil engineer and direct him the engineer to proceed to examine \*  
 31 the land described in the petition and make the necessary  
 32 surveys to enable him the engineer to report and file with the \*  
 33 auditor a plat, therein describing each 40-acre tract or  
 34 governmental lot covered by the petition and marking thereon the  
 35 portion of the land proposed to be cleared and improved. The \*  
 36 engineer shall, as a part of his the report, describe the kind \*  
 37 of trees, brush, stumps, or other similar materials or debris  
 38 located upon the land and proposed to be removed by the  
 39 proceedings, together with his an estimate of the cost thereof, \*  
 40 and the probable value of the material, if any, when removed,  
 41 and shall accompany his the report with specifications as to the \*  
 42 manner of performing and completing the improvement. He The \*  
 43 engineer shall specifically describe the nature of the soil of \*  
 44 each tract and any other conditions affecting the value,  
 45 location, or use of the land. This report shall be in tabulated  
 46 form and furnish the county board with an estimate of the cost  
 47 of the improvement of each particular tract of land described,  
 48 which report by the engineer shall be filed with the auditor  
 49 within 30 days after his appointment of the engineer, unless for \*  
 50 good cause shown further extension of 30 days is granted him by \*  
 51 the auditor. This engineer before entering upon his duties \*  
 52 shall execute to the county board a bond in the sum of \$1,000,  
 53 conditioned for the faithful performance of his the duties. \*

088\*#33S

54 88.33 HEARINGS; NOTICE; SERVICE; DATE; ADJOURNMENTS.

55 Upon the filing of this report with, the auditor he shall, \*  
 56 within ten days thereafter, fix a date for final hearing on the  
 57 petition and the engineer's and appraisers' reports and call a  
 58 special meeting of the county board for that date by giving  
 59 notice, as required by law therefor, which hearing shall be not  
 60 less than 30 days from the date of the notice. The notice shall  
 61 specify the time and place for the hearing upon the petition and  
 62 the reports of the engineer and the appraisers, and shall notify  
 63 and require all parties in any manner interested to show cause  
 64 before the county board, at the time and place specified in the  
 65 notice, why an order should not be made confirming the reports  
 66 of the engineer and the appraisers and ordering and directing  
 67 that the improvement petitioned for be made, and fixing and  
 68 determining the amount and extent of the improvement and the  
 69 amount and value of the benefits or damages resulting to any  
 70 land in consequence of the improvement. This notice shall  
 71 contain the names of the owners of the land as shown in the  
 72 petition, together with a description of the land by 40-acre  
 73 tracts or governmental lots, the amount of the estimated  
 74 benefits and damages to each tract or parcel, and state that the



1 engineer's and the appraisers' reports have been filed in the  
 2 office of the auditor subject to inspection by any parties  
 3 interested. Copies of this notice shall be mailed by the  
 4 auditor to all parties named in the petition, if their addresses  
 5 are known to ~~him~~ the auditor, at least 15 days prior to the date  
 6 of the hearing. This notice shall also be served by publication  
 7 for three successive weeks in any legal newspaper published in  
 8 the county, which newspaper shall be designated by the auditor.  
 9 In all cases in which for any cause the notice shall not be  
 10 given or is legally defective, as given, the auditor shall fix  
 11 another date for hearing in accordance with sections 88.28 to  
 12 88.46, so that the hearing upon the petition and the engineer's  
 13 and the appraisers' reports may be held at the earliest possible  
 14 date, at either a special or a regular meeting of the county  
 15 board. When any final order of the county board in any case  
 16 shall have been set aside, annulled, or declared void by any  
 17 court by reason of failure to give proper notice of the hearing,  
 18 the county board may, at any time within one year after the  
 19 rendering of such judgment, upon application of the petitioners,  
 20 order a special hearing before it upon the petition and the  
 21 reports; and, thereupon the auditor shall cause a new and proper  
 22 notice to be published and mailed, as hereinbefore specified,  
 23 for rehearing upon the petition and these reports. At the  
 24 rehearing the county board may proceed as in cases of original  
 25 hearing.

26 Any hearing may be adjourned from day to day until  
 27 completed.

088\*#39S

28 88.39 WORK OF IMPROVEMENT; DUTIES OF ENGINEERS; PAYMENTS  
 29 TO CONTRACTORS.

30 It shall be the duty of the engineer from time to time as  
 31 occasion may require to visit the premises and examine the work  
 32 performed by the contractor and when and as often as ten percent  
 33 or more of the work is completed the engineer may issue a  
 34 certificate to the contractor and a duplicate to the county  
 35 auditor, therein certifying the amount of work that has been  
 36 done by the contractor and the value thereof. Upon the filing  
 37 by the contractor of such certificate with the county auditor,  
 38 ~~he~~ the auditor may draw ~~his~~ a warrant in favor of the contractor  
 39 for a sum not to exceed 75 percent of the contract price of the  
 40 work done since the last report. When the contractor shall have  
 41 notified the engineer ~~that he has completed~~ of the completion of  
 42 the work, the engineer shall make careful examination and report  
 43 ~~findings of fact~~ to the county auditor ~~the facts as he finds~~  
 44 ~~them; and, if he finds on finding~~ the contract to be completed  
 45 in accordance with the terms thereof, ~~he~~ the engineer shall so  
 46 certify. Thereupon the county auditor shall notify the owners  
 47 of the land that a hearing will be had upon the report of the  
 48 engineer that the contract is completed, which hearing shall be  
 49 held by the county board at the next meeting following the  
 50 filing of the report, if not less than 15 days thereafter;  
 51 otherwise, as soon as possible. At the hearing all parties  
 52 interested may appear before the county board; and, if the  
 53 county board shall find the contract fully completed, it shall  
 54 order payment of the balance owing under the contract.

088\*#47S

55 88.47 AUXILIARY FORESTS; TAXATION.

56 No change for subd 1 to 2

57 Subd. 3. FORM AND CONTENTS OF APPLICATION. The  
 58 owner of, the owner of an option to buy, or the owner of a  
 59 contract to buy any tract or contiguous tract of land ~~that he~~  
 60 ~~who~~ deems the tract suitable for an auxiliary forest may make  
 61 written application to the county board of the county in which  
 62 such land is situate, setting forth the description thereof by  
 63 governmental subdivisions or other proper survey, the estimated  
 64 value per acre thereof, a brief statement of the facts showing  
 65 its suitability for production of timber or forest products, a  
 66 statement of the kinds of timber growing and proposed to be  
 67 grown thereon and the kind and quantity of merchantable timber  
 68 thereon, the methods of timber culture proposed to be followed,  
 69 and a request that such land be made an auxiliary forest under  
 70 and subject to the provisions of sections 88.47 to 88.53.

71 No change for subd 4

088\*#48S

72 88.48 APPLICATION.

73 No change for subd 1 to 3



1 Subd. 4. ACTION OF COUNTY BOARD. The county board  
2 shall make proper record of its action upon the application  
3 including, if the application be rejected, a written statement,  
4 prepared within 30 days of the date of rejection, covering the  
5 reason or reasons for such rejection.

6 If the application be rejected, the county auditor shall  
7 endorse the rejection on the application and return it, together  
8 with a copy of the written statement prepared by the county  
9 board giving the reason or reasons for rejection, to the  
10 applicant within 30 days by certified mail at the address given  
11 by him in the application; or, if the application is disapproved \*  
12 as to a part only of the lands described therein, the county  
13 auditor shall in like manner notify the applicant, who may \*  
14 within 60 days after the mailing of the notice amend his the  
15 application accordingly. If it be not so amended the  
16 application shall be deemed rejected.

17 If the application be accepted, the county auditor shall in  
18 like manner notify the applicant thereof and transmit the  
19 application, with the record of the approval thereof, to the  
20 director. It shall be the duty of the commissioner to approve  
21 or disapprove the application within 90 days from receipt  
22 thereof, to make proper record of his the action and to give \*  
23 notice thereof to the applicant in the manner hereinbefore  
24 provided and to the county board.

25 No change for subd 5

088\*#49S

26 88.49 CONTRACTS.

27 Subdivision 1. EXECUTION. When it shall have been  
28 determined that any lands may be made into an auxiliary forest,  
29 the commissioner shall prepare a contract therefor, which  
30 contract shall be executed by the commissioner in behalf of the  
31 state of Minnesota and by the owner of the fee title or the  
32 holder of a state deed and by all other persons having any liens  
33 thereon and witnessed and acknowledged as provided by law for  
34 the execution of recordable deeds of conveyance. Notices sent  
35 by certified mail to the owner in fee at the address given by \*  
36 him in the application shall be deemed notice to all persons \*  
37 executing such contract.

38 Subd. 2. PREPARATION, FORM, APPROVAL. The contract  
39 shall be prepared by the director of the division of lands and  
40 forestry on a form approved by the attorney general and  
41 prescribe such terms and conditions as will reasonably tend to  
42 produce merchantable timber upon the lands described therein and  
43 specify the kind or species of seeds to be planted or seedlings  
44 to be set out and the quantity or number thereof, or other acts  
45 or steps that the commissioner shall deem necessary in respect  
46 to afforestation or reforestation of the lands; the time or  
47 times when the same shall be done; the kind and amount, if any,  
48 of culture or other attention to be given in aid of the growth  
49 of timber thereon; the uses, if any, which may be made of the  
50 land while the same remains an auxiliary forest; the period of  
51 time, not exceeding 50 years, during which the land may continue  
52 to be an auxiliary forest, with privilege of renewal by mutual  
53 agreement between the owner and the state acting through the  
54 commissioner, with the approval of the county board and the  
55 executive council, for an additional period not exceeding 50  
56 years; the rate of taxation which may be levied annually on the  
57 land, exclusive of merchantable timber growing thereon at the  
58 time of the making of the contract and exclusive of mineral or  
59 other things of value thereunder, the rate to be determined as  
60 hereinafter provided; the keeping open to the public, as public  
61 hunting and fishing grounds, of all approved auxiliary forest  
62 lands, except when such lands are closed to public hunting or  
63 fishing by order of the director of the division of lands and  
64 forestry in order to protect such lands from fire, loss of life  
65 or property provided, however, that the term keeping open shall  
66 not apply to private roads or improvements should the owner  
67 desire to close same; and such other conditions, provisions, and  
68 stipulations, as the commissioner, in the exercise of his \*  
69 scientific knowledge and business judgment, may deem necessary  
70 or proper. Every such contract shall be approved by the  
71 executive council.

72 As far as practicable all contracts shall be uniform and  
73 equal in respect to all lands or classes of lands substantially  
74 similar in capacity for, or adaptability to, any particular kind  
75 or species of tree culture or forest growth.



1 Subd. 3. RECORDING. The commissioner shall submit  
 2 such contract to the owner of the land covered thereby. If the  
 3 owner shall indicate to the commissioner ~~his~~ an unwillingness to \*  
 4 execute the same, or if ~~he~~ the owner or any of the persons \*  
 5 having an interest therein or lien thereon fail to execute it  
 6 within 60 days from the time of its submission to the owner, all  
 7 proceedings relating to the making of this land into an  
 8 auxiliary forest shall be at an end.

9 When the contract shall have been executed it shall  
 10 forthwith be recorded in the office of the county recorder at  
 11 the expense of the owner in a permanent book or record which  
 12 shall be designated "record of auxiliary forests" and shall  
 13 always be open to public inspection; and, if the title to the  
 14 land be registered, there shall in addition to such record be  
 15 filed with the registrar of titles a duplicate of the contract.  
 16 At the time the contract is filed with the county recorder for  
 17 record the owner shall furnish to the county recorder a  
 18 certificate from the county attorney to the effect that no  
 19 change in record title thereof has occurred, that no liens or  
 20 other encumbrances have been placed thereon, and that no taxes  
 21 have accrued thereon since the making of ~~his~~ the previous \*  
 22 certificate. It shall be the duty of the county attorney to  
 23 furnish this certificate without further compensation.

24 All the provisions of the contract shall be deemed  
 25 covenants running with the land from the date of the filing of  
 26 the contract for record.

27 No change for subd 4

28 Subd. 5. CANCELATION. Upon the failure of the owner  
 29 faithfully to fulfill and perform such contract or any provision  
 30 thereof, or any requirement of sections 88.47 to 88.53, or any  
 31 rule or regulation adopted by the commissioner thereunder, the  
 32 commissioner may cancel the contract in the manner herein  
 33 provided. The commissioner shall give to the owner, in the  
 34 manner prescribed in section 88.48, subdivision 4, 60 days  
 35 notice of a hearing thereon at which the owner may appear and  
 36 show cause, if any, why the contract should not be canceled.  
 37 The commissioner shall thereupon determine whether the contract  
 38 should be canceled and make an order to that effect. Notice of  
 39 ~~his~~ the commissioner's determination and the making of the order \*  
 40 shall be given to the owner in the manner provided in section \*  
 41 88.48, subdivision 4. ~~If the commissioner determines~~ On \*  
 42 determining that the contract should be canceled and no appeal \*  
 43 therefrom be taken, ~~he~~ the commissioner shall send notice \*  
 44 thereof to the auditor of the county and to the town clerk of  
 45 the town affected and file with the recorder a certified copy of  
 46 the order, who shall forthwith note the cancelation upon the  
 47 record thereof, and thereupon the land therein described shall  
 48 cease to be an auxiliary forest and, together with the timber  
 49 thereon, become liable to all taxes and assessments that  
 50 otherwise would have been levied against it had it never been an  
 51 auxiliary forest from the time of the making of the contract,  
 52 any provisions of the statutes of limitation to the contrary  
 53 notwithstanding, less the amount of taxes paid under the  
 54 provisions of section 88.51, subdivision 1, together with  
 55 interest on such taxes and assessments at six percent per annum,  
 56 but without penalties.

57 The commissioner may ~~at his discretion~~ in like manner and \*  
 58 with like effect cancel the contract upon written application of  
 59 the owner.

60 The commissioner shall cancel any contract if the owner has  
 61 made successful application under sections 270.31 to 270.39  
 62 inclusive, the Minnesota tree growth tax law, and has paid to  
 63 the county treasurer the difference between the amount which  
 64 would have been paid had the land under contract been subject to  
 65 the Minnesota tree growth tax law from the date of the filing of  
 66 the contract and the amount actually paid under section 88.51,  
 67 subdivisions 1 and 2. If the amount which would have been paid,  
 68 had the land under contract been under the Minnesota tree growth  
 69 tax law from the date of the filing of the contract, is less  
 70 than the amount actually paid under the contract, the  
 71 cancelation shall be made without further payment by the owner.

72 When the execution of any contract creating an auxiliary  
 73 forest shall have been procured through fraud or deception  
 74 practiced upon the county board or the commissioner or any other  
 75 person or body representing the state, it may be canceled upon  
 76 suit brought by the attorney general at the direction of the



1 executive council. This cancelation shall have the same effect  
2 as the cancelation of a contract by the commissioner.

3 No change for subd 6 to 7

4 Subd. 8. PROCEEDINGS IN LIEU OF CANCELATION. If  
5 cause for the cancelation of any contract shall exist, the  
6 commissioner may, in lieu of canceling such contract, perform  
7 the terms and conditions, other than the payment of taxes,  
8 required, by the contract or by law or by the rules and  
9 regulations of the commissioner, to be performed by the owner,  
10 and may for that purpose use any available moneys appropriated  
11 for the maintenance of ~~his~~ the commissioner's division and any \*  
12 other lawful means. The commissioner shall, on December first  
13 each year, certify to the auditor of each county the amount of  
14 moneys thus expended and the value of services thus rendered in  
15 respect of any lands therein since December first of the  
16 preceding year. The county auditor shall forthwith assess and  
17 levy the amount shown by this certificate against the lands  
18 described therein. This amount shall bear interest at the rate  
19 of six percent per annum and shall be a lien upon the lands  
20 described therein, and the collection thereof enforced in the  
21 same manner as taxes levied under section 88.52, subdivision 1;  
22 and, if such tax be not sooner paid, it shall be added to, and  
23 the payment thereof enforced with, the yield tax imposed under  
24 section 88.52, subdivision 2.

25 No change for subd 9 to 11

088\*#50S

26 88.50 TAXATION.

27 Every auxiliary forest in this state shall be taxed in the  
28 manner and to the extent hereinafter provided and not  
29 otherwise. Except as expressly permitted by sections 88.47 to  
30 88.53, no auxiliary forest shall be taxed for, or in any manner,  
31 directly or indirectly made to contribute to, or become liable  
32 for the payment of, any tax or assessment, general or special,  
33 or any bond, certificate of indebtedness, or other public  
34 obligation of any name or kind, made, issued, or created  
35 subsequent to the filing of the contract creating the auxiliary  
36 forest, provided that temporary buildings, structures, or other  
37 fixtures of whatsoever kind located upon land within an  
38 auxiliary forest shall be valued and assessed as personal  
39 property and classified as class 3 under the general system of  
40 ad valorem taxation. In any proceeding for the making of a  
41 special improvement under the laws of this state by which any  
42 auxiliary forest will be benefited, the owner thereof may  
43 subject the lands therein to assessment therefor in the manner  
44 provided by law, by filing ~~his~~ the owner's consent in writing to \*  
45 the making of the assessment in the tribunal in which the  
46 proceeding is pending, whereupon the lands shall for the  
47 purposes of the improvement and assessment be treated as lands  
48 not in an auxiliary forest; but the lien of any assessment so  
49 levied on lands in any auxiliary forest shall be subject to the  
50 provisions of the contract creating the auxiliary forest and  
51 subordinate to the lien of any tax imposed under the provisions  
52 of sections 88.47 to 88.53.

088\*#52S

53 88.52 CUTTING TIMBER; TAXATION.

54 No change for subd 1

55 Subd. 2. EXAMINATION, REPORT. When any timber  
56 growing or standing in any auxiliary forest shall have become  
57 suitable for merchantable forest products, the commissioner  
58 shall, at the written request of the owner, a copy of which  
59 shall at the time be filed in the office of the county auditor,  
60 make an examination of the timber and designate for the owner  
61 the kind and number of trees most suitable to be cut if in the  
62 judgment of the commissioner there be any, and the cutting and  
63 removal of these trees so designated shall be in accordance with  
64 the instructions of the commissioner. He The commissioner shall \*  
65 inspect the cutting or removal and determine whether it or the  
66 manner of its performance constitute a violation of the terms of  
67 the contract creating the auxiliary forest or of the laws  
68 applicable thereto, or of the instructions of the commissioner  
69 relative to the cutting and removal. Any such violation shall  
70 be ground for cancellation of the contract by the commissioner;  
71 otherwise the contract shall continue in force for the remainder  
72 of the period therein stated, regardless of the cutting and  
73 removal. Within 90 days after the completion of any cutting or  
74 removal operation, the commissioner shall make a report of ~~his~~ \*







1 available to an auxiliary forest owner upon application ~~on-his~~ \*  
2 ~~part~~ and upon approval of the county board of the county within \*  
3 which the auxiliary forest is located.

4 For auxiliary forests entered under this subdivision the  
5 county auditor shall assess and levy the yield tax by  
6 multiplying the acreage of each legal description included  
7 within the auxiliary forest by the acre quantity of the annual  
8 growth by species, calculated in cords, or in thousands of feet  
9 board measure Minnesota standard log scale rule, whichever is  
10 more reasonably usable, for the major species found in each type  
11 by the from year-to-year appraised stumpage prices for each of  
12 these species, used by the division of lands and forestry,  
13 department of natural resources, in selling trust fund timber  
14 located within the district in which the auxiliary forest is  
15 located. The assessed value of the annual growth of the  
16 auxiliary forest, thus determined, shall be subject to a ten  
17 percent of stumpage value yield tax, payable annually on or  
18 before May 31. In all other respects the assessment, levying  
19 and collection of the yield tax, as provided for in this  
20 subdivision shall follow the procedures specified in clause (a).

21 Forest owners operating under this subdivision shall be  
22 subject to all other provisions of the auxiliary forest law  
23 except such provisions of clause (a) as are in conflict with  
24 this subdivision. Penalties for intentional failure by the  
25 owner to report properly the quantity and value of the annual  
26 growth upon an auxiliary forest entered under this subdivision  
27 and for failure to pay the yield tax when due shall be the same  
28 as the penalties specified in other subdivisions of this law for  
29 like failure to abide by its provisions.

30 To qualify for the assessment and levying of the yield tax  
31 by this method, the owner of the forest requesting this method  
32 of taxation must submit a map or maps and a tabulation in acres  
33 and in quantity of growth by legal descriptions showing the  
34 division of the area covered by the auxiliary forest for which  
35 this method of taxation is requested into the following forest  
36 types, namely: white and Norway pine; jack pine; aspen-birch;  
37 spruce-balsam fir; swamp spruce; tamarack; cedar; upland  
38 hardwoods; lowland hardwoods; upland brush and grass  
39 (temporarily non-productive); lowland brush (temporarily  
40 non-productive); and permanently non-productive (open bogs,  
41 stagnant swamps, rock outcrops, flowage, etc.). Definition of  
42 these types and determination of the average rate or rates of  
43 growth (in cords or thousand feet, board measure, Minnesota  
44 standard log scale rule, which ever is more logically applicable  
45 for each of them) shall be made by the director of the division  
46 of lands and forestry, Minnesota department of natural  
47 resources, with the advice and assistance of the land  
48 commissioner of the county in which the auxiliary forest is  
49 located; the director of the United States Forest Service's  
50 North Central Forest Experiment Station; and the director of the  
51 School of Forestry, University of Minnesota. Before the  
52 approval of the application of the owner of an auxiliary forest  
53 to have ~~his~~ the auxiliary or proposed auxiliary forest taxed \*  
54 under provisions of this subdivision is submitted to the county  
55 board the distribution between types of the area as shown on the  
56 maps and in the tabulations submitted by the owner of the  
57 auxiliary or proposed auxiliary forest shall be examined and  
58 their accuracy determined by the director of the division of  
59 lands and forestry, department of natural resources, with the  
60 assistance of the county board of the county in which the  
61 auxiliary forest is located.

62 During the life of the auxiliary forest contract timber  
63 cutting operations within the various types shown upon the type  
64 map accepted as a part of the approved auxiliary forest  
65 application shall not bring about a reclassification of the  
66 forest types shown upon that map or those maps until after the  
67 passage of ten years following the termination of said timber  
68 cutting operations and then only upon proof of a change in type.

69 No change for subd 4 to 5

70 Subd. 6. TIMBER HELD EXEMPT FROM YIELD TAX. Timber  
71 cut from an auxiliary forest by an owner and used by ~~him~~ the \*  
72 owner for fuel, fencing, or building on land occupied by ~~him~~ the \*  
73 owner which is within or contiguous to the auxiliary forest \*  
74 where cut shall be exempt from the yield tax, and as to timber  
75 so cut and used the requirements of subdivisions 1 and 2 shall  
76 not be applicable and in lieu thereof the owner shall prior to



1 cutting file with the county auditor, on a form prepared by the  
 2 commissioner, a statement showing the quantity of each kind of  
 3 forest products ~~he proposes~~ proposed to be cut and the purposes \*  
 4 for which the same will be used.

088\*#53S

5 88.53 LAND HELD AS AUXILIARY FOREST; AMOUNT, DISPOSAL  
 6 AFTER CEASING TO BE AUXILIARY FOREST.

7 No change for subd 1

8 Subd. 2. RULES AND REGULATIONS. The director shall  
 9 make rules and regulations and adopt and prescribe such forms  
 10 and procedure as shall be necessary in carrying out the  
 11 provisions of sections 88.47 to 88.53; and the director and  
 12 every county board, county recorder, registrar of titles,  
 13 assessor, tax collector, and every other person in official  
 14 authority having any duties to perform under or growing out of  
 15 sections 88.47 to 88.53 are hereby severally vested with full  
 16 power and authority to enforce such rules and regulations,  
 17 employ help and assistance, acquire and use equipment and  
 18 supplies, or do any other act or thing reasonably necessary to  
 19 the proper performance of ~~his~~ duties under or arising from the \*  
 20 administration and enforcement of sections 88.47 to 88.53. It  
 21 shall be the duty of the director to cause periodic inspections  
 22 to be made of all auxiliary forests for the purpose of  
 23 determining whether contract and statutory provisions relative  
 24 thereto are being complied with.

25 No change for subd 3

088\*#642S

26 88.642 DECORATIVE TREES; CUTTING, REMOVAL OF;  
 27 TRANSPORTATION; PROHIBITIONS; EXCEPTIONS.

28 No person shall cut, remove, or transport for decorative  
 29 purposes or for sale in natural condition and untrimmed, more  
 30 than three decorative trees as defined herein, without the  
 31 written consent of or a bill of sale provided by the owner of  
 32 the land on which the same are grown and whether such land be  
 33 publicly or privately owned. The written consent shall be on a  
 34 form furnished and approved by the department of natural  
 35 resources, and shall contain the legal description of the land  
 36 where the decorative trees were cut, as well as the name of the  
 37 legal owner, or ~~his~~ a duly authorized agent or agents, thereof. \*  
 38 The written consent or bill of sale, or a copy thereof certified  
 39 as a true copy by the person to whom the consent was given or  
 40 sale made, or by the county recorder of the county in which the  
 41 land is situated, if recorded ~~in his office~~, shall be carried by \*  
 42 every person cutting, removing, or transporting any decorative  
 43 trees, untrimmed or in their natural condition, or in any way  
 44 aiding therein, and shall be exhibited to any officer of the  
 45 law, forest ranger, forest ~~patrolman~~ patrol officer, \*  
 46 conservation officer, or other officer of the department of  
 47 natural resources, at ~~his~~ the officer's request at any time. \*  
 48 Any officer shall have power to inspect any decorative trees  
 49 when being transported in any vehicle or other means of  
 50 conveyance or by common carrier, to make an investigation with  
 51 reference thereto as may be necessary to determine whether or  
 52 not the provisions of sections 88.641 to 88.648 have been  
 53 complied with, to stop any vehicle or other means of conveyance  
 54 found carrying decorative trees upon any public highways of this  
 55 state, for the purpose of making an inspection and  
 56 investigation, and to seize and hold subject to the order of the  
 57 court any decorative trees found being cut, removed, or  
 58 transported in violation of any provision of sections 88.641 to  
 59 88.648. No common carrier or agent thereof shall receive for  
 60 shipment or transportation any decorative trees unless the  
 61 consignor, whose name and address shall be recorded, exhibits at  
 62 the time of consignment the written consent, bill of sale, or  
 63 certified copy thereof herein provided for. Failure to so  
 64 exhibit a written consent or bill of sale shall be prima facie  
 65 evidence that no consent was given or exists.

088\*#644S

66 88.644 CONSENT OR BILL OF SALE TO BE CARRIED WHEN  
 67 TRANSPORTING TREES; RECORDS.

68 Any person having in ~~his~~ possession more than three \*  
 69 decorative trees, and any person transporting the same, on any  
 70 public highway in this state shall carry in ~~his~~ possession the \*  
 71 written consent or bill of sale referred to in section 88.642.

72 The consent or bill of sale, or an original duplicate or  
 73 certified copy thereof, shall be kept in the possession of the



1 vendee named therein until January 31st of the year following  
 2 the date thereof and shall be open to inspection during  
 3 reasonable hours to any officer of the department of natural  
 4 resources.

5 Failure to comply with any of the requirements of this  
 6 section constitutes a violation of sections 88.641 to 88.648 and  
 7 subjects the decorative trees not covered by a consent or bill  
 8 of sale to seizure and confiscation by the state as contraband  
 9 in addition to the other penalties provided for violation  
 10 thereof.

11 The provisions of this section shall not apply to  
 12 decorative trees in the possession of or being transported by  
 13 any properly authorized federal, state, or local government  
 14 official for a legitimate public purpose.

088\*#73S

15 88.73 ADMINISTRATION; DELEGATED POWERS AND DUTIES.

16 The director is hereby empowered and directed to administer  
 17 and enforce sections 88.03 to 88.22; and, to that end, he may \*  
 18 make and enforce all necessary or convenient rules and  
 19 regulations not inconsistent with the provisions and purposes of  
 20 these sections. In every case the powers delegated to, and the  
 21 duties imposed upon, the director, and other state or municipal  
 22 representatives by sections 88.03 to 88.22 shall be exercised  
 23 and performed in good faith, without undue oppression, and in a  
 24 manner as reasonable as the exigencies of the situation will  
 25 permit.

26 Nothing in sections 88.03 to 88.22 shall be construed as  
 27 abrogating the laws specifically governing state parks or other  
 28 public parks, or state or municipal forests. The provisions of  
 29 all such laws and of sections 88.03 to 88.22 shall be harmonized  
 30 and both given effect wherever possible.

31 Nothing in sections 88.03 to 88.22 shall be construed as  
 32 restricting the state, or any political subdivision thereof, in  
 33 the exercise of any power, right, or privilege which may be  
 34 conferred by separate enactment of the legislature under  
 35 authority of the so-called forest fire prevention amendment to  
 36 the State Constitution, approved by vote of the electors of this  
 37 state at the general election held in November, 1924.

088\*#76S

38 88.76 REWARDS.

39 Upon conviction of any person for violating any of the  
 40 provisions of sections 88.03 to 88.22, the director, ~~at his~~ \*  
 41 ~~discretion,~~ may pay, from any money placed at his the director's \*  
 42 disposal under those sections, a reward of not more than \$25 to  
 43 the person or persons giving the information leading to such  
 44 conviction.

088\*#78S

45 88.78 APPEALS.

46 No appeal shall be allowed from a judgment in any  
 47 prosecution under sections 88.03 to 88.22, unless the person  
 48 appealing shall, within the time prescribed by law, enter into a  
 49 recognizance, with sufficient sureties, or deposit cash bail in  
 50 twice the amount of the fine and costs.

51 The judge may examine the proposed sureties under oath; ~~He~~ \*  
 52 and shall make and keep a record of their answers in respect to \*  
 53 the kinds and amount of their property not exempt from execution.  
 54 He The judge shall furnish a copy of the record to the director. \*

55 When Upon an arrest is being made for violation of any of \*  
 56 the provisions of sections 88.03 to 88.22, or when upon \*  
 57 information of a violation is being lodged ~~with him,~~ the county \*  
 58 attorney of the county in which the offense was committed shall \*  
 59 prosecute the accused.

089\*#001S

60 89.001 DEFINITIONS.

61 No change for subd 1 to 2

62 Subd. 3. "Commissioner" means the commissioner of natural  
 63 resources or ~~his~~ agent of the commissioner. \*

64 No change for subd 4 to 13

089\*#002S

65 89.002 POLICIES.

66 No change for subd '1 to 2

67 Subd. 3. FOREST ROAD POLICY. The commissioner shall  
 68 provide a system of forest roads and trails which provides  
 69 access to state forest land and other forest land under his the \*  
 70 commissioner's authority which is adequate to permit the \*  
 71 commissioner to manage, protect, and develop those lands and



1 their forest resources consistent with the forest resource  
2 management policy, and to meet demands for forest resources.

089\*#01S

3 89.01 COMMISSIONER, POWERS AND DUTIES.

4 No change for subd 1 to 2

5 Subd. 3. Damage by fire occurring to state timber,  
6 reproduction or lands, when coming to the knowledge of the  
7 commissioner, shall be promptly reported to the attorney  
8 general, who ~~at his discretion~~ may either enforce collection \*  
9 of such demands directly or may employ private attorneys \*  
10 therefor on such terms, not contingent, as ~~he~~ the attorney \*  
11 general deems for the best interests of the state. The amount \*  
12 so collected, after deducting therefrom the fees of such  
13 attorneys, if any, and other necessary expenses incurred in  
14 investigation, preparation for trial, and trial, shall be paid  
15 into the state treasury and credited to the fund that would have  
16 been entitled to receive the sale price of the lands,  
17 reproduction, or timber if sold; or, if there be no such fund,  
18 then such money shall be credited to the general fund. The  
19 attorney general, either in or out of court, may compromise and  
20 settle state claims for fire damage to state lands,  
21 reproduction, or timber, on such terms as ~~he~~ the attorney \*  
22 general deems for the best interests of the state. \*

23 Subd. 4. The commissioner shall cooperate with the several  
24 departments of the state and federal governments and with  
25 counties, towns, corporations, or individuals in the preparation  
26 of plans for forest protection, management, replacement of  
27 trees, wood lots, and timber tracts, using ~~his~~ such influence as \*  
28 time will permit toward the establishment of scientific forestry  
29 principles in the management, protection, and promotion of the  
30 forest resources of the state.

31 No change for subd 5

32 Subd. 6. When any state lands not reserved or set aside  
33 are found by the commissioner to be more valuable for the  
34 production of timber than for agriculture ~~he~~ the commissioner \*  
35 may by written order designate such lands as state forest or  
36 adjust the boundaries of state forests subject to the approval  
37 of the state legislature at its next regular session.

089\*#03S

38 89.03 ADVANCEMENT OF EDUCATION.

39 The commissioner may advance education in forestry within  
40 the state by publications and lectures, and upon the invitation  
41 of the director of the School of Forestry of the University of  
42 Minnesota may cooperate with the school, and the school shall  
43 furnish such aid to ~~him~~ the commissioner as, in the \*  
44 circumstances, is consistent with its own proper functions.

089\*#032S

45 89.032 ACQUISITION OF LAND.

46 Subdivision 1. The commissioner may acquire administrative  
47 sites or rights of way by eminent domain, in the manner provided  
48 by law, or by purchase any lands or interest in lands in the  
49 state forests as created by law, which ~~he shall deem~~ the \*  
50 commissioner deems necessary for state use, and development. \*

51 No change for subd 2

52 Subd. 3. The commissioner may lease any land which ~~he~~ \*  
53 ~~shall deem~~ the commissioner deems necessary for use for \*  
54 buildings, lookout towers, or other facilities for forestry \*  
55 purposes for such period as ~~he shall deem~~ deemed necessary. \*

089\*#033S

56 89.033 GIFTS.

57 The commissioner may accept for and in behalf of the state,  
58 any gift, bequest, devise, or grant of land or interest in lands  
59 in any state forests, or of money or personal property of any  
60 kind, which ~~he~~ the commissioner may deem suitable for use in \*  
61 connection with the operation, control, development, or use of  
62 any state forest.

089\*#034S

63 89.034 TAX-FORFEITED LANDS, INCLUSION IN STATE FORESTS.

64 Whenever the board of county commissioners, by resolution  
65 duly adopted, resolves that any lands, forfeited for non-payment  
66 of taxes, lying within the boundaries of any of the forests  
67 hereinabove designated, or that certain tax-forfeited land lying  
68 outside of such boundaries and classified as conservation lands  
69 are suitable primarily for the growing of timber and timber  
70 products, it may submit such resolution to the commissioner.  
71 If, upon investigation, the commissioner determines that the



1 lands covered by such resolution can best be managed and  
 2 developed as state forest lands or as a portion of an existing  
 3 state forest, ~~he~~ the commissioner shall make a certificate \*  
 4 describing the lands and reciting the acceptance thereof on  
 5 behalf of the state as state forest lands. The commissioner  
 6 shall transmit the certificate to the county auditor, who shall  
 7 note the same upon ~~his~~ the auditor and record the \*  
 8 same with the county recorder. The title to all lands so  
 9 accepted shall be held by the state free from any trust in favor  
 10 of any and all taxing districts, and such lands shall thereafter  
 11 be managed and devoted to the purposes of state forest lands in  
 12 the same manner as lands hereinabove set apart as state forest  
 13 lands, and subject to all the provisions of law.

089\*#036S

14 89.036 FUNDS APPORTIONED TO COUNTY.

15 The state of Minnesota shall hereafter annually on July 1  
 16 or as soon thereafter as may be practical, pay from the state  
 17 forest fund to each county, in which there now are, or hereafter  
 18 shall be situated, any state forests, a sum equal to 50 percent  
 19 of the gross receipts of such state forests located within such  
 20 county, which have been received during the preceding fiscal  
 21 year and credited to the state forest fund, which payment shall  
 22 be received and distributed by the county treasurer, as if such  
 23 payment had been received as taxes on such lands payable in the  
 24 current year.

25 After making such payment to the county, the balance of  
 26 said funds in the state forest fund on July 1 shall be  
 27 transferred and credited to the forest management fund  
 28 established under section 89.04.

29 The commissioner of finance shall annually draw ~~his~~ \*  
 30 warrants upon the state treasurer for the proper amounts in  
 31 favor of the respective counties entitled thereto and the state  
 32 treasurer shall pay such warrants from the state forest fund.

33 The commissioner of finance and the state treasurer shall,  
 34 and are hereby authorized and empowered to devise, adopt, and  
 35 use such accounting methods as they may deem proper, and to do  
 36 any and all other things reasonably necessary in carrying out  
 37 the provisions of this section.

38 There is hereby appropriated to the counties entitled to  
 39 such payment, from the state forest fund in the state treasury,  
 40 an amount sufficient to make the payments specified herein.

089\*#17S

41 89.17 LEASES AND PERMITS.

42 The commissioner shall have power to grant and execute, in  
 43 the name of the state, leases and permits for the use of any  
 44 state forest lands for any purpose which in ~~his~~ the \*  
 45 commissioner's opinion is not inconsistent with the maintenance \*  
 46 and management of the state forest in which the land is  
 47 situated, on forestry principles for timber production. Every  
 48 such lease or permit shall be revocable at ~~his~~ the discretion of \*  
 49 the commissioner at any time subject to such conditions as may \*  
 50 be agreed on in the lease. The approval of the commissioner of  
 51 administration shall not be required upon any such lease or  
 52 permit. No such lease or permit for a period exceeding ten  
 53 years shall be granted except with the approval of the executive  
 54 council.

55 Hunting of wild game is prohibited on any land which has  
 56 been posted by the lessee to prohibit hunting. Such prohibition  
 57 shall apply to all persons including the lessee.

089\*#18S

58 89.18 ROADS THROUGH STATE FORESTS, PERMITS.

59 No public highway, other than a state trunk highway, shall  
 60 be established or laid out through any state forest as the same  
 61 shall be created and withdrawn from public sale and entry by  
 62 existing or subsequent act, without the consent of the  
 63 commissioner, certified ~~by him~~ in writing to the public \*  
 64 authority having power to establish or lay out such highway. In  
 65 any judicial proceeding affecting the laying out of a highway,  
 66 the court may either sustain or reverse the action of the  
 67 commissioner as the court, in its discretion, may deem proper.  
 68 The limitations and restrictions provided in this section shall  
 69 not apply to state-owned lands which have not been expressly  
 70 withdrawn from sale and created and reserved as state forests.  
 71 No state forest lands or right or easement therein shall be  
 72 taken by eminent domain for any purpose without the consent of  
 73 the commissioner, certified ~~by him~~ in writing to the authority \*



1 or corporation exercising such right of eminent domain.

089\*#28S

2 89.28 PULPWOOD INVESTIGATION.

3 The commissioner shall make an investigation of the  
4 possibility of the state securing by purchase or condemnation  
5 water powers in the vicinity of state lands wherein pulpwood is  
6 now growing or upon which it may be profitably grown in the  
7 future. For such purpose ~~it shall be proper for him to~~ the  
8 commissioner may call upon the state drainage engineer for  
9 assistance.

\*  
\*

089\*#36S

10 89.36 PRODUCING AND PROCURING PLANTING STOCK.

11 Subdivision 1. PRODUCTION AT STATE NURSERIES. The  
12 commissioner of natural resources may produce tree planting  
13 stock for the purposes of sections 89.35 to 89.39 upon any lands  
14 under ~~his~~ control of the commissioner which may be deemed  
15 suitable and available therefor so far as not inconsistent with  
16 other uses to which such lands may be dedicated by law.

\*

17 No change for subd 2

18 Subd. 3. SALE OR EXCHANGE OF STOCK. In carrying out  
19 the provisions of sections 89.35 to 89.39, the commissioner may  
20 sell to or exchange surplus tree planting stock and seed with  
21 other states or the federal government for the following  
22 purposes:

23 (1) to acquire tree planting stock of a species which is in  
24 short supply in the commissioner's inventory;

25 (2) to acquire tree planting stock of a species not grown  
26 by the commissioner;

27 (3) to acquire tree planting stock genetically superior to  
28 that grown by the commissioner; and

29 (4) to utilize tree planting stock or seed not needed for  
30 the reforestation program in the state.

31 The commissioner's authority to acquire tree planting stock  
32 under this subdivision is limited to not more than five tree  
33 species per year. The minimum quantity ~~he may acquire~~ of any  
34 species which may be acquired is 20,000 trees.

\*  
\*

089\*#37S

35 89.37 DISTRIBUTING PLANTING STOCK.

36 Subdivision 1. PLANTING CONDITIONS. The  
37 commissioner of natural resources may supply planting stock  
38 produced or procured hereunder for use on any public or private  
39 lands within the state for the purposes herein authorized under  
40 such conditions as ~~he~~ the commissioner may prescribe for  
41 planting, care, and maintenance in furtherance of such purposes.

\*

42 No change for subd 2 to 4

089\*#38S

43 89.38 PROHIBITION; PENALTIES.

44 It shall be unlawful for a period of ten years from the  
45 date of purchase for any person who purchases trees from the  
46 commissioner to use or permit the use of planting stock  
47 furnished hereunder for any purpose not authorized hereunder, or  
48 to sell, give, remove, or permit the removal with roots attached  
49 of any tree previously plan from stock furnished hereunder  
50 for replanting on any ground ~~other than his own~~ not owned by the  
51 purchaser or for any purpose not authorized hereunder. Any  
52 violation of this section shall be a misdemeanor.

\*  
\*

089\*#391S

53 89.391 NURSERY INSPECTION CERTIFICATES; LIMITATIONS ON  
54 ISSUANCE.

55 No certificate of inspection shall be issued pursuant to  
56 section 18.51 by the commissioner of agriculture to a person who  
57 is determined by the commissioner of natural resources to have  
58 purchased trees ~~from him~~ pursuant to sections 89.35 to 89.39 and  
59 who is selling, giving, removing, or permitting the removal of  
60 the trees with roots attached, in violation of section 89.38.

\*

089\*#43S

61 89.43 TREE SEEDS AND CONES, PAYMENTS FROM APPROPRIATIONS.

62 Notwithstanding any provision of law to the contrary, out  
63 of any money appropriated to the commissioner of natural  
64 resources for the purchase of tree seeds and seed cones the  
65 commissioner of finance and the state treasurer shall pay to the  
66 commissioner upon ~~his~~ request the amounts deemed necessary by  
67 the commissioner to maintain an inventory of tree seeds and seed  
68 cones to assure an adequate supply for the nursery and forestry  
69 development needs of the department and to pay for the seeds and  
70 seed cones in cash at the time of delivery.

\*



1 The commissioner shall deposit any money received pursuant  
2 to this section in a state depository subject to withdrawal for  
3 disbursement by check for the purposes described by the  
4 commissioner or ~~his~~ authorized agent. \*

5 The commissioner of finance shall prescribe rules by which  
6 the commissioner of natural resources shall account for the  
7 expenditures made pursuant to this section and may require an  
8 additional bond to cover all money paid to the commissioner of  
9 natural resources for disbursement pursuant to this section.  
10 Any bond premiums shall be paid by the commissioner from money  
11 available for that purpose.

12 Unless the legislature specifically otherwise directs in  
13 any act appropriating money to the commissioner of natural  
14 resources for the purchase of tree seeds and seed cones, money  
15 paid to the commissioner pursuant to this section shall not  
16 cancel on June 30 of any fiscal year and shall be available for  
17 expenditure in the ensuing fiscal year.

090\*#005S

18 90.005 SURVEYOR GENERAL, OFFICE ABOLISHED; FUNCTIONS  
19 TRANSFERRED TO NATURAL RESOURCES COMMISSIONER.

20 No change for subd 1

21 Subd. 2. Whenever in any other general law, or resolution  
22 of the legislature heretofore or hereafter adopted, or in any  
23 document, record, or proceeding authorized by the same, any word  
24 or phrase is used in reference to or descriptive of the surveyor  
25 general, or officer or employee thereof, or their respective  
26 activities, whose powers, duties, or activities are by Laws  
27 1967, Chapter 568 assigned or transferred to the commissioner of  
28 natural resources, such word, phrase, or reference shall  
29 hereafter be deemed to refer to, include, and describe the  
30 commissioner of natural resources, or ~~his~~ officers or employees  
31 of the commissioner. \*

32 No change for subd 3 to 4

33 Subd. 5. The surveyor general, in regard to powers and  
34 duties assigned and transferred by Laws 1967, Chapter 568 to the  
35 natural resources commissioner, shall transfer and deliver to  
36 the commissioner all contracts, books, maps, plans, papers,  
37 records, and property of every description ~~within his~~  
38 ~~jurisdiction or control~~. The commissioner of natural resources  
39 is hereby authorized to take possession of such property. \*

40 No change for subd 6 to 7

090\*#01S

41 90.01 DEFINITIONS.

42 No change for subd 1 to 2

43 Subd. 3. "Commissioner" means the commissioner of natural  
44 resources or ~~his~~ agents thereof. \*

45 No change for subd 4 to 8

46 Subd. 9. "Person" means any natural person acting ~~in his~~  
47 ~~own-right~~ personally, or in any representative capacity, and any  
48 corporation, firm, or association of whatever nature or kind. \*

090\*#041S

49 90.041 COMMISSIONER, POWERS AND DUTIES.

50 Subdivision 1. The commissioner shall make thorough  
51 inquiry into the extent, character, and value of the timber on  
52 all state lands. ~~He~~ and shall take such measures as will  
53 protect the timber from damage or loss by fire, trespass, or  
54 otherwise; and make such regulations, in conformity with the  
55 other provisions of this chapter, for the care and control of  
56 the lands and for the sale of the timber thereon, as will best  
57 protect the interests of the state. \*

58 Subd. 2. The commissioner may compromise and settle, with  
59 the approval of the attorney general, upon terms the  
60 commissioner deems just, any claim of the state for casual and  
61 involuntary trespass upon state lands or timber where the full  
62 value of the timber or other materials taken in trespass is  
63 \$5,000 or less; provided that no claim shall be settled for less  
64 than the full value of all timber or other materials taken in  
65 casual trespass or the full amount of all actual damage or loss  
66 suffered by the state as a result. The commissioner shall  
67 advise the executive council of any information acquired by ~~him~~  
68 the commissioner concerning any trespass on state lands, giving  
69 all details and names of witnesses and all compromises and  
70 settlements made under this subdivision. \*

71 No change for subd 3 to 4

090\*#045S

72 90.045 APPRAISAL STANDARDS.



1 By July 1, 1983, the commissioner shall establish specific  
2 timber appraisal standards according to which all timber  
3 appraisals will be conducted under this chapter. The standards  
4 shall include a specification of the maximum allowable appraisal  
5 sampling error, and the procedures for tree defect allowance,  
6 tract area estimation, product volume estimation, and product  
7 value determination. The timber appraisal standards shall be  
8 included in each edition of the timber sales manual published by  
9 the commissioner. In addition to the duties pursuant to section  
10 90.061, every state appraiser shall ~~conduct-his~~ work within the  
11 guidelines of the timber appraisal standards. The standards  
12 shall not be subject to the rulemaking provisions of chapter 14.

090\*#051S

13 90.051 SUPERVISION OF SALES; BOND.

14 The department employee delegated to supervise state timber  
15 appraisals and sales shall be bonded in a form to be prescribed  
16 by the attorney general and in the sum of not less than \$25,000,  
17 conditioned upon the faithful and honest performance of ~~his~~  
18 duties.

090\*#061S

19 90.061 STATE APPRAISERS, DUTIES.

20 Subdivision 1. The commissioner may designate any  
21 qualified person as a state appraiser. Each state appraiser  
22 shall be bonded in a sum of not less than \$1,000, conditioned  
23 upon the faithful performance of ~~his~~ duties.

24 Subd. 2. Every state appraiser is hereby authorized to  
25 arrest any person found trespassing or to have trespassed upon  
26 state lands and deliver ~~him~~ the trespasser to the sheriff of the  
27 county and immediately enter a complaint before a court of  
28 competent jurisdiction in the county charging the person so  
29 arrested with such trespass, and the person so charged shall be  
30 arraigned and given a hearing on the complaint.

31 Subd. 3. Each state appraiser shall ~~carry-on-his-person~~  
32 possess when on duty an identification card provided by the  
33 commissioner. Any person not a state appraiser who shall  
34 impersonate or claim to be a state appraiser shall be guilty of  
35 a misdemeanor.

36 Subd. 4. When an appraisal or valuation of any land is  
37 made, the state appraiser shall place an estimate and valuation  
38 of any timber thereon and make a separate appraisal report  
39 thereof; the report shall be made from ~~his~~ field notes made on  
40 the land, shall be dated when made and, together with the field  
41 notes shall be made a part of the records of the department.  
42 The state appraiser shall ~~affix-his-signature-to~~ sign each page  
43 of the field notes and appraisal report. These records shall  
44 show that the state appraiser was actually upon the land when  
45 the estimate and valuation was made.

46 The appraisal report shall state the amount of each kind of  
47 timber and the value of each kind of timber for each 40-acre  
48 tract or subdivision and for each tract designated in the  
49 government survey as a government lot or portions thereof except  
50 that reports made for the purpose of timber sales only shall  
51 include the percentage value of timber on such 40-acre tract or  
52 subdivision or government lot or a portion thereof together with  
53 the total amount of each kind of timber and the total value of  
54 each kind of timber for the sale unit.

55 Subd. 5. The duties of the state appraiser shall be to  
56 appraise and place a valuation upon any state lands or any state  
57 timber or any interest therein anywhere; to check-scale timber  
58 cut from state lands in trespass, either situated upon state  
59 lands or removed therefrom; to check-scale any scale of timber  
60 cut on state lands; to make check-scales, by the stump and top,  
61 or any other method, of timber removed from state lands; and to  
62 perform such other duties as may be assigned ~~to-him~~.

63 No change for subd 6 to 8

090\*#101S

64 90.101 TIMBER SOLD AT PUBLIC AUCTION, MAXIMUM LOTS OF  
65 \$20,000.

66 No change for subd 1

67 Subd. 2. At least 30 days before the date of sale the  
68 commissioner shall compile a list containing a description of  
69 each tract of land upon which any timber to be offered is  
70 situated and a statement of the quantity of timber and of the  
71 appraised price of each kind of timber thereon as shown by the  
72 report of the state appraiser. The commissioner may also list  
73 the quantity of timber of doubtful market value and the



1 appraised price of each kind of such timber located in other  
2 timber types within the sale area that may be cut at the  
3 discretion of the purchaser. Optional timber will not be  
4 considered a part of the sale contract until the permit holder  
5 has advised the commissioner of ~~his~~ an intent to cut such timber. \*  
6 No description shall be added after the list is posted as herein  
7 provided and no timber shall be sold from land not described  
8 therein. Copies of the list shall be furnished to all  
9 interested applicants. A copy of the list shall be  
10 conspicuously posted in the office of the commissioner and in  
11 the office of the auditor of the county in which the lands are  
12 situated at least 30 days prior to the date of sale, and extra  
13 copies of the list shall be furnished to the county auditor for  
14 distribution to applicants. The commissioner shall cause a  
15 notice to be published for three consecutive weeks in a legal  
16 newspaper in the county where the land is situated. The notice  
17 shall state the time and place of the sale and the location at  
18 which further information regarding the sale may be obtained.  
19 ~~He~~ The commissioner may give such other published or posted \*  
20 notice as ~~he~~ the commissioner deems proper to reach prospective \*  
21 bidders.

090\*#14S

22 90.14 AUCTION SALE PROCEDURE.

23 All state timber shall be offered and sold by the same unit  
24 of measurement as it was appraised. The sale shall be made to  
25 the party who shall bid the highest price for all the several  
26 kinds of timber as advertised. The purchaser at any sale of  
27 timber shall, immediately upon the approval of ~~his~~ the bid, pay \*  
28 to the commissioner 25 percent of the appraised value. In case  
29 any purchaser fails to make such payment, ~~he~~ the purchaser shall \*  
30 be liable therefor to the state in a civil action, and the  
31 commissioner may reoffer the timber for sale as though no bid  
32 therefor had been made.

090\*#151S

33 90.151 PERMITS TO CUT AND REMOVE TIMBER SOLD AT PUBLIC  
34 AUCTION.

35 Subdivision 1. Following receipt of the down payment for  
36 state timber sold at public auction, the commissioner shall  
37 issue a numbered permit to the purchaser, in a form approved by  
38 the attorney general, by the terms of which ~~he~~ the purchaser \*  
39 shall be authorized to enter upon the land, and to cut and  
40 remove the timber therein described, according to the provisions  
41 of this chapter. The permit shall be correctly dated and  
42 executed by the commissioner or ~~his~~ agent and signed by the \*  
43 purchaser. The permit shall expire no later than two years  
44 after the date of sale as the commissioner shall specify, and  
45 the timber shall be cut within the time specified therein. All  
46 cut timber, equipment, and buildings not removed from the land  
47 within 90 days after expiration of the permit shall become the  
48 property of the state. The commissioner may grant an additional  
49 period of time not to exceed 120 days for the removal of cut  
50 timber, equipment, and buildings upon receipt of such request by  
51 the permit holder for good and sufficient reasons. No permit  
52 shall be issued to any person other than the purchaser in whose  
53 name the bid was made.

54 No change for subd 2

55 Subd. 3. The permit shall contain such provisions as may  
56 be necessary to secure to the state the title of all timber cut  
57 thereunder wherever found until full payment therefor and until  
58 all provisions of the permit have been fully complied with. The  
59 permit shall provide that from the date the same becomes  
60 effective until the expiration thereof, including all  
61 extensions, the purchaser and ~~his~~ successors in interest shall \*  
62 be liable to the state for the full permit price of all timber  
63 covered thereby, notwithstanding any subsequent damage or injury  
64 thereto or trespass thereon or theft thereof, and without  
65 prejudice to the right of the state to pursue such timber and  
66 recover the value thereof anywhere prior to the payment therefor  
67 in full to the state. Upon recovery from any person other than  
68 the permit holder, the permit holder shall be deemed released to  
69 the extent of the net amount, after deducting all expenses of  
70 collecting same, recovered by the state from such other person.

71 Subd. 4. The permit shall provide that all timber sold or  
72 designated for cutting shall be cut without damage to other  
73 timber; that the permit holder shall remove all timber  
74 authorized to be cut under the permit; that timber sold by board



1 measure but later determined by the commissioner not to be  
 2 convertible into board measure shall be paid for by the piece or  
 3 cord or other unit of measure according to the size, species, or  
 4 value, as may be determined by the commissioner; that the permit  
 5 holder shall pay to the state the permit price for all timber  
 6 authorized to be cut, including timber ~~which he fails to~~ not cut. \*

7 Subd. 5. The permit shall provide that the permit holder  
 8 upon request of the commissioner shall make a report in writing  
 9 to the commissioner under oath enumerating and stating the  
 10 amounts of timber cut under such permit, the kinds of timber  
 11 removed and the amounts of each in board feet, per piece, in  
 12 cords, or any other unit of measure, in the manner required by  
 13 the commissioner. Any false return or report made to the  
 14 commissioner by any such permit holder or by any one  
 15 representing ~~him~~ the permit holder shall constitute a gross  
 16 misdemeanor. \*

17 No change for subd 6

18 Subd. 7. The permit shall provide that the permit holder  
 19 shall pay the permit price value for any timber sold which is  
 20 negligently destroyed or damaged by the permit holder in cutting  
 21 or removing other timber sold. If the permit holder shall cut  
 22 or remove or negligently destroy or damage any timber upon the  
 23 land described, not sold under the permit, except such timber as  
 24 it may be necessary to cut and remove in the construction of  
 25 necessary logging roads and landings approved as to location and  
 26 route by the commissioner, such timber shall be deemed to have  
 27 been cut in trespass. The permit holder shall be liable for any  
 28 such timber and recourse may be had upon ~~his~~ the bond. \*

29 Subd. 8. The permit shall provide that the commissioner  
 30 shall have the power to order suspension of all operations under  
 31 the permit when in ~~his~~ the commissioner's judgment the  
 32 conditions thereof have not been complied with and any timber  
 33 cut or removed during such suspension shall be deemed to have  
 34 been cut in trespass; that the commissioner may cancel the  
 35 permit at any time when in ~~his~~ the commissioner's judgment the  
 36 conditions thereof have not been complied with and such  
 37 cancellation shall constitute repossession of the timber by the  
 38 state; that the permit holder shall remove ~~his~~ equipment and  
 39 buildings from such land within 90 days after such cancellation;  
 40 that, if the purchaser at any time fails to pay any obligations  
 41 to the state under any other permits, any or all ~~of his~~ permits  
 42 may be cancelled; and that any timber removed in violation of  
 43 the terms of the permit or of any law shall constitute trespass. \*

44 No change for subd 9

45 Subd. 10. The permit shall provide that at any time the  
 46 state may bring an action or suit to restrain, enjoin and  
 47 prohibit the further cutting or removal of timber or the further  
 48 entry of the permit holder or ~~his~~ representatives upon any of  
 49 the lands covered by the permit when in the opinion of the  
 50 attorney general any of the terms of the permit are being or  
 51 have been violated, which suit shall be without prejudice to any  
 52 other action or proceeding on behalf of the state. \*

53 No change for subd 11 to 13

090\*#161S

54 90.161 SURETY BONDS FOR AUCTION TIMBER PERMITS.

55 Subdivision 1. Except as otherwise provided by law the  
 56 purchaser of any state timber, before any timber permit ~~to him~~ \*  
 57 shall become effective for any purpose, shall within 90 days  
 58 from the date of purchase give a good and valid bond to the  
 59 state of Minnesota equal to the value of all timber covered or  
 60 to be covered by the permit, as shown by the sale price bid  
 61 therefor and the appraisal report thereof as to quantity, less  
 62 the amount of any payment pursuant to section 90.14, which bond  
 63 shall be conditioned upon the faithful performance by the  
 64 purchaser and ~~his~~ successors in interest of all the terms and  
 65 conditions of the permit and all requirements of law in respect  
 66 to such sales; and the bond shall be approved in writing by the  
 67 commissioner and filed for record in ~~his~~ the commissioner's  
 68 office. \*

69 No change for subd 2

70 Subd. 3. In case of default in payment by the permit  
 71 holder the surety upon ~~his~~ the bond shall make payment in full  
 72 to the state of all sums of money due under such permit; and  
 73 thereupon such surety shall be deemed immediately subrogated to  
 74 all the rights of the state in the timber so paid for; and such  
 75 subrogated party may pursue the timber and recover therefor, or



1 have any other appropriate relief in relation thereto which the  
 2 state might or could have had if such surety had not made such  
 3 payment. No assignment or other writing on the part of the  
 4 state shall be necessary to make such subrogation effective, but  
 5 the certificate signed by and bearing the official seal of the  
 6 commissioner ~~under his hand and official seal~~, showing the  
 7 amount of such timber, the lands from which it was cut or upon  
 8 which it stood, and the amount paid therefor, shall be prima  
 9 facie evidence of such facts.

090\*#171S

10 90.171 ASSIGNMENT OF AUCTION TIMBER PERMITS.

11 Any permit sold at public auction may be assigned upon  
 12 written approval of the commissioner. The assignment of any  
 13 permit shall be signed and acknowledged by the permit holder.  
 14 The commissioner shall not approve any assignment until the  
 15 assignee has given to the state a bond which shall be  
 16 substantially in the form of, and shall be deemed of the same  
 17 effect as, the bond required of the original purchaser. The  
 18 commissioner ~~in his discretion~~ may accept the agreement of the  
 19 assignee and any corporate surety upon such original bond,  
 20 substituting the assignee in the place of such original  
 21 purchaser and continuing such original bond in full force and  
 22 effect, as to the assignee. Thereupon but not otherwise the  
 23 permit holder making the assignment shall be released from all  
 24 liability arising or accruing from actions taken after the  
 25 assignment became effective.

090\*#191S

26 90.191 INFORMAL SALES OF STATE TIMBER.

27 No change for subd 1 to 2

28 Subd. 3. All timber products, except as specified by the  
 29 commissioner of natural resources, cut under the provisions of  
 30 this section, shall be scaled and the final settlement for the  
 31 timber cut shall be made on this scale. The purchaser shall  
 32 dispose of slashings according to law, shall be liable under  
 33 this chapter in trespass for cutting timber held in reserve or  
 34 unnecessarily injuring any timber not included within the sale  
 35 ~~made to him~~ under this section, and shall be otherwise subject  
 36 to all the laws governing the sale and removal of state timber,  
 37 so far as applicable except as provided under subdivision 4.

38 The permit shall provide that should the commissioner find  
 39 it advisable to salvage or remove for proper forest management  
 40 certain unsold timber within the permit area, this timber, with  
 41 the written consent of the permit holder, may be added at an  
 42 appraised price to the timber sold.

43 No change for subd 4

090\*#201S

44 90.201 VOID TIMBER SALES; REFUNDS; ADJUSTMENT OF SALE  
45 TERMS.

46 Subdivision 1. VOID SALES; REFUNDS. Any sale of  
 47 timber made by fraud or mistake or in violation of the  
 48 provisions of this chapter shall be void, the permit issued  
 49 thereon shall be of no effect, and the holder shall be required  
 50 to surrender the same. In case of a sale made by mistake the  
 51 amount paid shall be refunded to the permit holder, or at ~~his~~  
 52 the request of the permit holder the commissioner may credit the  
 53 refund as payment upon any other timber purchased by the permit  
 54 holder. If timber has been cut on a permit which required  
 55 cancellation due to error by the state, it may be sold at single  
 56 stumpage rate without formalities.

57 No change for subd 2 to 3

090\*#211S

58 90.211 PURCHASE MONEY, WHEN FORFEITED.

59 If the purchaser of any timber or ~~his~~ the purchaser's  
 60 assignee fails to cut any part thereof before the expiration of  
 61 the permit, ~~he~~ the purchaser or assignee shall nevertheless pay  
 62 the price therefor; but under no circumstances shall ~~he cut any~~  
 63 ~~such timber be cut~~ after the expiration of the permit or  
 64 extension thereof.

090\*#251S

65 90.251 TIMBER SCALING; REPORTS; FEES; SETTLEMENT OF  
66 CLAIMS.

67 No change for subd 1 to 2

68 Subd. 3. Final examination of lands and timber covered by  
 69 any permit shall be made by a state appraiser at or subsequent  
 70 to the expiration of the permit or of any cutting season and it  
 71 shall be the duty of such appraiser to ascertain and report the



1 amount of any timber covered by the permit and cut and left on  
2 the land or left standing thereon, but he the appraiser shall \*  
3 not report any timber cut and left which has been marked as  
4 scaled.

5 No change for subd 4

090\*#281S

6 90.281 RE-SCALES, RECOUNTS AND RE-ESTIMATES.

7 Upon complaint of any interested permit holder questioning  
8 the accuracy of any scale, count, or estimate of timber made by  
9 any state appraiser, ~~the commissioner at his discretion or of~~ \*  
10 ~~his own motion when no complaint is pending or at any other time~~ \*  
11 the commissioner determines in the absence of a complaint, the \*  
12 commissioner may cause a re-scale, recount, or re-estimate \*  
13 thereof to be made jointly by any two or more state appraisers,  
14 which when made shall supersede and for all purposes take the  
15 place of the original scale, count, or estimate, if and only  
16 when it varies more than ten percent from the original. As a  
17 condition precedent to the making of any such re-scale, recount,  
18 or re-estimate upon the complaint of any person the commissioner  
19 ~~at his discretion~~ may require such person to make available such \*  
20 sum of money as the commissioner deems necessary for the actual  
21 expenses thereof and to forfeit the same to the state if such  
22 re-scale, recount, or re-estimate does not vary more than ten  
23 percent from the original. All such forfeited money shall be  
24 paid into the state treasury and credited to the fund or account  
25 from which the expenses of such re-scale, recount, or  
26 re-estimate were paid.

090\*#301S

27 90.301 TIMBER TRESPASS ON STATE LANDS; UNLAWFUL  
28 POSSESSION AND SALE; REWARDS; RECORDS.

29 No change for subd 1

30 Subd. 2. SEIZURE OF UNLAWFULLY CUT TIMBER. The  
31 commissioner may take possession of any timber hereafter  
32 unlawfully cut upon or taken from any land owned by the state  
33 wherever found and may sell the same informally or at public  
34 auction after giving such notice as he the commissioner deems \*  
35 reasonable and after deducting all the expenses of such sale the  
36 proceeds thereof shall be paid into the state treasury to the  
37 credit of the proper fund; and when any timber so unlawfully cut  
38 has been intermingled with any other timber or property so that  
39 it cannot be identified or plainly separated therefrom the  
40 commissioner may so seize and sell the whole quantity so  
41 intermingled and, in such case, the whole quantity of such  
42 timber shall be conclusively presumed to have been unlawfully  
43 taken from state land. When the timber unlawfully cut or  
44 removed from state land is so seized and sold the seizure shall  
45 not in any manner relieve the trespasser who cut or removed, or  
46 caused the cutting or removal of, any such timber from the full  
47 liability imposed by this chapter for the trespass so committed,  
48 but the net amount realized from such sale shall be credited on  
49 whatever judgment is recovered against such trespasser.

50 Subd. 3. PENALTY. In addition to any other penalty  
51 provided by law, any person who shall remove, transport, carry  
52 away, conceal, or convert to his own personal use any timber \*  
53 unlawfully cut on state lands, knowing the same to have been so  
54 cut, shall be guilty of theft of the same and prosecuted and  
55 punished accordingly in the county where the property was cut or  
56 in any county into or through which the property or any part  
57 thereof may be removed; and when any corporation is guilty of  
58 the acts herein declared to be theft, each officer of the  
59 corporation shall, individually and severally, be guilty of such  
60 theft.

61 Subd. 4. APPREHENSION OF TRESPASSERS; REWARD. The  
62 following rewards shall be paid to any person giving to the  
63 proper authorities any information which shall lead to the  
64 detection and conviction of any persons violating any of the  
65 provisions of this chapter: \$25 reward, if the value of the  
66 timber so unlawfully cut or removed shall not exceed the sum of  
67 \$25; \$50 reward, if the value of the timber shall not exceed  
68 \$50; and \$100 reward, if the value of the timber shall exceed  
69 the sum of \$100; and the court before whom the person so  
70 violating the provisions of this chapter shall have been tried,  
71 shall, upon application of any person claiming to be entitled to  
72 such reward, examine the claim in a summary manner and determine  
73 whether or not the person claiming the reward is entitled to the  
74 same and, if it should appear to the satisfaction of the court



1 that the person claiming the reward is entitled to the same, a  
 2 certificate of such facts shall be made by the court and  
 3 delivered to the person, which shall be deemed evidence of his a \*  
 4 right to the reward. The executive council shall pay the same  
 5 from any funds appropriated for its expenses.

6 No change for subd 5 to 6

090\*#311S

7 90.311 POSSESSION OF LANDS CONTRARY TO AGREEMENT,  
 8 REMEDIES.

9 If any person holds or continues in possession of any lands  
 10 mentioned in this chapter contrary to the conditions or  
 11 covenants of any lease, certificate of sale, permit, or other  
 12 written agreement, he that person shall be liable to an action \*  
 13 for the recovery of possession of such lands and damages for the  
 14 detention of the same. The commission of trespass or waste upon  
 15 these lands or the destruction or removal of timber or other  
 16 property therefrom may be restrained, enjoined, or otherwise  
 17 prohibited by any court of competent jurisdiction at the suit of  
 18 the state pending final determination of the rights of the state  
 19 therein, and permanently thereafter, as the facts may warrant.  
 20 No bond shall ever be required of the state in any such  
 21 proceeding.

090\*#41S

22 90.41 STATE APPRAISER AND SCALER; VIOLATIONS, PENALTIES.

23 Subdivision 1. Any state scaler or state appraiser who  
 24 shall accept any compensation or gratuity for his services as \*  
 25 such from any other source except the state of Minnesota, or any  
 26 state scaler, or other person authorized to scale state timber,  
 27 or state appraiser, who shall make any false report, or insert  
 28 in any such report any false statement, or shall make any such  
 29 report without having examined the land embraced therein or  
 30 without having actually been upon the land, or omit from any  
 31 such report any statement required by law to be made therein, or  
 32 who shall fail to report any known trespass committed upon state \*  
 33 ~~lands which has come to his knowledge~~, or who shall conspire \*  
 34 with any other person in any manner, by act or omission or  
 35 otherwise, to defraud or unlawfully deprive the state of  
 36 Minnesota of any land or timber, or the value thereof, shall be  
 37 guilty of a felony. Any material discrepancy between the facts  
 38 and the scale returned by any such person scaling timber for the  
 39 state shall be considered prima facie evidence that such person  
 40 is guilty of violating this statute.

41 No such appraiser or scaler who has been once discharged  
 42 for cause shall ever again be appointed. This provision shall  
 43 not apply to resignations voluntarily made by and accepted from  
 44 such employees.

45 No change for subd 2

090\*#50S

46 90.50 LEASE OF CERTAIN STATE LANDS FOR CULTIVATION AND  
 47 HARVESTING OF DECORATIVE TREES.

48 Subdivision 1. COMMISSIONER OF NATURAL RESOURCES MAY  
 49 LEASE LANDS. The commissioner of natural resources may lease  
 50 as herein provided any state lands under his jurisdiction and \*  
 51 control of the commissioner for the purposes of cultivating and \*  
 52 harvesting stagnant swamp trees for Christmas trees or other  
 53 decorative purposes, except lands included in a state park and  
 54 except lands within the area defined by the Act of Congress  
 55 approved July 10, 1930, Title 16, U.S. Code Annotated, Section  
 56 577. Such leases shall be offered at public sale upon like  
 57 proceedings as provided by law for the sale of state timber.  
 58 The appraisers in such proceedings shall determine and report  
 59 the annual rental value of the land and the location, estimated  
 60 quantity and stumpage value of the stagnant swamp trees and  
 61 other merchantable timber thereon.

62 No change for subd 2 to 5

092\*#06S

63 92.06 PAYMENTS; INTEREST.

64 No change for subd 1 to 2

65 Subd. 3. DEFAULT. A person who fails to make a  
 66 payment required under a certificate of sale within 60 days from  
 67 the date it becomes due is in default. On default, the  
 68 certificate of sale shall be deemed canceled, and all right,  
 69 title, and interest of the purchaser, ~~his~~ or ~~her~~ heirs, \*  
 70 representatives, or assigns of the purchaser, in the premises \*  
 71 shall terminate without the doing by the state of any act or  
 72 thing. A record of the default must be made in the state land



1 records of the commissioner. The commissioner may prepare a  
 2 certificate of default and file it with the county treasurer or  
 3 record it in the office of the county recorder of the county  
 4 containing the property. The record or certificate is prima  
 5 facie evidence of the facts stated in it, but the cancellation  
 6 and termination are effective without it. This subdivision does  
 7 not apply to a sale made before May 1, 1941.

8 Subd. 4. IMPROVEMENTS, WHEN PAYMENT NOT NECESSARY.

9 If a person has made improvements to the land and if the  
 10 commissioner believes that person settled the land in good faith  
 11 as homestead land under the laws of the United States before it  
 12 was certified to the state, or if the improvements were lawfully  
 13 made by that person as a lessee of the state, then the value of  
 14 the improvements must be separately appraised and, if the  
 15 settler or lessee purchases the land, ~~he-or-she~~ the settler or  
 16 lessee is not required to pay for the improvements. If another  
 17 person purchases the land, that person must pay the state at the  
 18 time of sale, in addition to all other required payments, the  
 19 appraised amount for the improvements. The amount received by  
 20 the state for the improvements must be paid to the settler or  
 21 lessee-~~his~~ or ~~her~~ heirs, representatives, or assigns of the  
 22 settler or lessee. Payment must be made by warrant drawn by the  
 23 commissioner of finance upon the state treasurer. Amounts  
 24 received for the improvements are appropriated for making the  
 25 payments.

26 This subdivision does not apply unless the person seeking  
 27 its benefit makes a verified application to the commissioner  
 28 showing ~~that-he-or-she-is-entitled~~ entitlement to it before the  
 29 first state public sale at which the land is offered for sale.  
 30 The applicant must appear at the sale and offer to purchase the  
 31 land for at least its appraised value including all timber on  
 32 it, and make the purchase if no higher bid is received. Actions  
 33 or other proceedings involving the land in question begun before  
 34 the sale must have been completed.

35 Subd. 5. FURTHER SECURITY. The director may require  
 36 of the purchaser security for the payment of the deferred  
 37 installments. The director may recover the money and enforce  
 38 any security by action brought in ~~his-or-her~~ the director's name.

092\*#08S

39 92.08 SURVEYS AND RESURVEYS.

40 The commissioner may have surveys made to determine the  
 41 correct boundaries or description of the land or to dispose of  
 42 it in convenient parcels. When the commissioner believes that  
 43 an injustice has been done the purchaser because of an incorrect  
 44 United States survey, ~~he-or-she~~ the commissioner may have a  
 45 resurvey made by a competent surveyor. The surveyor shall  
 46 prepare a plat showing the correct acreage of each subdivision  
 47 resurveyed and file it with the commissioner and with the county  
 48 recorder of the proper county. The commissioner may call in the  
 49 land certificates affected by the resurvey and issue new ones.  
 50 The certificates must show the correct acreage and give full  
 51 credit for all payments of principal and interest made.

092\*#09S

52 92.09 LAND SUBDIVIDED, APPRAISED, REAPPRAISED.

53 Subdivision 1. SUBDIVISION INTO LOTS. When the  
 54 commissioner believes that the interest of the state will be  
 55 promoted in-the-opinion-of, the commissioner, ~~he-or-she~~ may  
 56 subdivide land ~~under-his-or-her-control~~ controlled by the  
 57 commissioner into small parcels or city lots. The commissioner  
 58 shall have the land appraised. At least ten legal voters of the  
 59 county containing the land described may petition the  
 60 commissioner to subdivide the land. The commissioner shall  
 61 grant or refuse the petition. If the request is granted, the  
 62 commissioner shall subdivide the land accordingly and have it  
 63 appraised.

64 Subd. 2. APPRAISAL OF LOTS. The commissioner shall  
 65 designate one or more of the regularly appointed and qualified  
 66 state appraisers to make the appraisal required under  
 67 subdivision 1. Each appraiser shall sign an oath to faithfully  
 68 and impartially discharge the duties of appraiser ~~according-to~~  
 69 ~~the-best-of-his-or-her-ability~~ as best able and that ~~he-or-she~~  
 70 the appraiser is not interested directly or indirectly in the  
 71 lands or improvements on them and has entered into no  
 72 combination to purchase the land or any part of it. The oath  
 73 must be attached to the appraisal report given the commissioner.

74 Subd. 3. REAPPRAISAL. Parcels or lots appraised may



1 be sold like other lands in charge of the commissioner. The  
 2 lands must be sold for at least the prices at which they were  
 3 appraised, until a new appraisal is made. The commissioner ~~in~~ \*  
 4 ~~his-or-her-discretion~~ may have lands appraised as under \*  
 5 subdivision 2 and with like effect. Parcels or lots so  
 6 appraised must be sold for at least the minimum price of the  
 7 lands established by this chapter.

092\*#10S

8 92.10 MAPS AND PLATS.  
 9 Subdivision 1. MAP RECORDED. When the commissioner  
 10 subdivides land into small parcels or city lots, ~~he-or-she-shall~~ \*  
 11 ~~record~~ a map of the subdivision shall be recorded with the \*  
 12 county recorder of the county containing the land.  
 13 No change for subd 2

092\*#11S

14 92.11 LANDS APPRAISED.  
 15 The commissioner may have any real estate under ~~his-or-her~~ \*  
 16 the commissioner's jurisdiction appraised. The appraisal must \*  
 17 be made and reported as in the case of school or other state  
 18 lands. The appraisers must report the value of the lands and  
 19 the improvements on them, if any, separately; and if any of the  
 20 lands, are valuable for merchantable timber on them the value of  
 21 the merchantable timber must also be separately stated. The  
 22 appraised value is the minimum price for the lands until changed  
 23 by later appraisal.

092\*#12S

24 92.12 APPRAISAL OF SCHOOL AND OTHER STATE LANDS.  
 25 Subdivision 1. APPRAISERS. The commissioner may have  
 26 any school or other state lands appraised. The appraisals must  
 27 be made by regularly appointed and qualified state appraisers.  
 28 Each appraiser shall take and sign an oath to faithfully and  
 29 impartially discharge the duties of appraiser ~~according-to-the~~ \*  
 30 ~~best-of-his-or-her-ability~~ as best able and that ~~he-or-she~~ the \*  
 31 appraiser is not interested directly or indirectly in the state \*  
 32 lands to be appraised, or the timber or improvements on them or  
 33 in their purchase. The oath must be attached to the appraisal  
 34 report.

35 No change for subd 2

36 Subd. 4. SALES. The commissioner shall hold frequent  
 37 sales of school and other state lands. The time and place of  
 38 the sales must be publicly posted on the front door of the  
 39 courthouse in the county where the sale is to take place at  
 40 least 30 days in advance, in addition to the regular notice of  
 41 sale provided by law. At this sale the commissioner shall sell  
 42 lands ~~as-he-or-she~~ the commissioner considers best for the \*  
 43 public interest.

44 No change for subd 5 to 6

092\*#21S

45 92.21 REDEMPTION OF FORFEITED STATE LANDS.  
 46 Subdivision 1. CONDITIONS OF REDEMPTION. If the  
 47 holder of a certificate of sale of state land sold before  
 48 January 6, 1934, forfeits rights for failure to pay the interest  
 49 due under the certificate, ~~he-or-she~~ the holder may redeem the \*  
 50 rights as follows. Before resale at public auction of the lands  
 51 described in the certificate, the holder shall pay the state  
 52 treasurer the amount of interest then due and payable on the  
 53 certificate, with interest at four percent from the time when it  
 54 became due. The payment is a redemption of the rights of the  
 55 certificate holder, and the certificate is reinstated, if the  
 56 following conditions are met:

57 (1) If the default in payment occurred before July 1, 1941,  
 58 the amount required for redemption must be paid not later than  
 59 December 31, 1941.

60 (2) If the default in payment occurred on or after July 1,  
 61 1941, the amount required for redemption must be paid within six  
 62 months after the default.

63 (3) If the time for payment of the principal specified in  
 64 the certificate has expired but an extension of time by law has  
 65 not expired, the amount due on the principal with interest and  
 66 all other sums due the state on the land must be paid. After  
 67 payment, a patent for the land must be issued to the certificate  
 68 holder as provided by law.

69 (4) No redemption is permitted if the time for payment of  
 70 the principal as specified in the certificate and its lawful  
 71 extensions have expired, or if the certificate of sale has been  
 72 absolutely terminated and made void without right of redemption



1 under any prior or existing law, or if the land has become  
 2 absolutely forfeited to the state for delinquent taxes.  
 3 (5) This section does not affect any proceedings for the  
 4 resale of state public land unless redemption is made before  
 5 sale of the land to an actual purchaser.

6 Subd. 2. CERTIFICATE VOID WHEN LAND NOT REDEEMED. If  
 7 a certificate of sale of state public land sold before January  
 8 6, 1934, is canceled after default by reappraisal and reoffer of  
 9 the land for sale, and the default is not redeemed and the  
 10 certificate reinstated as provided by this section, the  
 11 certificate is absolutely canceled and void, and all right,  
 12 title, and interest of the purchaser~~7-his~~ or ~~her~~ heirs,  
 13 representatives, or assigns of the purchaser, in the land  
 14 terminate without further act of the state. This subdivision  
 15 does not preclude any other method of termination prescribed by  
 16 law.

092\*#211S

17 92.211 TIME OF PAYMENT EXTENDED.

18 No change for subd 1 to 3

19 Subd. 4. FAILURE TO PAY WHEN DUE. If the full amount  
 20 of principal with interest and all other sums required to obtain  
 21 a patent under a certificate of sale of state public land sold  
 22 before May 1, 1941, is not paid before the expiration of the  
 23 time allowed by law for payment of the principal, the  
 24 certificate is absolutely canceled and void, and all right,  
 25 title, and interest of the purchaser~~7-his~~ or ~~her~~ heirs,  
 26 representatives, or assigns of the purchaser, in the land  
 27 terminate without further act of the state. This subdivision  
 28 does not preclude any other method of termination provided by  
 29 law.

092\*#214S

30 92.214 CERTIFICATES DEEMED CANCELED IN CERTAIN CASES.

31 If the interest of the purchaser of a tract of state public  
 32 land becomes forfeited to the state for delinquent taxes, the  
 33 certificates are canceled and terminated, and the land shall be  
 34 held by the state as unsold public land, free from right, title,  
 35 interest, or claim of the purchaser~~7-his~~ or ~~her~~ heirs,  
 36 representatives, or assigns of the purchaser, and free from any  
 37 trust in favor of a taxing district.

092\*#215S

38 92.215 TAXES CANCELED.

39 If the rights of a purchaser of state public land~~7-his~~ or  
 40 ~~her~~ heirs, representatives, or assigns of the purchaser, have  
 41 been absolutely terminated, all unpaid taxes and assessments  
 42 against the land at the date of the termination are canceled and  
 43 the county auditor must record the termination.

092\*#22S

44 92.22 REFUNDS OF TAX CERTIFICATES ON REFORM SCHOOL LANDS.

45 If (1) a tax certificate of sale or state assignment  
 46 certificate describes reform school lands, so-called, or any  
 47 tract, lot, or subdivision of them, and (2) the certificate was  
 48 sold by the state upon contract before 1902, to a purchaser who  
 49 has since defaulted on the contract so that the land is now  
 50 owned in fee simple by the state, and (3) the holder of the  
 51 certificate became holder before the adoption of Laws 1902,  
 52 Extra Session, chapter 2, the holder may petition the county  
 53 board of the county where the lands are, setting forth fully and  
 54 fairly the facts pertaining to the certificate. The board shall  
 55 inquire into the truth of the facts alleged in the petition. If  
 56 it is satisfied that the facts are fully and fairly stated, it  
 57 shall so certify to the director.

58 If the director is satisfied that a refund should be made  
 59 to the holder for the amount of the certificate without  
 60 interest, ~~he-or-she~~ the director shall authorize the refund of  
 61 the amount paid for it, plus the amount of other subsequent  
 62 taxes on the property paid by the holder. The refund must not  
 63 include interest on any of these amounts. Upon the surrender of  
 64 the proper assignment of these certificates, the county auditor  
 65 shall draw an order upon the county treasurer for the sum of the  
 66 refund. The order must be countersigned and paid like other  
 67 county orders. The state, county, town, city, school, and other  
 68 funds, shall be charged with their proportions of the amount  
 69 refunded.

092\*#29S

70 92.29 LAND PATENTS.

71 The governor shall sign and issue, under the seal of the



1 state, attested by the commissioner, a patent for the land  
 2 described in any certificate of sale when it is presented  
 3 endorsed with the certificate of the commissioner (1) that the  
 4 principal and interest specified in it and all taxes due on this  
 5 land have been paid and (2) that the patent should issue to the  
 6 named patentee. The patentee shall be the purchaser named in  
 7 the certificate of sale, or the purchaser's successor in  
 8 interest by execution, judicial, mortgage or tax sale, or ~~his-or~~ \*  
 9 ~~her~~ the assignee, vendee, heir or devisee of the purchaser, as \*  
 10 shown by a properly certified abstract of title or other  
 11 evidence if the named patentee is any person other than the  
 12 original purchaser. If the certificate of sale has become lost  
 13 or destroyed, an affidavit stating that fact must be submitted  
 14 by the applicant for a patent.

092\*#321S

15 92.321 SALE FOR FORESTRY PURPOSES.

16 Subdivision 1. COMMISSIONER MAY SELL LANDS. The  
 17 commissioner of natural resources may appraise and sell any  
 18 unreserved state public land which in ~~his-or-her~~ the \*  
 19 commissioner's opinion is suitable for private forest management. \*

20 No change for subd 2

092\*#45S

21 92.45 STATE LAND ON MEANDERED LAKES WITHDRAWN FROM SALE.

22 All state lands bordering on or adjacent to meandered lakes  
 23 and other public waters and watercourses, with the live timber  
 24 growing on them, are withdrawn from sale except as provided in  
 25 this section. The commissioner of natural resources may sell  
 26 the timber as otherwise provided by law for cutting and removal  
 27 under conditions ~~he-or-she~~ the commissioner prescribes. The \*  
 28 conditions must be in accordance with approved, sustained-yield  
 29 forestry practices. The commissioner must reserve the timber  
 30 and impose other conditions ~~he-or-she~~ the commissioner deems \*  
 31 necessary to protect watersheds, wildlife habitat, shorelines,  
 32 and scenic features. Within the area in Cook, Lake, and St.  
 33 Louis counties described in the Act of Congress approved July  
 34 10, 1930, (46 Stat. 1020), the timber on state lands is subject  
 35 to restrictions like those now imposed by the act on federal  
 36 lands.

37 The following land is reserved for public travel: of all  
 38 land bordering on or adjacent to meandered lakes and other  
 39 public waters and watercourses and withdrawn from sale, a strip  
 40 two rods wide, the ordinary high-water mark being its water side  
 41 boundary, and its land-side boundary a line drawn parallel to  
 42 the ordinary high-water mark and two rods distant landward from  
 43 it. Wherever the conformation of the shore line or conditions  
 44 require, the commissioner must reserve a wider strip.

45 The commissioner may sell state lands bordering on or  
 46 adjacent to the Mississippi River or any lakes, waters, and  
 47 watercourses in its bottom lands, desired or needed by the  
 48 United States government for, or in connection with, any project  
 49 heretofore authorized by Congress, to improve navigation in the  
 50 Mississippi River at public sale according to law, as in other  
 51 cases, upon application by an authorized United States  
 52 official. The application must describe the land and include a  
 53 map showing its location with reference to adjoining properties.

092\*#46S

54 92.46 LANDS AS CAMP GROUNDS.

55 Subdivision 1. PUBLIC CAMP GROUNDS. (a) The director  
 56 may designate suitable portions of the state lands withdrawn  
 57 from sale and not reserved, as provided in section 92.45, as  
 58 permanent state public camp grounds. The director may have the  
 59 land surveyed and platted into lots of convenient size, and  
 60 lease them for cottage and camp purposes under terms and  
 61 conditions ~~he-or-she~~ the director prescribes, subject to the \*  
 62 provisions of this section.

63 (b) A lease may not be made for a term more than 20 years.  
 64 The lease may allow renewal, from time to time, for additional  
 65 terms of no longer than 20 years each. The lease may be  
 66 canceled by the commissioner 90 days after giving the person  
 67 leasing the land written notice of violation of lease  
 68 conditions. The lease rate shall be based on the appraised  
 69 value of leased land as determined by the commissioner of  
 70 natural resources. The appraised value shall be the value of  
 71 the leased land without any private improvements and must be  
 72 comparable to similar land without any improvements within the  
 73 same county.



1 (c) By July 1, 1986, the commissioner of natural resources  
 2 shall adopt rules under chapter 14 to establish procedures for  
 3 leasing land under this section. The rules shall be subject to  
 4 review and approval by the commissioners of revenue and  
 5 administration prior to the initial publication pursuant to  
 6 chapter 14 and prior to their final adoption. The rules must  
 7 address at least the following:

- 8 (1) method of appraising the property;
- 9 (2) determination of lease rates; and
- 10 (3) an appeal procedure for both the appraised values and
- 11 lease rates.

12 (d) All money received from these leases must be credited  
 13 to the fund to which the proceeds of the land belong.  
 14 Notwithstanding section 16A.125 or any other law to the  
 15 contrary, 50 percent of the money received from the lease of  
 16 permanent school fund lands leased pursuant to this subdivision  
 17 shall be deposited into the permanent school trust fund.

18 No change for subd 1a to 4

092\*#50S

19 92.50 UNSOLD LANDS SUBJECT TO SALE MAY BE LEASED.  
 20 Subdivision 1. LEASE TERMS. The commissioner of  
 21 natural resources may lease, at public or private vendue and at  
 22 the prices and under the terms and conditions ~~he-or-she~~ the  
 23 commissioner may prescribe, any state-owned lands under ~~his-or~~  
 24 ~~her~~ the commissioner's jurisdiction and control for the purpose  
 25 of taking and removing sand, gravel, clay, rock, marl, peat, and  
 26 black dirt, for storing ore, waste materials from mines, or rock  
 27 and tailings from ore milling plants, for roads or railroads, or  
 28 for any other uses consistent with the interests of the state.  
 29 Except as otherwise provided in this subdivision, the term of  
 30 the lease may not exceed ten years. Leases of lands for storage  
 31 sites for ore, waste materials from mines, or rock and tailings  
 32 from ore milling plants, for the removal of peat, or for the use  
 33 of peat lands for agricultural purposes may not exceed a term of  
 34 25 years. Leases for the removal of peat must be approved by  
 35 the executive council.

\*  
\*  
\*

36 All leases must be subject to sale and leasing of the land  
 37 for mineral purposes and contain a provision for cancellation at  
 38 any time by the commissioner upon three months' written notice.  
 39 A longer notice period, not exceeding three years, may be  
 40 provided in leases for storing ore, waste materials from mines  
 41 or rock or tailings from ore milling plants. The commissioner  
 42 may determine the terms and conditions, including the notice  
 43 period, for cancellation of a lease for the removal of peat.  
 44 Money received from leases under this section must be credited  
 45 to the fund to which the land belongs.

46 No change for subd 2

092\*#51S

47 92.51 TAXATION; REDEMPTION; SPECIAL CERTIFICATE.  
 48 State lands sold by the director become taxable. A  
 49 description of the tract sold, with the name of the purchaser,  
 50 must be transmitted to the proper county auditor. The auditor  
 51 must extend the land for taxation like other land. Only the  
 52 interest in the land vested by the land sale certificate in its  
 53 holder may be sold for delinquent taxes. Upon production to the  
 54 county treasurer of the tax certificate given upon tax sale, in  
 55 case the lands have not been redeemed, the tax purchaser has the  
 56 right to pay the principal and interest then in default upon the  
 57 land sale certificate as its assignee. To redeem from a tax  
 58 sale, the person redeeming must pay the county treasurer, for  
 59 the holder and owner of the tax sale certificate, in addition to  
 60 all sums required to be paid in other cases, all amounts paid by  
 61 the holder and owner for interest and principal upon the land  
 62 sale certificate, with interest at 12 percent per year. When  
 63 the director receives the tax certificate with the county  
 64 auditor's certificate of the expiration of the time for  
 65 redemption, and the county treasurer's receipt for all  
 66 delinquent interest and penalty on the land sale certificate, ~~he~~  
 67 ~~or-she~~ the director shall issue the holder and owner of the tax  
 68 certificate a special certificate with the same terms and the  
 69 same effect as the original land sale certificate.

\*  
\*

093\*#05S

70 93.05 HOLDER OF PERMIT OR LEASE.  
 71 No change for subd 1  
 72 Subd. 2. SECURITY FOR DAMAGES; CONDEMNATION. Before  
 73 entering upon the same ~~he~~ the permit or lease holder shall pay

\*



1 or secure to the owner of the lands all damages which may arise  
 2 therefrom and the same may be determined either by mutual  
 3 agreement or, if the interested parties cannot agree, then the  
 4 holder of the mineral permit or lease may, in the name of the  
 5 state of Minnesota, institute proceedings to condemn the same in  
 6 accordance with the general provisions of chapter 117; provided,  
 7 that the state shall bear no part of the cost of these  
 8 proceedings, nor pay any part of the damages awarded therein.

9 No change for subd 3

093\*#055S

10 93.055 ACTION TO QUIET TITLE TO LANDS COVERED BY MINERAL  
 11 PERMIT OR LEASE.

12 Upon written request of the holder of any mineral  
 13 prospecting permit or mineral lease from the state, not in  
 14 default, with the approval of the commissioner of natural  
 15 resources, the attorney general may institute proceedings to  
 16 quiet the title and determine adverse claims or to register the  
 17 title of the state to the lands or interests covered by the  
 18 permit or lease. All costs and expenses of such proceedings  
 19 including compensation of attorneys for the state shall be paid  
 20 by the holder of the permit or lease. Upon receipt of such  
 21 request from the holder of a prospecting permit, if approved by  
 22 the commissioner of natural resources, and if such action is  
 23 authorized by the attorney general, the running of the time  
 24 within which the permit holder must begin prospecting thereunder  
 25 and the time within which he the permit holder must apply for a  
 26 lease or do any other act required by the permit shall be \*  
 27 suspended until the entry of final judgment in the action, and  
 28 the term of the permit and the time required for any action by  
 29 the holder thereunder shall be extended by a period equivalent  
 30 to the time from the receipt of the request to the entry of the  
 31 judgment.

093\*#08S

32 93.08 PROSPECTING FOR MINERALS UNDER WATERS OF MEANDERED  
 33 LAKES AND STREAMS.

34 No change for subd 1

35 Subd. 2. SCOPE OF REGULATIONS. It shall be provided  
 36 in such regulations, among other things:

37 (1) No permit to prospect shall be issued for a period to  
 38 exceed two years;

39 (2) Each permit shall authorize prospecting only within the  
 40 area designated therein, which area shall not exceed the  
 41 limitations upon size prescribed by the regulations;

42 (3) At any time prior to the expiration of any such  
 43 prospective permit, the holder thereof shall have the right to a  
 44 lease giving ~~him~~ the exclusive right to mine and remove the \*  
 45 minerals specified in such permit within the area specified in  
 46 the permit; provided, if the regulations adopted hereunder shall  
 47 permit or prescribe larger areas for permits than for leases,  
 48 the permit holder shall designate the specific part of the area  
 49 covered by ~~his~~ the permit (not exceeding the limitations upon \*  
 50 size of lease areas) upon which ~~he desires~~ a lease is desired; \*

51 (4) Minimum rents and royalties, and the other terms,  
 52 conditions, and covenants of all such leases shall be prescribed  
 53 by such regulations prior to the issuance of any permits  
 54 hereunder; provided no rents or royalties shall be paid for muck  
 55 and silt, or sand, or gravel removed under a lease or permit  
 56 issued to any department of the state, any political  
 57 subdivisions, the federal government, watershed district,  
 58 drainage and conservancy district, drainage and flood control  
 59 district, sanitary district of the state, or any port authority,  
 60 if such materials are used for public purposes only, and are not  
 61 resold to any private party; and provided further that no rents  
 62 or royalties shall be charged for muck and silt, or sand, or  
 63 gravel furnished to or taken by any department of the state or  
 64 any political subdivision of the state, or any port authority,  
 65 subsequent to July 1, 1958, and prior to the effective date of  
 66 Laws 1961, Chapter 336, if such materials were used for public  
 67 purposes;

68 (5) No such lease shall be for a longer term than 50 years;

69 (6) All rents and royalties paid under such leases shall be  
 70 paid to the state treasurer on the order of the commissioner of  
 71 finance and shall be credited to the permanent school funds of  
 72 the state;

73 (7) No minerals shall be removed under such permits until  
 74 lease has been issued as provided by such regulations, except



1 that, with the approval of the commissioner, sufficient minerals  
2 or ore material may be removed for exploratory or assaying  
3 purposes;

4 (8) The grantee of such permit or lease, ~~his-or-their~~ the  
5 assigns, representatives, and successors in interest of the  
6 grantee, may be required to secure riparian owners against  
7 damage from the use of such lease or permit.

8 No change for subd 3

9 Subd. 4. RECORDING OF PERMITS AND LEASES. All  
10 permits and leases, with the names and post-office addresses of  
11 all parties having an interest, issued by the commissioner under  
12 authority of sections 93.08 to 93.12 and the regulations adopted  
13 thereunder, before delivery, shall be duly recorded at length by  
14 the commissioner of finance in ~~his~~ office ~~in-the~~ record books to  
15 be provided and kept for that purpose, and a certificate of such  
16 record showing the date of record and the book and page thereof  
17 shall be endorsed on each such permit or lease.

093\*#09S

18 93.09 ASSIGNMENTS AND CONTRACTS.

19 Subdivision 1. WRITTEN; REGISTERED. All assignments  
20 and agreements or contracts affecting any such permit or lease  
21 shall be made in writing and signed by both parties thereto,  
22 witnessed by two witnesses, and properly acknowledged, and  
23 contain the post-office addresses of all parties having an  
24 interest; and when so executed shall be presented to the  
25 commissioner of finance for recording. The commissioner of  
26 finance shall then record such assignment, agreement, or  
27 contract at length in ~~his~~ office ~~in~~ record books kept and  
28 provided for that purpose, and a certificate of such record  
29 showing the date thereof and the book and page shall be endorsed  
30 on the assignment, agreement, or contract which then shall be  
31 returned to the party entitled thereto.

32 No change for subd 2

093\*#12S

33 93.12 FORFEITURE OF PERMITS AND LEASES.

34 In the event the holder of such permit or lease shall fail  
35 to comply with all the provisions contained in sections 93.08 to  
36 93.12 to be ~~by-him~~ performed or observed by the holder and such  
37 default shall continue for a period of 30 days the commissioner  
38 of natural resources upon 30 days notice to the holder of such  
39 permit or lease by certified mail to the address of such holder  
40 as shown by the records of the commissioner of natural resources  
41 may declare such permit or lease and all rights acquired  
42 thereunder forfeited. Upon the filing of the order of  
43 forfeiture with the commissioner of natural resources all rights  
44 under such lease or permit shall cease.

093\*#15S

45 93.15 MINING UNITS; DESIGNATION; AREA.

46 No change for subd 1

47 Subd. 2. The commissioner shall prepare and keep on file  
48 in the office of the division of lands and minerals of the  
49 department of natural resources and at such other places as ~~he~~  
50 the commissioner may direct a list of the mining units  
51 designated hereunder, giving the descriptions thereof and such  
52 other information as ~~he~~ the commissioner deems necessary. In  
53 case the commissioner shall prescribe special conditions to be  
54 included in a prospecting permit or lease for any mining unit as  
55 authorized by law, ~~he-shall-include~~ a statement of such  
56 conditions shall be included with the designation of such unit  
57 in the list.

58 No change for subd 3

093\*#17S

59 93.17 APPLICATION FOR PERMITS; BIDS; AWARDS.

60 Subdivision 1. Applications for permits to prospect for  
61 iron ore shall be presented to the commissioner in writing in  
62 such form as ~~he~~ the commissioner may prescribe at any time prior  
63 to the time of opening the bids as hereinafter provided. The  
64 application shall be accompanied by a certified check payable to  
65 the state treasurer in the sum of \$50 for each mining unit as  
66 set out above. Each application shall be accompanied also by a  
67 sealed bid setting forth the amount of royalty per gross ton of  
68 crude ore based upon the iron content of the ore when dried at  
69 212 degrees Fahrenheit, in its natural condition or when  
70 concentrated, as set out in detail hereafter, that the applicant  
71 proposes to pay to the state of Minnesota in case the permit  
72 shall be awarded ~~to-him~~.



1 Subd. 2. Whenever a bid on any mining unit exceeds the  
 2 minimums prescribed in section 93.20, the bidder shall offer a  
 3 uniform amount above the minimums on all schedules unless the  
 4 mining unit is expressly excepted from this requirement by the  
 5 commissioner of natural resources by so specifying in the list  
 6 of lands and mining units. A separate sealed bid shall be  
 7 required for each mining unit as established by the commissioner  
 8 covered by the application, and shall be accompanied by a  
 9 certified check made payable to the state treasurer in the sum  
 10 of \$200 as a guarantee that the applicant will carry out and  
 11 perform in good faith all the covenants set out in the permit.  
 12 The envelope containing each bid shall be plainly marked on the  
 13 outside showing the date of application, date received by the  
 14 commissioner, and the name of the applicant. The commissioner  
 15 shall endorse upon each application and sealed bid the exact  
 16 time of presentation and preserve the same unopened in ~~his~~ the  
 17 commissioner's office. \*

18 Subd. 3. On the date fixed for the sale at 11 o'clock in  
 19 the forenoon in the office of the governor in the state capitol  
 20 in St. Paul the commissioner shall publicly announce the number  
 21 of applications and bids received, and none received thereafter  
 22 shall be considered. The commissioner, together with the  
 23 executive council, shall then publicly open the bids, announce  
 24 the amount of each bid separately, and award the permits to the  
 25 highest bidders for the respective mining units, but no bids  
 26 shall be accepted that shall not equal or exceed the minimum  
 27 amounts provided for in section 93.20, nor shall any bid be  
 28 accepted that shall not comply with the law and be accompanied  
 29 by a certified check for the faithful performance of the terms  
 30 of each permit as hereinbefore set out. The right is reserved  
 31 to the state to reject any and all bids. All applications for  
 32 permits and bids not accepted at such sale shall become void at  
 33 the close of the sale and the checks accompanying the  
 34 applications and bids shall be returned to the applicants  
 35 entitled to them. Upon the award of a permit, the certified  
 36 check submitted with the application as provided by subdivision  
 37 1, shall be deposited with the state treasurer as a fee for the  
 38 permit, to be credited to the same fund as the rental or royalty  
 39 from the mining unit affected, and the certified check submitted  
 40 with the bid as provided by subdivision 2, shall be deposited  
 41 with the state treasurer and held ~~by him~~ for further disposition  
 42 as provided by law. \*

093\*#18S

43 93.18 PERMIT HOLDERS; RIGHTS, DUTIES.

44 Subdivision 1. PROSPECT FOR IRON ORE. The holder of  
 45 any permit to prospect for iron ore issued upon public sale  
 46 under section 93.17 shall have the right to prospect for such  
 47 ore on the land described in the permit for one year from the  
 48 date thereof and no longer; but no ore shall be removed  
 49 therefrom until a lease has been executed. No permit for the  
 50 same land shall be issued to the same person for two years in  
 51 succession. The work of prospecting under a permit shall begin  
 52 in a substantial manner within 90 days from the date thereof and  
 53 shall be continued until the permit expires or is surrendered,  
 54 or a lease is requested by the holder of the permit. The holder  
 55 of a permit shall report in writing to the commissioner the time  
 56 of beginning such prospecting, and thereafter on the first  
 57 business day of each April, July, October, and January shall  
 58 report the progress of the work of prospecting, and shall  
 59 accompany these reports with maps showing the character and  
 60 extent of the work done, the nature of materials encountered in  
 61 the work, and the analysis for iron, silica, phosphorus,  
 62 alumina, and manganese of all iron-bearing formation  
 63 encountered; provided, that if any hard rock or any taconite as  
 64 defined in section 93.20 is encountered, the commissioner may  
 65 require only such analytical information as ~~he~~ the commissioner  
 66 deems essential. The permit holder shall split all samples  
 67 taken and furnish the commissioner or ~~his~~ representative, from  
 68 time to time as the commissioner or ~~his~~ representative shall  
 69 direct, with a portion of the samples properly marked for  
 70 identification. Subject to the approval of the commissioner and  
 71 under such conditions ~~as he~~ the commissioner may prescribe, a  
 72 geophysical survey of the area may be accepted in lieu of  
 73 drilling. If the permittee elects to make a geophysical survey,  
 74 upon completion thereof, ~~he~~ the permittee shall make such  
 75 further exploration of the property as the commissioner may \*



1 direct, and shall continue such exploration until the permit  
 2 expires or is surrendered, or an application is made for a  
 3 lease. The work done by the permit holder shall be subject to  
 4 inspection at all reasonable times by the commissioner or ~~his~~ \*  
 5 representatives thereof. \*

6 Subd. 2. CANCELATION OF PERMIT. Every permit to  
 7 prospect for ore is granted upon the express condition that if  
 8 the permit holder shall fail to perform any of the terms,  
 9 covenants, or conditions specified in the permit to be performed  
 10 by ~~him~~ the holder, then it shall be the duty of the commissioner \*  
 11 to cancel the permit, first having mailed to the permit holder  
 12 at least 20 days notice in writing thereof.

093\*#19S

13 93.19 PERMIT HOLDERS; LEASES, ROYALTIES.

14 No change for subd 1

15 Subd. 2. RENTAL. If the holder of any such permit  
 16 shall indicate in an application for a lease that ~~he~~ the holder \*  
 17 considers the lands covered by ~~his~~ the permit to be principally \*  
 18 valuable for the taconite thereon and that ~~he~~ the holder desires \*  
 19 a taconite mining lease thereon, the commissioner of natural \*  
 20 resources, on the basis of all available information ~~in his~~ \*  
 21 possession, including information acquired as the result of \*  
 22 exploratory work under the permit, if any, shall determine \*  
 23 whether the lands covered by the permit are principally valuable  
 24 for the taconite thereon and have no substantial value because  
 25 of merchantable deposits of iron ores of other kinds defined in  
 26 section 93.20. If the commissioner shall so determine, the  
 27 applicant shall be entitled to a lease for mining taconite ore  
 28 as prescribed in section 93.20, upon compliance with the  
 29 provisions of subdivision 1, so far as applicable, and upon  
 30 payment to the state treasurer of rental to the end of the first  
 31 quarter at the rate specified in said section for such leases.  
 32 In such cases the commissioner shall designate the lease as  
 33 Taconite Iron Ore Mining Lease and shall insert the reduced  
 34 rental rates for such leases as specified in section 93.20.

35 Subd. 3. SURRENDER OR CANCELATION OF PERMIT. Upon  
 36 the surrender or expiration of a prospecting permit or upon the  
 37 issuance of a mining lease pursuant thereto, if the commissioner  
 38 shall determine that the terms and conditions of the permit and  
 39 applicable provisions of law have been fully complied with, the  
 40 certified check deposited as security for performance of the  
 41 covenants of the permit, as provided by section 93.17,  
 42 subdivision 2, shall be returned to the holder of the permit or  
 43 ~~his~~ assigns of the holder. Otherwise, upon the surrender, \*  
 44 cancelation, or expiration of such a permit, such check shall be  
 45 deemed forfeited to the state for failure of performance of the  
 46 covenants of the permit, and the proceeds shall be credited to  
 47 the same fund as the rental or royalty from the mining unit  
 48 affected.

093\*#191S

49 93.191 IRON ORE MINING LEASE, MODIFICATION.

50 No change for subd 1

51 Subd. 2. MODIFICATION. The holder of any iron ore  
 52 mining lease issued pursuant to section 93.20, or of any mining  
 53 lease which has been modified pursuant to subdivision 1, may  
 54 apply to the commissioner to designate such lease as a taconite  
 55 iron ore mining lease subject to the annual rentals for such  
 56 taconite leases prescribed in section 93.20. ~~He~~ The holder \*  
 57 shall submit such information with respect to exploration or  
 58 mining operations upon the lands covered by said leases as the  
 59 commissioner may require. The commissioner shall investigate  
 60 such application, and if ~~he shall determine~~ the commissioner \*  
 61 determines that the lands covered by such lease are principally \*  
 62 valuable for the taconite thereon, and have no substantial value  
 63 because of merchantable deposits of iron ores of other kinds  
 64 defined in section 93.20, and if such determination be approved  
 65 by the executive council, ~~he~~ the commissioner shall modify the \*  
 66 lease by designating it as a taconite iron ore mining lease and  
 67 by adjusting the annual rental required thereunder to conform  
 68 with the annual rental prescribed for taconite iron ore mining  
 69 leases in said section, provided that the highest rental rate  
 70 specified in said section for taconite mining leases shall apply  
 71 in the case of any mining lease which has been modified under  
 72 subdivision 1.

73 No change for subd 3

093\*#20S



1 93.20 RENTALS, ROYALTIES, FORM OF LEASE.

2 No change for subd 1

3 Subd. 2. The commissioner of natural resources, with the  
4 approval of the executive council, may, so far as ~~he~~ the  
5 commissioner deems advisable in furtherance of the public  
6 interests, fix the term of any lease at any period not exceeding  
7 that hereinafter prescribed, or may include in a lease any other  
8 conditions not inconsistent herewith relating to performance by  
9 the lessee or other pertinent matters, provided, that in case of  
10 a lease made pursuant to a permit issued upon public sale, a  
11 statement of such conditions shall be included in the  
12 designation of the mining unit affected before publication of  
13 the notice of sale.

\*  
\*

14 No change for subd 3 to 5

15 Subd. 6. The party of the first part reserves the right to  
16 sell and dispose of, under the provisions of law now or  
17 hereinafter governing the sale of timber on state lands, all the  
18 timber upon the land hereby leased, and reserves to the  
19 purchaser of such timber, ~~his~~ or agents and servants of the  
20 purchaser, the right at all times to enter thereon, and to cut  
21 and remove any and all such timber therefrom, according to the  
22 terms of the purchaser's contract with the state, and without  
23 let or hindrance from the part..... of the second part; but  
24 such purchaser shall not unnecessarily or materially interfere  
25 with the mining operations carried on thereon. The party of the  
26 first part further reserves the right to grant to any person or  
27 corporation the right-of-way necessary for the construction and  
28 operation of one or more railroads over or across the land  
29 thereby leased, without let or hindrance from the part..... of  
30 the second part; but such railroads shall not unnecessarily or  
31 materially interfere with the mining operations carried on  
32 thereon. The party of the first part further reserves the right  
33 to grant leases, permits or licenses to any portion of the  
34 surface of the demised premises to any person or corporation  
35 under authority of section 92.50, or other applicable laws,  
36 without let or hindrance from the part..... of the second part,  
37 but such leases, permits or licenses shall not unnecessarily or  
38 materially interfere with the mining operations carried on  
39 thereon.

\*  
\*

40 No change for subd 7 to 8

41 Subd. 9. (1) The royalties to be paid by the part..... of  
42 the second part to the party of the first part on ore removed in  
43 each calendar year that this lease remains in force as  
44 hereinafter specified shall be increased or decreased for that  
45 calendar year in the same proportion that the market value of  
46 standard grade Mesabi Non-Bessemer iron ore containing 51.50  
47 percent iron, natural analysis, at lower lake ports, as of April  
48 first of that year, is increased or decreased above or below the  
49 corresponding market value of such standard ore that prevailed  
50 at the time of submission of the application for a prospecting  
51 permit on the mining unit covered by this lease; provided, that,  
52 in no case shall such royalties be less than the minimum  
53 royalties prescribed by law. For the purposes hereof, the  
54 market value of such standard ore as of the date of application  
55 for a prospecting permit on the mining unit covered by this  
56 lease, as determined by the commissioner of natural resources,  
57 was ..... Dollars (\$.....). As soon as practicable  
58 after April first of each year, the commissioner of natural  
59 resources shall determine the market value of such standard  
60 grade of Mesabi Non-Bessemer ore as of said date, shall file ~~his~~  
61 an order thereon in ~~his~~ the commissioner's office, shall file  
62 certified copies thereof in the offices of the state treasurer  
63 and commissioner of finance, and shall mail a certified copy  
64 thereof to the part..... of the second part. The market value  
65 so determined shall govern for the purpose of computing  
66 royalties due under this lease on ore removed during such  
67 calendar year. If such determination is not made in time for  
68 use in computing any such royalty, such royalty shall be  
69 computed and paid when due at the last rate theretofore in force  
70 under the provisions hereof, subject to adjustment as  
71 hereinafter provided. Upon the determination by the  
72 commissioner of the applicable market value of ore, if it  
73 appears that the amount theretofore paid for any royalty subject  
74 to such determination was less or greater than the correct  
75 amount based on such determination, any deficiency in such  
76 payment shall be added to and paid together with the rental or

\*  
\*



1 royalty due at the next following quarterly payment date  
2 hereunder, and any excess in such payment shall be applied as a  
3 credit upon rentals or royalties subsequently due hereunder as  
4 the case may be.

5 (2) If the part..... of the second part shall dispute any  
6 determination by the commissioner of the market value of such  
7 standard ore, the royalties affected thereby shall nevertheless  
8 be paid when due at the rates based on such determination;  
9 provided, that upon making any such payment when due, the  
10 part..... of the second part may file with the commissioner a  
11 protest against such determination, specifying the amount  
12 alleged to be the true market value of such standard ore for the  
13 purpose of computing such royalty. If the dispute involves the  
14 determination of the market value of such standard ore as of the  
15 date of application for a prospecting permit, as set forth in  
16 subdivision 9 (1) above, such protest shall be filed once only  
17 and then within 30 days after the first royalty payments are  
18 due. Within 30 days after filing such protest, the part..... of  
19 the second part may bring an action against the commissioner in  
20 the district court for Ramsey county for a declaratory judgment  
21 determining the market value of the ore in dispute as stated in  
22 the protest. Upon the taking effect of final judgment in such  
23 action, the value determined thereby shall supersede the value  
24 determined by the commissioner for the purposes hereof, and  
25 adjustment of the amounts paid or payable for royalties shall be  
26 made accordingly in like manner as hereinbefore provided upon  
27 determination of market value by the commissioner. If such  
28 action is not brought within the time aforesaid, the  
29 commissioner's determination of market value shall be final. In  
30 case the part..... of the second part shall be entitled to any  
31 adjustment on account of overpayment of royalties hereunder, and  
32 the rentals or royalties subsequently due on or before the  
33 termination of this lease are not sufficient to make such  
34 adjustment as hereinbefore provided, the excess of such  
35 royalties paid above the amount adjustable against subsequent  
36 rentals or royalties shall be refunded to the part..... of the  
37 second part as provided by section 16A.48.

38 No change for subd 10 to 20

39 Subd. 21. Except as otherwise hereinafter provided, all  
40 iron ore removed from said land hereunder shall be shipped by  
41 rail. Each shipment shall be sampled in accordance with  
42 standard practice so as to show the true grade of the ore  
43 contained therein under each schedule, taking specimens from  
44 five carloads to make up a sample for analysis; provided, that  
45 with the approval of the commissioner of natural resources a  
46 sample may consist of specimens from any other number of  
47 carloads. The ore in each sample shall be thoroughly mingled  
48 and then split into two portions, both of which shall be  
49 properly marked for identification. One portion shall be  
50 delivered to the commissioner of natural resources or ~~his~~ \*  
51 authorized agent, and the other retained by the part..... of the  
52 second part. Each sample, dried at 212 degrees Fahrenheit,  
53 shall be analyzed for iron and manganese, and also, if directed  
54 by the commissioner or ~~his~~ agent, for silica, phosphorus, and \*  
55 alumina, at the expense of the part..... of the second part, by  
56 a competent chemist approved in writing by the commissioner.

57 No change for subd 22

58 Subd. 23. The part..... of the second part shall have the  
59 right to beneficiate and treat, for the purpose of improving the  
60 character or quality thereof, any iron ore which without such  
61 treatment or beneficiation will not meet general market  
62 requirements at the time. Subject to the approval of the  
63 commissioner of natural resources, such ore may be so  
64 beneficiated or treated either upon the demised premises or  
65 elsewhere. The part..... of the second part agree ..... that  
66 any treatment or beneficiation of ore conducted hereunder shall  
67 be done with suitable and proper machinery and appliances, and  
68 in a careful, good and workmanlike manner, according to good  
69 engineering practice, and so as not to cause any greater waste  
70 of the ore mined than is necessary in order to produce an ore  
71 concentrate of proper composition and character for satisfactory  
72 furnace use. No ore shall be treated or beneficiated which,  
73 without treatment or beneficiation, will meet general market  
74 requirements at the time. As to any ore so beneficiated or  
75 treated during any quarter year, royalty at the rates per ton  
76 hereinbefore provided for such ore shall be paid upon the



1 merchantable product of such beneficiation or treatment and not  
 2 upon the ore as mined. The residue of such treatment or  
 3 beneficiation may be deposited upon the demised premises, in  
 4 such place or places as shall not unnecessarily hinder or  
 5 embarrass the future operation of the mine or mines therein, or  
 6 on other state-owned lands conveniently located for the purpose,  
 7 or may be otherwise disposed of in such manner as the  
 8 commissioner of natural resources may approve. The merchantable  
 9 product of such beneficiation shall be sampled, analyzed and  
 10 weighed and the royalty thereon determined in like manner as  
 11 hereinbefore provided for direct shipping ore. The part..... of  
 12 the second part shall nevertheless be liable for royalty on all  
 13 ore removed from the demised premises for beneficiation or  
 14 treatment from and after the actual time of removal. If any  
 15 such ore shall not be beneficiated or treated or if the royalty  
 16 due thereon shall not be determined and accounted for as herein  
 17 otherwise provided by the next quarterly payment date after the  
 18 end of the quarter in which such ore is removed from the demised  
 19 premises, the commissioner may determine such royalty by such  
 20 method as ~~he~~ the commissioner deems appropriate and give the \*  
 21 part..... of the second part written notice thereof, whereupon  
 22 such royalty shall be due and payable within 20 days after the  
 23 mailing or delivery of such notice, unless the time therefor  
 24 shall be extended by the commissioner.

25 No change for subd 24

26 Subd. 25. The party of the first part shall have the right  
 27 to enter upon and into said premises at any time, and to inspect  
 28 and survey the same, and to measure the quantity of ore which  
 29 shall have been mined or removed therefrom, not unreasonably  
 30 hindering or interrupting the operations of the part..... of the  
 31 second part.

32 The part..... of the second part shall provide, upon  
 33 written request from the commissioner of natural resources, a  
 34 suitable room in the dry or wash house or in some other suitable  
 35 place on said premises, with water, light and heat free, for the  
 36 use of the commissioner or ~~his~~ agents thereof in the work of \*  
 37 inspection on said premises, such room to be at least equal in  
 38 size and equipment to that customarily furnished for the use of  
 39 the mining captain or superintendent at mines comparable to the  
 40 mine or mines on said premises. The commissioner or ~~his~~ agents \*  
 41 thereof shall have the right to enter and inspect at any time \*  
 42 any plant where ore from said land is treated or beneficiated,  
 43 and to take such samples and make such tests as may be necessary  
 44 to determine the effects of such treatment or beneficiation. In  
 45 case ore from more than one state mining unit or other property  
 46 is treated or beneficiated at the same plant, the commissioner  
 47 may appoint such special inspectors for such plant as ~~he~~ the \*  
 48 commissioner deems necessary to insure proper accounting and \*  
 49 protect the interests of the state, and the part..... of the  
 50 second part shall reimburse the state monthly for the cost of  
 51 all such inspection service, upon notification thereof by the  
 52 commissioner.

53 No change for subd 26 to 27

54 Subd. 28. It is further understood and agreed as follows:

55 (1) The part..... of the second part will open, use and  
 56 work the mine or mines on said land in such manner only as is  
 57 usual and customary in skillful and proper mining operations of  
 58 similar character when conducted by the proprietors on their own  
 59 land and in accordance with the requirements, methods, and  
 60 practices of good mining engineering, and in such manner as not  
 61 to cause any unnecessary or unusual permanent injury to such  
 62 mine or mines or inconvenience or hindrance in the subsequent  
 63 operation of the same or in the development, mining, or disposal  
 64 of any iron ore or other valuable mineral left on or in said  
 65 land.

66 (2) Subject to the approval of the commissioner of natural  
 67 resources, all iron ore and other material produced or  
 68 accumulated in connection with any operations hereunder and not  
 69 otherwise lawfully disposed of shall be deposited or disposed of  
 70 by the part..... of the second part at such places and in  
 71 such manner as will not hinder or embarrass such subsequent  
 72 operations or activities; provided, that any such material  
 73 containing iron or other minerals in such quantity or form as to  
 74 have present or potential value shall be deposited only on the  
 75 land covered by this lease, or on other land belonging to the  
 76 state and available for the purpose, unless the commissioner of



1 natural resources shall approve in writing its disposal in some  
2 other manner.

3 (3) Land conveyed to the state upon condition that it shall  
4 be used for the storage of iron ore or other materials having  
5 present or potential value belonging to the state, subject to  
6 termination or reversion of title when no longer needed or used  
7 for that purpose, shall be deemed suitable and available  
8 therefor. The commissioner may accept such a conveyance in  
9 behalf of the state if ~~he shall determine~~ the commissioner  
10 determines that the conditions thereof conform with the \*  
11 foregoing provisions and will fully protect the interests of the \*  
12 state in the materials to be so stored, but no consideration  
13 shall be paid for such conveyance unless authorized by law. The  
14 existence of mineral reservations with rights to use or destroy  
15 the surface in connection therewith, shall not prevent lands  
16 being deemed suitable and available if the commissioner finds  
17 that the lands are located off the generally recognized limits  
18 of the iron formation, and the commissioner finds that no  
19 minerals of any present or foreseeable commercial value are  
20 known to exist thereon. The provisions of section 500.20, shall  
21 not apply to any conveyance of land to the state pursuant to  
22 this subdivision and shall not limit the duration of any  
23 covenant, condition, restriction, or limitation created by any  
24 such conveyance.

25 No change for subd 29 to 33

26 Subd. 34. This lease is granted upon the express condition  
27 that if any sum owing hereunder by the part..... of the second  
28 part for rental, royalty, taxes, or otherwise shall remain  
29 unpaid after the expiration of 60 days from the time when the  
30 same became payable as herein provided, or in case the part....  
31 of the second part or any agent or servant thereof shall  
32 knowingly or wilfully make any false statement in any statement,  
33 report, or account submitted to the state or to the commissioner  
34 of natural resources or any ~~of his~~ of the commissioner \*  
35 pertaining to any matter hereunder, or in case the part..... of  
36 the second part shall fail to perform any of the covenants or  
37 conditions herein expressed to be performed by said part..... of  
38 the second part, then it shall be the duty of the commissioner  
39 of natural resources to cancel this lease, first having mailed  
40 or delivered to the part..... of the second part at least 20  
41 days notice in writing thereof, whereupon this lease shall  
42 terminate at the expiration of said 20 days, and the party of  
43 the first part shall re-enter and again possess said premises as  
44 fully as if no lease had been given to the part..... of the  
45 second part, and the part..... of the second part and all  
46 persons claiming under such part..... shall be wholly excluded  
47 therefrom except as hereinafter provided, but such termination  
48 and re-entry shall not relieve the part..... of the second part  
49 from any payment or other liability thereupon or theretofore  
50 incurred hereunder.

51 No change for subd 35 to 39

093\*#202S

52 93.202 TACONITE LEASES.

53 In any case where, pursuant to a permit holder's  
54 application for a lease in which ~~he has~~ it is indicated in the \*  
55 application that ~~he~~ the holder considers the lands covered by \*  
56 ~~his~~ the permit to be principally valuable for the taconite \*  
57 thereon or that ~~he~~ the holder desires a taconite lease thereon, \*  
58 the commissioner of natural resources heretofore shall have \*  
59 issued a lease in which ~~he was~~ was inserted in the blank provided \*  
60 for the amount of the first quarterly payment the figure  
61 representing the reduced quarterly rental for taconite leases,  
62 as herein provided, and shall have designated such lease a  
63 "Taconite Lease" or a "Taconite Iron Ore Mining Lease" upon the \*  
64 lease or upon ~~his~~ the commissioner's records, such act shall be \*  
65 construed as a determination that such lands were principally  
66 valuable for the taconite thereon and had no substantial value  
67 because of merchantable deposits of ores of the kinds defined in  
68 Laws 1941, Chapter 546, Section 5, schedules 1 to 6, and such  
69 lease so issued shall be valid as a lease designated a "Taconite  
70 Iron Ore Mining Lease," and subject to the right of the  
71 executive council to redetermine the classification of the  
72 mining unit covered thereby in the manner provided by section  
73 93.19, and subject to the provisions of sections 93.15 and  
74 93.201. Any lessee desiring the protection of this section  
75 shall file with the commissioner of natural resources, within 90



1 days from the approval of Laws 1943, Chapter 233, written  
 2 consent to the application of all provisions of Laws 1943,  
 3 Chapter 233, to said lease.

093\*#21S

4 93.21 EXECUTION OF LEASE.

5 The lease provided for in section 93.20 shall be signed by  
 6 the commissioner for and in behalf of the state, with ~~his~~ the \*  
 7 official seal of the commissioner attached, and shall be signed \*  
 8 by the party of the second part in the presence of two  
 9 witnesses, and such signatures and execution of the same by the  
 10 party of the second part shall be duly acknowledged.

093\*#25S

11 93.25 ORES OTHER THAN IRON; PROSPECTING PERMITS, LEASES.

12 Subdivision 1. PERMITS TO PROSPECT. The  
 13 commissioner may with the approval of the executive council  
 14 issue permits to prospect for gold, silver, copper, cobalt,  
 15 graphite, coal, and petroleum and other minerals than iron ore  
 16 upon any lands owned by the state, including trust fund lands,  
 17 lands forfeited for non-payment of taxes whether held in trust  
 18 or otherwise, and lands otherwise acquired, and the beds of any  
 19 waters belonging to the state adjacent to such lands. Such  
 20 permits shall be issued for a period not to exceed two years and  
 21 under such regulations as ~~he~~ may prescribe be prescribed by the  
 22 commissioner. \*

23 Subd. 2. LEASES. At any time prior to the  
 24 expiration of any such prospecting permit the holder thereof  
 25 shall have the right to lease the land covered by the permit for  
 26 the purpose of mining and removing therefrom any minerals which  
 27 may be discovered therein other than iron ore. The rents,  
 28 royalties, terms, conditions, and covenants of all such leases  
 29 shall be fixed by the commissioner pursuant to such regulations  
 30 as ~~he~~ may prescribe be prescribed by the commissioner, but no \*  
 31 lease shall be for a longer term than 50 years, and all such  
 32 rents, royalties, terms, conditions, and covenants shall be  
 33 fully set forth in each lease thus issued and the rents and  
 34 royalties therein provided for shall be credited to the funds as  
 35 provided in section 93.22 or section 93.335, subdivision 4, as  
 36 amended.

37 No change for subd 3

093\*#26S

38 93.26 PERMITS AND LEASES TO BE RECORDED.

39 All permits and leases, with the names and post office  
 40 addresses of all parties in interest, issued by the commissioner  
 41 under authority of sections 93.14 to 93.28, before delivery  
 42 shall be duly recorded at length ~~by him in his office~~ in the \*  
 43 record books to be provided and kept in the commissioner's \*  
 44 office for that purpose and a certificate of such record showing \*  
 45 the date of record, the book and page thereof, shall be endorsed  
 46 on each such permit or lease.

093\*#27S

47 93.27 ASSIGNMENTS, AGREEMENTS, OR CONTRACTS AFFECTING  
 48 PERMITS OR LEASES; RECORDS.

49 All assignments, agreements, or contracts, underlying,  
 50 overriding, or operating agreements affecting any such permit or  
 51 lease shall be made in writing and signed by both parties  
 52 thereto, witnessed by two witnesses, and properly acknowledged  
 53 and contain the post-office addresses of all parties having an  
 54 interest; and when so executed presented in triplicate to the  
 55 commissioner for record. The commissioner shall then record  
 56 such assignments, agreements, or contracts, underlying,  
 57 overriding, or operating agreements at length ~~in his office~~ in \*  
 58 record books kept and provided for that purpose in the \*  
 59 commissioner's office and a certificate of such record showing \*  
 60 the date thereof and the book and page shall be endorsed on the  
 61 the assignments, agreements, contracts, underlying, overriding,  
 62 or operating agreements, a copy of which then shall be returned  
 63 to the party entitled thereto.

093\*#283S

64 93.283 IRON ORE; PROSPECTING, ENCOURAGEMENT.

65 No change for subd 1

66 Subd. 2. PROSPECTING PERMITS, MINING LEASES, FOR  
 67 CERTAIN LANDS. All parts of the state of Minnesota except  
 68 St. Louis, Lake, Itasca, Crow Wing, and Fillmore counties are  
 69 hereby classified as areas in which no merchantable deposits of  
 70 iron ore are known to exist and with respect to which  
 71 prospecting permits and mining leases may be issued hereunder



1 covering lands belonging to the state or lands in the minerals  
 2 of which the state has an interest. At any time prior to the  
 3 receipt ~~by him~~ of an application for a permit thereon in \*  
 4 accordance with the provisions of this section, the commissioner  
 5 of natural resources may withdraw for such time as ~~he sees~~ \*  
 6 deemed fit from the operation of this section any designated \*  
 7 townships or portions thereof by publishing notice of such  
 8 withdrawal in a legal newspaper published in the county in which  
 9 the lands so withdrawn are situated. The commissioner of  
 10 natural resources, with the approval of the executive council,  
 11 may classify as being subject to this section particular areas  
 12 in St. Louis, Itasca, Crow Wing, Lake, or Fillmore counties  
 13 situated more than one mile from any known occurrence of iron  
 14 ore or iron-bearing formation, and thereupon lands in such areas  
 15 shall be subject hereto.

16 Subd. 3. COMMISSIONER OF NATURAL RESOURCES TO ISSUE  
 17 PERMITS. The commissioner of natural resources may execute  
 18 permits to prospect for iron ore under lands belonging to the  
 19 state or lands in the minerals of which the state has any  
 20 interest, in trust or otherwise, within the areas classified by  
 21 or in accordance with subdivision 2 as not known to contain  
 22 merchantable deposits of iron ore, including lands in  
 23 conservation areas, game refuges, forest areas, or state or  
 24 national forests, but excluding lands within any state park, and  
 25 upon compliance with the provisions of such permits may issue  
 26 leases for the mining of such ore subject to the conditions  
 27 hereinafter provided. The powers and duties vested in or  
 28 imposed upon such commissioner by this section are hereby  
 29 declared to be cumulative and in addition to the powers and  
 30 duties vested in or imposed upon ~~him~~ the commissioner by any \*  
 31 other law of this state, and such powers and duties so invested  
 32 or imposed by this section shall not be limited by any other  
 33 such law. The commissioner may refuse to issue permits on any  
 34 lands being used at the time of the application for permit for  
 35 tree plantation, nursery, administrative purposes or similar  
 36 uses essential for the operation and maintenance of any state  
 37 forest area or game refuge, or may impose such conditions upon  
 38 the issuance of any permit covering lands used for such purposes  
 39 as ~~he~~ the commissioner deems necessary. \*

40 No change for subd 4 \*

41 Subd. 5. APPLICATIONS, FEES. Applications for  
 42 permit to prospect for iron ore hereunder shall be presented to  
 43 the commissioner of natural resources either by the applicant or  
 44 ~~his~~ agent thereof in person or by mail. The application shall \*  
 45 describe the lands to be embraced in the permit, which shall  
 46 consist of contiguous descriptions and shall not exceed 160  
 47 acres unless some of the descriptions are fractional  
 48 subdivisions, in which case the acreage may exceed that number  
 49 by not more than the amount by which any one or more of such  
 50 fractional subdivisions shall exceed 40 acres each. The lands  
 51 covered by any such permit are herein referred to as a "mining  
 52 unit," and no such mining unit shall contain lands belonging to  
 53 more than one permanent trust fund, or shall intermingle  
 54 tax-forfeited lands not held in trust for taxing districts with  
 55 tax-forfeited lands held in trust for taxing districts, or  
 56 intermingle either with permanent trust fund lands. Each  
 57 application shall be accompanied by a certified check or a  
 58 cashier's check on a national or state bank in Minnesota,  
 59 payable to the state treasurer, in the sum of \$50 as fee for the  
 60 permit, and a like check in the sum of \$200 as a guarantee that  
 61 the applicant will carry out and perform in good faith all the  
 62 covenants set out in the permit. The commissioner of natural  
 63 resources shall endorse upon each application the exact time of  
 64 presentation and shall preserve the same in ~~his~~ the office of \*  
 65 the commissioner. The first applicant for permit on any land \*  
 66 whose application hereunder, with accompanying fees, is filed  
 67 with the commissioner of natural resources in accordance  
 68 herewith shall be entitled to receive a permit hereunder.

69 No change for subd 6 to 7

093\*#285S

70 93.285 STOCKPILED IRON ORE.

71 No change for subd 1 to 2

72 Subd. 3. STOCKPILE MINING UNIT. Any stockpiled iron  
 73 ore, wherever situated, may, in the discretion of the  
 74 commissioner of natural resources, be designated as a stockpile  
 75 mining unit for disposal separately from ore in the ground, such



1 designation to be made in accordance with the provisions of  
 2 section 93.15, so far as applicable. Thereupon such stockpile  
 3 mining unit shall be subject to all provisions of law relating  
 4 to the sale, issuance, terms, and conditions of prospecting  
 5 permits and leases covering mining units designated under such  
 6 section 93.15 and other matters pertaining thereto, except as  
 7 hereinafter provided. Upon application of the holder of a  
 8 prospecting permit for such a stockpile mining unit, the  
 9 commissioner of natural resources may, ~~in his discretion,~~ for  
 10 good cause shown, extend the time for beginning the work of  
 11 prospecting under the permit to not exceeding six months from  
 12 the date of the permit.

13 Subd. 4. ADDITIONAL PROVISIONS IN PERMIT OR LEASE.  
 14 The commissioner of natural resources, with the approval of the  
 15 executive council, may include in any prospecting permit or  
 16 lease covering any stockpiled iron ore as hereinbefore provided  
 17 such additional provisions, not inconsistent with law, as ~~he may~~  
 18 deem the commissioner deems advisable for the proper disposal of  
 19 such ore in furtherance of the public interest; provided, that  
 20 in case a mining unit consisting of or including such ore is  
 21 offered at public sale, a statement of such additional  
 22 provisions shall be included in the designation of the unit  
 23 before publication of the notice of sale.

24 No change for subd 5

093\*#30S

25 93.30 PAYMENT OF LEASE MONEY BY CO-OWNER IN CASE OF  
 26 DEFAULT.

27 Upon the failure of any one of several co-owners of any  
 28 lease of mineral land from the state of Minnesota which it may  
 29 heretofore have made or may hereafter make to pay ~~his~~  
 30 proportion, represented by his the appropriate share  
 31 representing the proportionate interest in the lease, of any  
 32 annual payment or royalty payment of taxes assessed against the  
 33 land covered by the lease or the improvements thereon or the  
 34 iron ore products thereof or any personal property at any mine  
 35 on the land, according to, as required by, and when due under  
 36 the terms of the lease or the laws of this state, any co-owner  
 37 of the lease who may have heretofore paid or who may hereafter  
 38 pay the same or any part thereof, who was not under contract  
 39 obligation, at the time of making the payment, to make it, may  
 40 after the expiration of the time fixed by the lease or the law  
 41 for making the payment, give the delinquent co-owner and the  
 42 other co-owners, if any, personal notice in writing or by  
 43 publication for at least six successive weeks once a week in the  
 44 newspaper published nearest the land entitled under the laws of  
 45 this state to publish legal notices that ~~he has made~~ the payment  
 46 has been made, describing the lease and the land covered thereby  
 47 on account of which it was made, the amount due, when due, and  
 48 for what due, on account of which the payment was made, and the  
 49 date of making the same, and demand that the delinquent co-owner  
 50 contribute ~~his~~ the proportionate share of the payment due from  
 51 that co-owner by paying the same, together with six percent  
 52 interest thereon from the time of the payment until the time of  
 53 repayment, together with the cost of the publication, to ~~him~~ the  
 54 co-owner or co-owners making payment within 90 days after the  
 55 personal service of the notice ~~upon him~~ or within 90 days after  
 56 the completion of the publication, and that ~~if he fails in the~~  
 57 event of failure so to do ~~his~~ the delinquent co-owner's interest  
 58 in the lease will become the property of and be forfeited to ~~his~~  
 59 the co-owner or co-owners paying the same.

093\*#31S

60 93.31 CO-OWNERS TO SHARE IN BENEFIT OF ORIGINAL OWNER.

61 If the delinquent co-owner, before the expiration of the  
 62 time, shall refuse or fail to contribute and pay ~~his~~ the  
 63 proportionate share due, together with the interest and cost of  
 64 publication, as and when herein and in the notice provided, ~~his~~  
 65 the delinquent's co-owners interest in the lease shall  
 66 thereafter become the property of and belong to the co-owner  
 67 making the payment and the other co-owners thereof, if any, who  
 68 shall within ten days after the expiration of the 90 days pay ~~to~~  
 69 ~~him~~ their share of the amount due ~~him~~ under the notice,  
 70 represented by their respective interests in the lease, with the  
 71 same force and effect, as to the delinquent's interest in the  
 72 lease, as if the lease, as to the delinquent's interest, had  
 73 been forfeited and canceled by the state of Minnesota and a new  
 74 lease on the same terms and conditions as the old lease had been



1 issued by the state of and for the delinquent's share therein  
 2 to ~~his~~ the co-owner or co-owners making the payment. The \*  
 3 co-owners so contributing and paying within ten days shall share  
 4 in the interest of the co-owner so forfeited in proportion to  
 5 their then respective interests in the lease.

093\*#32S

6 93.32 SUFFICIENCY OF NOTICE.

7 The affidavit of the party making such personal service and  
 8 the affidavit of the publisher of the newspaper, accompanied by  
 9 a duplicate original of the notice, together with the affidavit  
 10 of the co-owner making the payment that the delinquent has not  
 11 paid ~~to him~~ the amount due under the notice within the time \*  
 12 herein and in the notice specified, with the names of the other  
 13 co-owners, if any, who during the ten days contributed their  
 14 proportionate share thereof, may be filed in the office of the  
 15 commissioner and shall constitute conclusive evidence in all  
 16 courts and proceedings of the matters therein stated, except as  
 17 to such as may be proven to be untrue. The commissioner shall  
 18 receive, file without charge, and safely keep the foregoing and  
 19 all thereof, which shall be open to the inspection of any one  
 20 interested therein.

093\*#33S

21 93.33 SURFACE OF LAND MAY BE LEASED.

22 Subdivision 1. PURPOSES OF LEASE. The commissioner  
 23 may, at public or private vendue and at such prices and upon  
 24 such terms and conditions as ~~he may prescribe~~ prescribed, lease \*  
 25 the surface of any unsold state lands for the purpose of  
 26 stockpiling, storing, handling, or depositing thereon any ore,  
 27 ore material, stripping, or waste taken from other state lands  
 28 which may be under state mineral lease, and remove therefrom any  
 29 such ore, or material, stripping, or waste taken from such other  
 30 state land and stocked, stored, handled, or deposited thereon;  
 31 provided, that the rights of the state and of the lessee under  
 32 the lease herein authorized as to the ownership, lien, and right  
 33 of removal and all other rights in and to the materials placed  
 34 thereon from the lands under such state mineral lease shall be  
 35 and remain in all respects the same as though such materials had  
 36 been stockpiled, stored, handled, or deposited on the land  
 37 covered by such state mineral lease; that any such lease shall  
 38 be made for a term no longer than the then remaining unexpired  
 39 term of such state mineral lease and shall in any and all events  
 40 terminate with the termination of such state mineral lease for  
 41 any cause, and any material remaining on the land at the  
 42 termination of such state mineral lease, or at the earlier  
 43 termination of the lease herein authorized, shall belong to the  
 44 state of Minnesota; and that all such leases shall be made  
 45 subject to leasing the land for mineral purposes under legal  
 46 provisions.

47 No change for subd 2

093\*#351S

48 93.351 PROSPECTING FOR IRON ORE IN BED OF STATE WATERS.

49 The commissioner of natural resources may, ~~in his~~ \*  
 50 ~~discretion,~~ semiannually give public notice of sale permits to \*  
 51 prospect for iron ore situate in the bed of any public lake or  
 52 river within the state in the same manner and at the same time  
 53 as provided for sale of permits to prospect for iron ore under  
 54 the provisions of section 93.16.

093\*#353S

55 93.353 RIGHTS OF PERMIT HOLDERS.

56 The holder of any such permit shall have the right to  
 57 prospect for iron ore on the land described therein for one year  
 58 from the date thereof, and no longer; but no ore shall be  
 59 removed therefrom until a lease has been executed. The work of  
 60 prospecting under such permit shall begin in a substantial  
 61 manner as soon after the date thereof as conditions will permit  
 62 and shall be continued until the permit expires, is surrendered  
 63 or a lease asked for. The holder of such permit shall report in  
 64 writing to the commissioner of natural resources on the first  
 65 business day of each April, July, October, and January, the  
 66 progress of the work of prospecting and accompany such reports  
 67 with maps showing the character and extent of the work done, the  
 68 nature of materials encountered in such work and the analysis  
 69 for iron, silica, phosphorus, alumina, and manganese of all iron  
 70 bearing formation encountered. The permit holder shall split  
 71 all samples taken and furnish the commissioner or ~~his~~ \*  
 72 representative of the commissioner from time to time as the \*



1 commissioner or ~~his~~ representative shall direct, with a portion \*  
 2 of such samples, properly marked for identification. The work  
 3 done by the permit holder shall be subject to inspection at all  
 4 reasonable times by the commissioner or ~~his~~ representatives. \*  
 5 The permit to prospect for ore is granted upon the express  
 6 condition that if the permit holder shall fail to perform any of  
 7 the terms, covenants or conditions in such permit to be  
 8 performed by ~~him~~ the permit holder, then it shall be the duty of \*  
 9 the commissioner to cancel such permit, first having given said  
 10 permit holder at least 20 days' notice in writing thereof.

093\*#354S

11 93.354 PERMIT HOLDERS MAY RECEIVE LEASES; ROYALTIES.

12 At any time prior to the expiration of any such prospecting  
 13 permit, the original holder or any assignee thereof shall have a  
 14 right to receive from the commissioner of natural resources a  
 15 mining lease which shall bind the state and the person to whom  
 16 it is issued to the mutual observance of the obligations and  
 17 conditions thereof. The minimum royalty provided in any such  
 18 lease to be paid to the state of Minnesota as a consideration  
 19 for its issuance shall be not less than the minimum royalty upon  
 20 a gross ton which would be required by the existing law to be  
 21 paid for such ore if located in state lands not under any such  
 22 waters and the royalty on manganese (four percent or over dried)  
 23 shall be arrived at by the methods prescribed for determining  
 24 such royalty on manganese as provided in Laws 1941, Chapter  
 25 329. Such leases for the mining, removing and disposing of such  
 26 iron ore may contain provisions permitting the beneficiation by  
 27 the lessee or purchaser of any ore not merchantable in its  
 28 natural conditions, and for the payment of royalties at not less  
 29 than such minimum rates per ton, upon the merchantable product  
 30 of such beneficiation instead of upon the ore as mined. Such  
 31 leases may further provide for the drainage of such lake or  
 32 river, or the diversion of the waters thereof to a new bed or  
 33 channel. Before any mining or drainage operations are commenced  
 34 under the provisions of any such lease, the lessee shall furnish  
 35 such security as the commissioner of natural resources, with the  
 36 approval of the executive council, may require to assure the  
 37 payment of any injury or damage which may be occasioned to any  
 38 riparian owners affected by such operations. The commissioner  
 39 of natural resources with the approval of the executive council,  
 40 upon the written request of the lessee or ~~his~~ successor in \*  
 41 interest and at ~~his~~ the sole expense of the lessee, shall have \*  
 42 power to institute condemnation proceedings to pay for the  
 43 interests of private persons or corporations who may be injured  
 44 or whose rights may be destroyed by the carrying on of such  
 45 operations, and such contract, lease or agreement for mining,  
 46 removing or disposing of such iron ore may contain a covenant on  
 47 the part of the second party to return the waters of such lake  
 48 or river to their former beds as nearly as possible after the  
 49 ore shall have been removed. Any such contract, lease or  
 50 agreement shall expressly provide that all persons engaged in  
 51 exploring, mining, or removing any ores or minerals thereunder,  
 52 shall comply with all laws, lawful orders or regulations  
 53 relating to or affecting the safety of those engaged in such  
 54 operations.

093\*#357S

55 93.357 APPROVAL OF INSTRUMENTS.

56 All instruments affecting the title or ownership of any  
 57 interest granted by the state hereunder shall be invalid and  
 58 ineffectual for any purpose, unless approved by the commissioner  
 59 of natural resources and filed with ~~him~~ the commissioner within \*  
 60 30 days of the execution thereof.

093\*#38S

61 93.38 EXPENSE PAID BY LESSEE.

62 The lessee, assignee, or sub-lessee shall, at ~~his~~ the sole \*  
 63 cost and expense of the lessee, assignee, or sub-lessee, install \*  
 64 and maintain all necessary scales, tracks, buildings, records,  
 65 and supplies necessary or expedient in conducting such weighing;  
 66 and the scales so installed shall conform to the types approved  
 67 by the department of public service through the division of  
 68 weights and measures. .

093\*#41S

69 93.41 STATE OWNED IRON-BEARING MATERIALS.

70 Subdivision 1. USE FOR ROAD CONSTRUCTION AND OTHER  
 71 PURPOSES. In case the commissioner of natural resources  
 72 shall determine that any paint rock, taconite, or other



1 iron-bearing material belonging to the state and containing not  
 2 more than 40 percent dried iron by analysis is needed and  
 3 suitable for use in the construction or maintenance of any road,  
 4 tailings basin, settling basin, dike, dam, bank fill, or other  
 5 works on public or private property, and that such use would be  
 6 in the best interests of the public, ~~he~~ the commissioner may \*  
 7 authorize the disposal of such material therefor as hereinafter  
 8 provided.

9 No change for subd 2 to 3

093\*#45S

10 93.45 IRON RANGE TRAIL; ESTABLISHMENT, COMMISSIONER'S  
 11 DUTIES.

12 Subdivision 1. In recognition of the unique combination of  
 13 cultural, geological, industrial, historical, recreational, and  
 14 scenic characteristics of Minnesota's iron ranges, an "Iron  
 15 Range Trail" is hereby established on the Vermillion, Mesabi,  
 16 and Cuyuna iron ranges and at related points on Lake Superior.  
 17 The commissioner of natural resources shall establish, develop,  
 18 and maintain the trail, and related places of interest under ~~his~~ \*  
 19 the commissioner's jurisdiction and control, for the purposes \*  
 20 specified in this subdivision. The trail need not be continuous  
 21 between or within ranges and related points, but shall be  
 22 developed as a coordinated unit and for multiple use. The  
 23 commissioner, in cooperation with other state agencies, local  
 24 governments, and private organizations and individuals shall  
 25 mark and, where necessary, interpret places of cultural,  
 26 geological, industrial, historical, recreational, and scenic  
 27 interest. In cooperation with state and local road authorities,  
 28 local governments, and private organizations and individuals,  
 29 the commissioner also shall mark access, where available, to  
 30 these places of interest from public roads and highways.

31 Subd. 2. The commissioner may acquire by gift or purchase  
 32 necessary trail easements and related interest in and across  
 33 lands not under ~~his~~ the commissioner's jurisdiction and control. \*  
 34 The commissioner also may enter into contracts, leases, or other  
 35 agreements with the operator or the owner of active or inactive  
 36 mine areas and with the person having the right of possession  
 37 thereof for the use and development of these areas for iron  
 38 range trail purposes. The commissioner may develop, maintain,  
 39 and operate such areas or may enter into contracts with third  
 40 parties for the development, maintenance, or operation of the  
 41 areas. If the commissioner enters into such a contract with a  
 42 third party, the contract shall provide that the operator, owner  
 43 and any person entitled to possession or control of the area  
 44 shall be held harmless and indemnified by the third party from  
 45 and against any and all claims for injuries or damage to person  
 46 or property, from such use or development. Nothing in this  
 47 section prohibits a person from asserting any claim for alleged  
 48 damages brought pursuant to sections 3.732 or 3.736.

093\*#461S

49 93.461 PEAT INCLUDED IN MINELAND RECLAMATION.

50 Sections 93.46 to 93.51 apply to peat in the same manner as  
 51 to metallic minerals, to the greatest extent practicable, with  
 52 the following exceptions:

53 (a) For the purposes of sections 93.46 to 93.51, "peat  
 54 mining" means the removal of peat for commercial purposes,  
 55 including activities associated with the removal. "Peat mining"  
 56 does not include removal of peat which is incidental to the  
 57 harvesting of an agricultural or horticultural crop, or to  
 58 mining of a metallic mineral that is subject to a mineland  
 59 reclamation rule and a permit to mine.

60 (b) No permit to mine peat is required under section 93.481  
 61 until 180 days after the effective date of rules promulgated to  
 62 regulate peat mining and reclamation. The rules shall be  
 63 adopted by July 1, 1985.

64 (c) No permit is required for a peat mining operation of 40  
 65 acres or less, unless the commissioner determines that there is  
 66 potential for significant environmental effects which may result  
 67 from the peat mining operation. A person intending to engage in  
 68 or carry on a peat mining operation of 40 acres or less, if the  
 69 intended operation involves removal of more than 1,000 tons of  
 70 air-dried peat per year, shall notify the commissioner in  
 71 writing before beginning any mining, specifying the legal  
 72 description of the tract to be mined and the mining methods to  
 73 be used. Within 20 days after receipt of written notice of  
 74 intent to mine such a tract, or after receiving additional



1 information requested, the commissioner shall notify the person  
2 of ~~his~~ the decision to require, or not to require, a permit. \*

093\*#47S

3 93.47 DUTIES AND AUTHORITY OF COMMISSIONER.

4 No change for subd 1 to 2

5 Subd. 3. Upon completion of ~~his~~ the study and survey and \*  
6 consistent with the declared policy of sections 93.44 to 93.51,  
7 the commissioner, pursuant to chapter 14, may adopt rules and  
8 regulations pertaining to that portion of mining operations  
9 conducted subsequent to the effective date of such rules and  
10 regulations and subject to the provisions of any rights existing  
11 pursuant to any permit, license, lease or other valid existing  
12 authorization issued by the commissioner, the Pollution Control  
13 Agency or any other governmental entity, or their predecessors  
14 in office, and subject to any applicable mine safety laws or  
15 regulations now existing or hereafter adopted, in regard to the  
16 following: (a) Mine waste disposal, (b) mining areas, including  
17 but not limited to plant facilities and equipment, and (c)  
18 permits to mine, as required by section 93.481. To the greatest  
19 extent possible, within the authority possessed by the  
20 commissioner, the rules so promulgated shall substantially  
21 comply with or exceed any minimum mineland reclamation  
22 requirements which may be established pursuant to a federal  
23 mineland reclamation act. The rules so promulgated also shall  
24 conform with any state and local land use planning program;  
25 provided further the commissioner shall develop procedures that  
26 will identify areas or types of areas which, if mined, cannot be  
27 reclaimed with existing techniques to satisfy the rules and  
28 regulations promulgated under this subdivision, and the  
29 commissioner will not issue permits to mine such areas until the  
30 commissioner determines technology is available to satisfy the  
31 rules and regulations so promulgated.

32 Subd. 4. The commissioner shall administer and enforce  
33 sections 93.44 to 93.51 and the rules and regulations adopted  
34 pursuant hereto. In so doing ~~he~~ the commissioner may (a) \*  
35 conduct such investigations and inspections as ~~he~~ the \*  
36 commissioner deems necessary for the proper administration of \*  
37 sections 93.44 to 93.51; (b) enter upon any parts of the mining  
38 areas in connection with any such investigation and inspection  
39 without liability to the operator or landowner provided that  
40 reasonable prior notice of ~~his~~ intention to do so shall have \*  
41 been given the operator or landowner; (c) conduct such research  
42 or enter into contracts related to mining areas and the  
43 reclamation thereof as may be necessary to carry out the  
44 provisions of sections 93.46 to 93.50.

45 Subd. 5. For the purpose of information and to assist the  
46 commissioner in the proper enforcement of the rules and  
47 regulations promulgated under sections 93.44 to 93.51 each  
48 operator shall within 120 days of May 28, 1969, file with the  
49 commissioner a plan map in such form as shall be determined by  
50 the commissioner showing all existing mining areas or areas  
51 subjected to mining by said operator. Annually thereafter, on  
52 or before the 15th day of March, and until the operator's  
53 reclamation or restoration plan is approved pursuant to section  
54 93.481, ~~he~~ the operator shall file a plan map in similar form \*  
55 showing any changes made during the preceding calendar year and  
56 the mining area which ~~he~~ anticipates it is anticipated will be \*  
57 subjected to mining during the current calendar year. After  
58 approval of a permit to mine, the commissioner may periodically  
59 at such times as ~~he~~ the commissioner deems necessary require \*  
60 additional reclamation or restoration information or plans from  
61 the operator.

093\*#48S

62 93.48 VARIANCE.

63 The commissioner may, upon application by the landowner or  
64 mine operator, modify or permit variance from the established  
65 rules and regulations adopted hereunder if ~~he shall determine it~~ \*  
66 is determined that such modification or variance is consistent \*  
67 with the general welfare.

093\*#481S

68 93.481 PERMIT TO MINE.

69 No change for subd 1 to 2

70 Subd. 3. TERM OF PERMIT; AMENDMENT. A permit issued  
71 by the commissioner pursuant to this section shall be granted  
72 for the term determined necessary by the commissioner for the  
73 completion of the proposed mining operation, including



1 reclamation or restoration. A permit may be amended upon  
 2 written application to the commissioner. If the commissioner  
 3 determines that the proposed amendment constitutes a substantial  
 4 change to the permit, the person applying for the amendment  
 5 shall publish notice in the same manner as for a new permit, and  
 6 a hearing shall be held if written objections are received in  
 7 the same manner as for a new permit. An amendment may be  
 8 granted by the commissioner if ~~he~~ the commissioner determines \*  
 9 that lawful requirements have been met.

10 Subd. 4. REVOCATION, MODIFICATION, SUSPENSION. A  
 11 permit is irrevocable during its term except as follows:

12 (a) The permittee has not commenced substantial  
 13 construction of plant facilities or actual mining and  
 14 reclamation or restoration operations covered by the permit  
 15 within three years of issuance of the permit;

16 (b) A permit may be cancelled at the request or with the  
 17 consent of the permittee upon such conditions as the  
 18 commissioner determines necessary for the protection of the  
 19 public interests;

20 (c) Subject to the rights of the permittee to contest the  
 21 commissioner's action under sections 14.57 to 14.59 and related  
 22 sections, a permit may be modified or revoked by the  
 23 commissioner in case of any breach of the terms or conditions  
 24 thereof or in case of violation of law pertaining thereto by the  
 25 permittee, ~~his~~ or agents, or servants of the permittee, or in \*  
 26 case the commissioner finds such modification or cancellation  
 27 necessary to protect the public health or safety, or to protect  
 28 the public interests in lands or waters against injury resulting  
 29 in any manner or to any extent not expressly authorized by the  
 30 permit, or to prevent injury to persons or property resulting in  
 31 any manner or to any extent not so authorized, upon at least 30  
 32 days' written notice to the permittee, stating the grounds of  
 33 the proposed modification or revocation or providing a  
 34 reasonable time of not less than 15 days in which to take  
 35 corrective action and giving the permittee an opportunity to be  
 36 heard thereon;

37 (d) By written order to the permittee the commissioner may  
 38 forthwith suspend operations under a permit if ~~he~~ the \*  
 39 commissioner finds it necessary in an emergency to protect the \*  
 40 public health or safety or to protect public interests in lands  
 41 or waters against imminent danger of substantial injury in any  
 42 manner or to any extent not expressly authorized by the permit,  
 43 or to protect persons or property against such danger, and may  
 44 require the permittee to take any measures necessary to prevent  
 45 or remedy such injury. No suspension order under this clause  
 46 shall be in effect more than 30 days from the date thereof  
 47 without giving the permittee at least ten days' written notice  
 48 of the order and an opportunity to be heard thereon.

49 No change for subd 5 to 6

093\*#52S

50 93.52 CLARIFICATION OF OWNERSHIP OF SEVERED MINERAL  
 51 INTERESTS; VERIFIED STATEMENT AS TO INTERESTS.

52 No change for subd 1

53 Subd. 2. Except as provided in subdivision 3, from and  
 54 after January 1, 1970, every owner of a fee simple interest in  
 55 minerals, hereafter referred to as a mineral interest, in lands  
 56 in this state, which interest is owned separately from the fee  
 57 title to the surface of the property upon or beneath which the  
 58 mineral interest exists, shall file for record in the county  
 59 recorder office or, if registered properly, in the registrar of  
 60 titles office in the county where the mineral interest is  
 61 located a verified statement citing sections 93.52 to 93.58 and  
 62 setting forth ~~his~~ the owner's address, ~~his~~ interest in the \*  
 63 minerals, and both (1) the legal description of the property  
 64 upon or beneath which the interest exists, and (2) the book and  
 65 page number or the document number, in the records of the county  
 66 recorder or registrar of titles, of the instrument by which the  
 67 mineral interest is created or acquired. No statement may be  
 68 filed for record which contains mineral interests from more than  
 69 one government section unless the instrument by which the  
 70 mineral interest is created or acquired includes mineral  
 71 interests from more than one government section. The county  
 72 recorder and registrar of titles shall file with the county  
 73 auditor a copy of each document so recorded within 60 days after  
 74 recording in the office of county recorder or registrar of  
 75 titles.



1 No change for subd 3

094\*#09S

2 94.09 SALE AND DISPOSITION OF SURPLUS STATE OWNED LAND.

3 No change for subd 1

4 Subd. 2. On or before July 1 of each year the head of each  
5 department or agency having ~~under-his~~ control and supervision  
6 over any state owned land the sale or disposition of which is  
7 not otherwise provided for by law, shall certify in writing to  
8 the commissioner of administration whether or not ~~he-has-such~~  
9 there is any state owned land under his control and supervision  
10 of that department or agency which is no longer needed for-his  
11 department-or-agency. If the certification discloses lands no  
12 longer needed for a department or agency, the head thereof shall  
13 include in such certification a description of the lands, and  
14 the reasons why such lands are no longer needed.

15 Subd. 3. On or before October 1 of each year, the  
16 commissioner of administration shall review the certifications  
17 of heads of each department or agency provided for in this  
18 section. ~~He~~ The commissioner shall send written notice to all  
19 state departments, agencies and the university of Minnesota  
20 describing any lands or tracts which may be declared surplus.  
21 If a department or agency or the university of Minnesota desires  
22 custody of the lands or tracts, it shall submit a written  
23 request to the commissioner, no later than four calendar weeks  
24 after mailing of the notice, setting forth in detail its reasons  
25 for desiring to acquire, and its intended use of, the land or  
26 tract. The commissioner of administration shall then determine  
27 whether any of the lands described in the certifications of the  
28 heads of the departments or agencies should be declared surplus  
29 and offered for sale or otherwise disposed of by transferring  
30 custodial control to other requesting state departments or  
31 agencies or to the board of regents of the university of  
32 Minnesota for educational purposes, provided however that  
33 transfer to the board of regents shall not be determinative of  
34 tax exemption or immunity. If ~~he~~ the commissioner determines  
35 that any of such lands are no longer needed for state purposes,  
36 ~~he~~ the commissioner shall make findings of fact, describe the  
37 lands, declare such lands to be surplus state land, state the  
38 reasons for the sale or disposition thereof, and notify the  
39 state executive council of such determination.

40 No change for subd 4

41 Subd. 5. On or before November 15 of each even numbered  
42 year the commissioner of administration shall report to the  
43 governor and the legislature for the two year period immediately  
44 preceding the following:

45 (a) The lands which state departments and agencies have  
46 certified ~~to-him~~ as no longer needed.

47 (b) The lands which ~~he-has~~ have been determined are to be  
48 no longer needed for state purposes, regarding which he-has  
49 formally-notified the executive council has been formally  
50 notified.

51 (c) The lands which have been publicly sold.

52 No change for subd 6

094\*#10S

53 94.10 SURVEYS, APPRAISALS AND SALE.

54 Subdivision 1. Before offering any surplus state owned  
55 lands for sale, the commissioner of administration may survey  
56 such lands, and if the value thereof is estimated to be \$20,000  
57 or less, may have such lands appraised. ~~He~~ The commissioner  
58 shall have the lands appraised if the estimated value is in  
59 excess of \$20,000. The appraisal shall be made by not less than  
60 three appraisers, at least two of whom shall be residents of the  
61 county in which the lands are situated. Each appraiser shall  
62 before entering upon the duties of ~~his~~ the office take and  
63 subscribe an oath that ~~he~~ the appraiser will faithfully and  
64 impartially discharge ~~his~~ the duties as appraiser according to  
65 the best of ~~his~~ the appraiser's ability and that ~~he~~ the  
66 appraiser is not interested directly or indirectly in any of the  
67 lands to be appraised or the timber or improvements thereon or  
68 in the purchase thereof and has entered into no agreement or  
69 combination to purchase the same or any part thereof, which oath  
70 shall be attached to the report of such appraisal. Before  
71 offering such surplus state owned lands for public sale, such  
72 lands shall first be offered to the city, county, town, school  
73 district, or other public body corporate or politic in which the  
74 lands are situated for public purposes and they may be sold for



1 such public purposes for not less than the appraised value  
 2 thereof. To determine whether a public body desires to purchase  
 3 the surplus land, the commissioner of administration shall give  
 4 a written notice to the governing body of each political  
 5 subdivision whose jurisdictional boundaries include or are  
 6 adjacent to the surplus land. If a public body desires to  
 7 purchase the surplus land it shall submit a written offer to the  
 8 commissioner not later than two weeks after receipt of notice  
 9 setting forth in detail its reasons for desiring to acquire and  
 10 its intended use of the land. In the event that more than one  
 11 public body tenders an offer, the commissioner shall determine  
 12 which party shall receive the property, and he shall submit \*  
 13 written findings regarding his the decision. If lands are \*  
 14 offered for sale for such public purposes, and if a public body  
 15 notifies the commissioner of administration of its desire to  
 16 acquire such lands, the public body may have not to exceed two  
 17 years from the date of the accepted offer to commence payment  
 18 for the lands in the manner provided by law.

19 No change for subd 2

094\*#12S

20 94.12 CONTRACT FOR DEED AND QUITCLAIM DEED.

21 In the event a purchaser elects to purchase surplus real  
 22 property on an installment basis, the commissioner of  
 23 administration shall enter into a contract for deed with the  
 24 purchaser thereof in which shall be set forth the description of  
 25 the real property sold and the price thereof, the consideration  
 26 paid and to be paid therefor, the rate of interest, and time and  
 27 terms of payment. This contract for deed shall be made  
 28 assignable and shall further set forth that in case of the  
 29 nonpayment of the annual principal or interest payment due by  
 30 the purchaser, or any person claiming under him the purchaser, \*  
 31 then the contract for deed, from the time of such failure, will  
 32 be entirely void and of no effect and the state may be  
 33 repossessed of the lot or tract and may resell the same as  
 34 provided in sections 94.09 to 94.16. In the event the terms and  
 35 conditions of a contract for deed are completely fulfilled or if  
 36 a purchaser makes a lump sum payment for the subject property in  
 37 lieu of entering into a contract for deed, the governor, upon  
 38 the recommendation of the commissioner of administration, shall  
 39 sign and cause to be issued a quitclaim deed on behalf of the  
 40 state. Said quitclaim deed shall be in a form prescribed by the  
 41 attorney general and shall vest in purchaser all of the state's  
 42 interest in the subject property except as provided in section  
 43 94.14.

094\*#13S

44 94.13 RECORD OF CONTRACTS FOR DEED AND ASSIGNMENTS;  
45 EFFECT.

46 A contract for deed issued pursuant to sections 94.09 to  
 47 94.16, or any assignment thereof, executed and acknowledged as  
 48 provided by law for the execution and acknowledgment of deeds  
 49 may be recorded in the office of the county recorder of any  
 50 county in the state in the same manner and with like effect as  
 51 deeds are therein recorded. This contract for deed shall  
 52 entitle the purchaser thereof, his or the heirs and assigns of \*  
 53 the purchaser, to the exclusive possession of the land therein \*  
 54 described, provided its terms have been in all respects complied  
 55 with, and the contract for deed and the record thereof shall be  
 56 conclusive evidence of title in the purchaser, his or the heirs \*  
 57 and assigns of the purchaser, for all purposes and against all \*  
 58 persons, except the state of Minnesota in case of forfeiture.

094\*#341S

59 94.341 MINNESOTA LAND EXCHANGE BOARD.

60 The board created by the constitution of the state of  
 61 Minnesota, Article XI, Section 10, consisting of the governor,  
 62 the attorney general, and the state auditor, shall be known as  
 63 the Minnesota land exchange board. The term "board" as used in  
 64 sections 94.341 to 94.347 refers to such board. The governor  
 65 shall be chairman chair of the board. The state auditor shall \*  
 66 be secretary of the board and keep a record of its proceedings.  
 67 Approvals of land exchanges and other official acts of the board  
 68 may be evidenced by the certificate of the state auditor as  
 69 secretary, under his official seal of the auditor. When a land \*  
 70 exchange has been approved by the board it shall be presumed  
 71 that all other pertinent requirements of the law have been  
 72 complied with, and no exchange shall be invalidated by reason of  
 73 any defect or omission in respect of any such other requirement.



094\*#343S

1 94.343 CLASS A LAND EXCHANGED; CONDITIONS.  
 2 No change for subd 1 to 6  
 3 Subd. 7. Before giving final approval to any exchange of  
 4 Class A land, the board shall hold a public hearing thereon at  
 5 the capital city or at some place which it may designate in the  
 6 general area where the lands involved are situated; provided,  
 7 that the board may direct such hearing to be held in its behalf  
 8 by any of its members or by the commissioner or by a referee  
 9 appointed by the board. The commissioner shall furnish to the  
 10 auditor of each county affected a notice of the hearing signed  
 11 by the state auditor as secretary of the board, together with a  
 12 list of all the lands proposed to be exchanged and situated in  
 13 the county, and the county auditor shall post the same in ~~his~~ \*  
 14 the auditor's office at least two weeks before the hearing. The \*  
 15 county auditor shall also cause a copy of the notice, referring \*  
 16 to the list of lands posted ~~in his office~~, to be published at \*  
 17 least two weeks before the hearing in a legal newspaper  
 18 published in the county. The cost of publication of the notice  
 19 shall be paid by the state out of any moneys appropriated for  
 20 the expenses of the board.

21 No change for subd 8  
 22 Subd. 9. No exchange of Class A land shall be consummated  
 23 unless the attorney general shall have given ~~his~~ an opinion in \*  
 24 writing that the title to the land proposed to be conveyed to \*  
 25 the state is good and marketable, free from all liens and \*  
 26 encumbrances except reservations herein authorized. If required  
 27 by the attorney general, the land owner shall submit an abstract  
 28 of title and make and file with the commissioner an affidavit as  
 29 to possession of the land, improvements, liens, and encumbrances  
 30 thereon, and other matters affecting the title.

31 No change for subd 10 to 12

094\*#344S

32 94.344 CLASS B LAND EXCHANGED; CONDITIONS.  
 33 No change for subd 1 to 6  
 34 Subd. 7. Before giving final approval to any exchange of  
 35 Class B land, the county board shall hold a public hearing  
 36 thereon. At least two weeks before the hearing the county  
 37 auditor shall post in ~~his~~ the auditor's office a notice thereof, \*  
 38 containing a description of the lands affected.

39 No change for subd 8 to 9  
 40 Subd. 10. After approval by the county board, every  
 41 proposal for the exchange of Class B land shall be transmitted  
 42 to the commissioner in such form and with such information as he \*  
 43 the commissioner may prescribe for consideration by ~~him~~ the \*  
 44 commissioner and by the board. The county attorney's opinion on \*  
 45 the title, with the abstract and other evidence of title, if \*  
 46 any, shall accompany the proposal. If the proposal be approved  
 47 by the commissioner and the board and the title be approved by  
 48 the attorney general, the same shall be certified to the  
 49 commissioner of revenue, who shall execute a deed in the name of  
 50 the state conveying the land given in exchange, with a  
 51 certificate of unanimous approval by the board appended, and  
 52 transmit the deed to the county auditor to be delivered upon  
 53 receipt of a deed conveying to the state the land received in  
 54 exchange, approved by the county attorney; provided, that if any  
 55 amount is due the state under the terms of the exchange, the  
 56 deed from the state shall not be executed or delivered until  
 57 such amount is paid in full and a certificate thereof by the  
 58 county auditor is filed with the commissioner of revenue. The  
 59 county auditor shall cause all deeds received by the state in  
 60 such exchanges to be recorded or registered, and thereafter  
 61 shall file the deeds or the certificates of registered title  
 62 in ~~his~~ the auditor's office. \*

63 No change for subd 11

094\*#346S

64 94.346 TITLES.  
 65 No change for subd 1  
 66 Subd. 2. ATTORNEY GENERAL MAY PERFECT. The attorney  
 67 general, at the request or with the approval of the board, may  
 68 commence and carry on any necessary or proper actions to perfect  
 69 the titles to lands owned by the state and subject to exchange  
 70 under sections 94.341 to 94.347, and may authorize any county  
 71 attorney or other attorney to assist in conducting any such  
 72 action. The expenses of these actions, including such  
 73 attorneys' fees as the attorney general may allow to county



1 attorneys or other attorneys representing the state, shall be  
 2 payable out of any appropriations available for the purposes of  
 3 sections 94.341 to 94.347. Any county attorney performing such  
 4 service shall be entitled to the fees allowed therefor in  
 5 addition to ~~his~~ regular compensation unless ~~his~~ the salary is  
 6 fixed on a full time basis. \*

7 In case an action is necessary to perfect the title to any  
 8 privately owned land involved in an exchange hereunder, and the  
 9 owner of the land is unable to bear the expense thereof, the  
 10 land exchange board may authorize the attorney general to  
 11 conduct such action and pay the expenses thereof as in case of  
 12 actions to perfect the title to state lands. The expenses of  
 13 the action, including attorney's fees, shall be deducted from  
 14 the value of the land for the purpose of exchange, subject to  
 15 payment by the owner for any difference in value as herein  
 16 provided, or shall be repaid by the owner otherwise upon such  
 17 terms as the board may direct. All money received on account of  
 18 such expenses shall be remitted to the state treasurer and  
 19 credited to the fund from which the expenses were paid.

094\*#348S

20 94.348 EXCHANGES OF STATE OWNED LAND, APPRAISAL FEE.  
 21 Subdivision 1. Whenever a private land owner presents to  
 22 the Minnesota land exchange board, an offer to exchange private  
 23 land for Class A state owned land as defined in section 94.342,  
 24 ~~he~~ the land owner shall deposit with the board an appraisal fee  
 25 of not less than \$25 nor more than \$100, the amount to be  
 26 determined by the board, depending upon the area of land  
 27 involved in the offer. \*

28 No change for subd 2

094\*#50S

29 94.50 MAY SELL AND EXCHANGE LANDS.  
 30 The commissioner, with the approval of the executive  
 31 council, shall have full power and authority to sell, exchange,  
 32 or lease lands under ~~his~~ jurisdiction of the commissioner when  
 33 it is deemed advantageous to the state in the interests of the  
 34 highest development, utilization, and management of state  
 35 forests. Such sale, lease, or exchange of lands shall not be  
 36 contrary to the terms of any contract which has been entered  
 37 into and shall not apply to state trust fund lands. \*

094\*#53S

38 94.53 WARRANT TO COUNTY TREASURERS; FEDERAL LOANS TO  
 39 COUNTIES.  
 40 It shall be the duty of the commissioner of finance to  
 41 transmit ~~his~~ warrants on the state treasury to the county  
 42 treasurers of the respective counties for the sum that may be  
 43 due in accordance with sections 94.52 to 94.54, which sum or  
 44 sums are hereby appropriated out of the state treasury from the  
 45 amounts received from the United States government pursuant to  
 46 the aforesaid act of Congress. The commissioner of finance,  
 47 upon being notified by the federal government or any agencies  
 48 thereof that a loan has been made to any such county the  
 49 repayment of which is to be made from such fund, is authorized  
 50 to transmit ~~his~~ a warrant or warrants on the state treasurer to  
 51 the federal government or any agency thereof sufficient to repay  
 52 such loan out of any moneys apportioned or due to such county  
 53 under the provisions of such act of Congress, approved May 23,  
 54 1908 (35 Stat. 260). \*

097\*#40S

55 97.40 DEFINITIONS.  
 56 No change for subd 1 to 26  
 57 Subd. 27. "Minnow retailer" includes any person who is  
 58 engaged in the business of selling minnows at retail from an  
 59 established place of business, or transporting minnows in excess  
 60 of 12 dozen from a place of wholesale purchase to ~~his~~ the  
 61 person's place of business. "Minnow dealer" includes any person  
 62 engaged in taking minnows for sale, buying minnows for resale,  
 63 selling minnows at wholesale, or transporting minnows for sale  
 64 within the state. \*

65 No change for subd 28 to 29

66 Subd. 30. "Camp" means the temporary abode of any hunter,  
 67 ~~fisherman~~ fisher, trapper, tourist or vacationist while on a  
 68 hunting, fishing, or trapping trip or on a tour or vacation  
 69 trip, including resorts, tourist camps, and other establishments  
 70 providing temporary lodging for such persons. \*

71 No change for subd 31 to 35

097\*#44S



1 97.44 POSSESSION RESTRICTED.

2 No change for subd 1

3 Subd. 2. No person shall possess within this state any  
4 protected wild animal except during the open season and for five  
5 days thereafter, without having obtained permission from the  
6 commissioner or ~~his~~ the commissioner's authorized agent so to \*  
7 do, in such form as the commissioner may prescribe, and when so  
8 permitted, they may be retained indefinitely, subject, however,  
9 to the exceptions contained in section 100.27, subdivision 6,  
10 and section 102.23.

11 No change for subd 3

12 Subd. 4. No person except the commissioner or ~~his~~ the \*  
13 commissioner's agents shall place or store or receive or accept \*  
14 for storage in a commercial cold storage warehouse, any  
15 protected wild animals except fish or furs lawfully taken.  
16 Protected wild animals lawfully taken and possessed may be  
17 stored in refrigerators or cooling rooms in butcher shops or in  
18 locker plants or other places not classified as commercial cold  
19 storage warehouses, but all packages of protected wild animals  
20 so stored shall be plainly marked in ink, showing the name and  
21 address of the owner, the number of license under which they  
22 were taken, and the number and species therein.

23 No change for subd 5 to 7

097\*#45S

24 97.45 TRANSPORTATION RESTRICTED.

25 No change for subd 1 to 2

26 Subd. 3. A licensed resident who accompanies the shipment  
27 may transport wild animals lawfully taken and possessed,  
28 including undressed game birds and dressed or undressed fish, to  
29 any place in the state in any vehicle or as baggage on a common  
30 carrier. A licensed resident who accompanies the shipment may  
31 transport the head or hide of a deer, bear, or moose, lawfully  
32 taken and possessed, to any place within or outside the state  
33 for the purpose of mounting or tanning. A common carrier may  
34 transport wild animals as baggage as provided in this  
35 subdivision when accompanied by the licensed resident shipper  
36 except an employee of the common carrier while engaged in the  
37 performance of ~~his~~ duties. \*

38 Subd. 4. A licensed resident who does not accompany the  
39 shipment may transport by common carrier to any point in the  
40 state, consigned to himself that same resident only, the \*  
41 following wild animals lawfully taken and possessed: (a) not  
42 more than three separate shipments of undressed birds, each of  
43 which shipment may contain the number of birds which could  
44 lawfully be taken within the state on any single day, but not  
45 more than a single day's limit of any species; (b) big game  
46 animals as prescribed in subdivision 1. The licensed resident  
47 may transport the head or hide of the deer, bear, or moose to a  
48 place within or outside the state for the purpose of mounting or  
49 tanning; and (c) dressed or undressed fish.

50 No change for subd 4a

51 Subd. 6. (1) A licensed nonresident who does not accompany  
52 the shipment may transport by common carrier to a place within  
53 or outside this state one shipment of fish lawfully taken and  
54 possessed in any one licensing year upon obtaining a shipping  
55 permit from the commissioner or ~~his~~ an agent. The shipment may \*  
56 contain: (a) not more than 25 pounds of undressed fish; (b) one  
57 undressed fish of any size; or (c) not more than 15 pounds of  
58 filleted or dressed game fish. A shipping permit shall be  
59 issued upon request and without payment of a fee, and shall be  
60 cancelled as prescribed by the commissioner by the agent of the  
61 carrier to whom the shipment is first delivered. In the case of  
62 a nonresident combination angling license, each licensee shall  
63 be eligible for one shipping permit for each licensing year.

64 (2) A licensed nonresident who accompanies the shipment may  
65 transport dressed or undressed fish lawfully taken or possessed  
66 in any vehicle or on a common carrier to any place within or  
67 outside the state.

68 (3) A licensed nonresident who does not accompany the  
69 shipment may transport filleted or dressed game fish by common  
70 carrier only if shipped in a container which bears the name and  
71 license number of the shipper; the name of the person preparing  
72 the container for shipment and the license number of that person  
73 as issued under section 98.46, subdivision 5; and the number,  
74 species and net weight of the fish in the container.

75 (4) Each licensee authorized to prepare dressed game fish



1 for shipment shall maintain a permanent record of the name,  
 2 address and license number of each licensed ~~fisherman~~ fisher \*  
 3 making a shipment, the name and address of the consignee, the  
 4 number, species and net weight of fish contained in the  
 5 shipment. The records shall be available for inspection by  
 6 conservation officers at all times.

7 (5) Notwithstanding any law to the contrary, a nonresident  
 8 under the age of 16 may take fish by angling without procuring a  
 9 license, if the nonresident's parent or guardian has obtained  
 10 the appropriate fishing license. Fish so taken shall be  
 11 included in the daily and possession limit of the parent or  
 12 legal guardian.

13 Subd. 7. (a) A licensed nonresident who accompanies the  
 14 shipment may transport the following wild animals, other than  
 15 fish, lawfully taken and possessed in any vehicle or as baggage  
 16 on a common carrier to any place within or outside this state:  
 17 (1) the number of undressed game birds which ~~he~~ the nonresident \*  
 18 is entitled to possess at any one time; (2) one deer and one  
 19 bear; and (3) other wild animals lawfully taken and possessed in  
 20 Minnesota. A common carrier may carry wild animals as baggage  
 21 as provided in this clause.

22 (b) A licensed nonresident who does not accompany the  
 23 shipment may transport the wild animals, other than fish, as  
 24 described in clause (a) by common carrier to any place within or  
 25 outside the state when the shipment is consigned to the licensed  
 26 nonresident, provided that a shipping permit must be obtained  
 27 from the commissioner or ~~his~~ an agent for the transportation of \*  
 28 any undressed game birds. The permit shall be issued upon  
 29 request and without payment of a fee, and canceled as prescribed  
 30 by the commissioner by the agent of the carrier to whom the  
 31 shipment is first delivered. Deer and bear may be transported  
 32 only during the time provided in subdivision 4, clause (b).

33 No change for subd 8

34 Subd. 9. Undressed game birds, lawfully taken and  
 35 possessed in adjacent states, may be brought into the state, and  
 36 may then be shipped by common carrier to any point within the  
 37 state by residents of this state, or by nonresidents to any  
 38 point without the state, provided each such shipment shall be  
 39 tagged or sealed by a state conservation officer in the manner  
 40 prescribed by the commissioner. Licensed residents or  
 41 nonresidents may ship game birds or one fish lawfully in their  
 42 possession to any point within or without the state to any  
 43 person upon procuring a permit so to do from the commissioner or  
 44 ~~his~~ an authorized agent under such regulations as the \*  
 45 commissioner may prescribe.

46 No change for subd 10 to 11

47 Subd. 12. All protected wild animals transported by common  
 48 carrier, including shipments carried as baggage, shall have  
 49 attached a statement signed by the licensee showing ~~his~~ the \*  
 50 licensee's name, address and license number and the number and \*  
 51 species of wild animals contained in the shipment, including  
 52 fish. The shipment shall have attached to it any tag, shipping  
 53 coupon or permit required by law or commissioner's order.

54 No change for subd 13

55 Subd. 14. All wild animals being transported shall be made  
 56 available to full inspection by any conservation officer upon  
 57 ~~his~~ demand, and in the absence of the licensee, any receptacle \*  
 58 or container may be opened by such conservation officer by such  
 59 means as is reasonably necessary for the purpose of inspection  
 60 and counting. The way bill or receipt issued by any common  
 61 carrier to a shipper shall specify the number and species of  
 62 wild animals so shipped.

63 Subd. 15. The following restrictions on the transportation  
 64 of minnows apply only to quantities in excess of 24 dozen. The  
 65 following restrictions do not apply to minnows being transported  
 66 through the state pursuant to a permit issued by the  
 67 commissioner under section 101.42, subdivision 6. No person  
 68 shall transport any minnows beyond the boundaries of the state,  
 69 except leeches, suckers, and fathead minnows, which may be  
 70 transported without the state by any resident minnow dealer  
 71 holding an exporting minnow dealers license or by any licensed  
 72 nonresident exporting minnow hauler bearing a bill of lading  
 73 issued by a dealer holding an exporting license, on forms  
 74 furnished by the department. Said bill of lading shall contain  
 75 the exporter's name and address, route of exit to be used  
 76 leaving the state, amount and type of bait, time of issuance and



1 24 hours to exit the state. Except for a licensed and  
 2 authorized nonresident hauler transporting minnows in accordance  
 3 with this subdivision, no motor vehicle which is not registered  
 4 and licensed in this state and which is not licensed under  
 5 section 98.46, subdivision 5, clause 11, shall contain minnows  
 6 or be used to transport minnows in Minnesota. A minnow retailer  
 7 who transports minnows from a place of wholesale purchase to ~~his~~  
 8 the retailer's place of business shall transport the minnows by  
 9 the most convenient and direct route. \*

097\*#48S

10 97.48 COMMISSIONER, GENERAL POWERS.

11 Subdivision 1. The commissioner may extend protection to  
 12 any species of wild animal in addition to that accorded by  
 13 chapters 97 to 102, by further limiting or closing open seasons,  
 14 areas of the state, or by reducing limits with respect to any or  
 15 all areas of the state, ~~whenever-he-finds~~ upon finding such  
 16 action necessary to guard against undue depletion or extinction,  
 17 or to promote the propagation and reproduction of such animals,  
 18 provided ~~he~~ the commissioner shall not restrict or prohibit the  
 19 taking of game fish or any species thereof by angling or  
 20 spearing through the ice so as to close at any given time not  
 21 more than 50 percent of the named lakes or streams of any  
 22 county, nor shall ~~he~~ the commissioner limit or close any regular  
 23 statutory season for the taking of any species of game fish by  
 24 spearing through the ice in any designated waters unless in the  
 25 same order ~~he~~ the commissioner limits or closes the next  
 26 following regular statutory season for the taking of said  
 27 species by angling in the same waters in the same proportion,  
 28 nor shall ~~he~~ the commissioner reduce the limits for the taking  
 29 or possession of such species by spearing through the ice in any  
 30 designated waters during any regular statutory season therefor  
 31 below the limits prescribed for the taking or possession of said  
 32 species by angling in the same waters during the next following  
 33 regular statutory season therefor. \*

34 Subd. 2. The commissioner is authorized to enter into  
 35 contracts with North and South Dakota, Wisconsin and Iowa,  
 36 relating to the removal of rough fish in boundary waters between  
 37 Minnesota and those states, and providing for the letting of  
 38 contracts to remove such fish, and for the inspection and  
 39 division of proceeds of such work, and for regulating matters  
 40 relating to such fishing in such boundary waters, provided, if  
 41 no such agreement can be made, the commissioner may remove rough  
 42 fish from such boundary waters in the same manner as ~~he~~ the  
 43 commissioner is authorized to remove them from any of the waters  
 44 of this state. \*

45 No change for subd 3

46 Subd. 4. Except as otherwise expressly provided, the  
 47 commissioner is authorized to take rough fish, turtles, ciscoes,  
 48 herring, whitefish and smelt from any of the waters of this  
 49 state by means of day labor, contract or permit through the use  
 50 of seines, nets, or any other devices, under such rules,  
 51 regulations, contracts or permits as ~~he~~ the commissioner shall  
 52 prescribe. All rough fish, turtles, ciscoes, herring, whitefish  
 53 and smelt so removed by the commissioner shall be disposed of in  
 54 such form and in such manner as ~~he~~ the commissioner, by  
 55 regulation, contract or permit shall prescribe. The provisions  
 56 of this subdivision shall supersede the provisions of Laws 1939,  
 57 Chapter 431, as amended, so far as applicable to the letting or  
 58 making of contracts for taking or sale of rough fish or other  
 59 species hereunder. In awarding any contract for the removal of  
 60 such rough fish or other species, the commissioner shall take  
 61 into consideration the qualifications of the applicant, ~~his~~ the  
 62 applicant's equipment, ~~his~~ knowledge of the affected waters, and  
 63 ~~his~~ general ability to perform the work well, and in view  
 64 thereof shall fix the contractor's compensation at such rate or  
 65 rates as the commissioner deems reasonable without competitive  
 66 bidding. \*

67 No change for subd 5 to 7

68 Subd. 8. The commissioner shall do all things deemed by  
 69 ~~him~~ desirable in the preservation, protection and propagation in  
 70 their natural state, and artificially, of all desirable species  
 71 of wild animals. The commissioner shall make special provisions  
 72 for the management of fish and wildlife to insure recreational  
 73 opportunities for anglers and hunters. \*

74 Subd. 9. The commissioner shall dispose of or destroy, as  
 75 ~~he~~ the commissioner deems advisable, undesirable or predatory \*



1 wild animals.

2 No change for subd 10

3 Subd. 11. The commissioner shall set aside and reserve for  
 4 any period ~~he~~ the commissioner deems advisable, public waters of \*  
 5 the state, in the aid of propagation and protection of any wild  
 6 animals. The commissioner shall have the further authority to  
 7 designate and manage public waters for their primary wildlife  
 8 use and benefit after giving notice and holding a public  
 9 hearing, provided that this authority shall not be used to  
 10 restrict fishing methods or fishing seasons. The hearing shall  
 11 be held in the county where the major portion of the waters are  
 12 located. Notice of the hearing shall be published once in a  
 13 legal newspaper within each county where the waters are located  
 14 not less than seven days before the hearing. The commissioner  
 15 may enter into agreements with riparian owners, pursuant to  
 16 section 105.39, subdivision 5, and may exercise the powers  
 17 provided in section 105.48, when necessary to accomplish  
 18 management objectives related to waters so designated.

19 No change for subd 12

20 Subd. 13. The commissioner shall acquire by gift, lease,  
 21 easement, purchase, or condemnation in the manner prescribed  
 22 under sections 117.011 to 117.232, in the name of the state,  
 23 lands or any interest in lands suitable and desirable for  
 24 establishing and maintaining public hunting grounds, game  
 25 refuges and food and cover planting areas, and to make all  
 26 improvements thereon deemed by ~~him~~ the commissioner advisable, \*  
 27 provided that at least two-thirds of the total area so acquired  
 28 in any county for a public hunting grounds, game refuge, food  
 29 and cover planting area, or other wildlife management area shall  
 30 be open to public hunting. The commissioner may designate lands  
 31 or interests in lands acquired pursuant to this subdivision as  
 32 wildlife management areas for the purposes of the outdoor  
 33 recreation system.

34 No change for subd 14 to 16

35 Subd. 17. The commissioner shall prohibit the taking of  
 36 turtles during such period as ~~he may deem~~ the commissioner deems \*  
 37 necessary, from any waters of the state in which ~~he~~ the \*  
 38 commissioner is conducting operations in aid of the fish \*  
 39 propagation program.

40 No change for subd 18

41 Subd. 18a. The commissioner may set such seasons and  
 42 establish whatever regulations ~~he~~ the commissioner deems \*  
 43 necessary for the conservation of wild ginseng.

44 No change for subd 19

45 Subd. 20. The commissioner shall adopt reasonable rules  
 46 and regulations designed to encourage local wildlife \*  
 47 organizations ~~of local sportsmen~~ to engage in the propagation of \*  
 48 game fish by use of rearing ponds; prescribe reasonable methods  
 49 for the lawful acquisition of brood stock for such ponds from  
 50 the public waters by seining; prescribe reasonable rules and  
 51 regulations for the ownership and use by such ~~sportsmen's~~ \*  
 52 wildlife organizations of seines and other equipment to be used \*  
 53 for rearing pond propagation; and prescribe regulations for the  
 54 planting of the young fish so produced in the public waters of  
 55 the state, giving first consideration to the needs of the  
 56 community in which the same are produced and the desires of the  
 57 organizations operating such rearing ponds.

58 No change for subd 21 to 23

59 Subd. 24. The commissioner may limit the number of persons  
 60 who may hunt deer or bear in any areas, ~~when he determines on~~ \*  
 61 determining that it is necessary to prevent an overharvest or to \*  
 62 provide for a suitable distribution of hunters, and ~~he~~ the \*  
 63 commissioner may establish by order any practicable method, \*  
 64 including a drawing, for impartially determining the persons who  
 65 may hunt in such areas. Beginning with data available for the  
 66 1981 seasons, the commissioner shall give preference to hunters  
 67 who have previously unsuccessfully applied for the license in  
 68 question.

69 Subd. 25. The commissioner may, for purposes of  
 70 identification, post any land under ~~his~~ the commissioner's \*  
 71 jurisdiction acquired for public hunting grounds, food and cover  
 72 planting areas, game refuges, wildlife lands and conservation  
 73 area lands, so as to indicate the management purpose thereof.

74 Subd. 26. The commissioner may designate all or part of  
 75 any lake or stream, but in aggregate not more than 100 lakes and  
 76 25 streams at any one time, as experimental waters and,



1 notwithstanding any other provision of law, may establish by  
 2 order the seasons, limits and methods for the taking of fish  
 3 therefrom and such other regulations relating thereto as ~~he~~ the  
 4 commissioner deems desirable; provided the above may be done  
 5 only on waters to which the public has free access after a  
 6 public meeting has been held in the county where the lake or  
 7 stream, or major portion thereof, is located. In the case of a  
 8 named lake having a water area of more than 1,500 acres, a  
 9 public meeting shall be held in the seven-county metropolitan  
 10 area, as defined in section 473.121, subdivision 2. Notice of  
 11 the public meeting shall be published once in a legal newspaper  
 12 within the county or counties where the lake or stream is  
 13 located not less than seven days prior to the meeting. The  
 14 commissioner shall establish methods and criteria for citizen  
 15 initiation of experimental waters designation and for citizen  
 16 participation in the evaluation of waters designated as  
 17 experimental waters.

18 No change for subd 26a to 28

097\*#481S

19 97.481 ACQUISITION OF WILDLIFE LANDS.

20 Subdivision 1. The commissioner of natural resources is  
 21 hereby authorized and empowered to acquire, in the name of the  
 22 state, by gift, lease, purchase and transfer of state lands, any  
 23 such wildlife lands, such as marsh or wetlands, and the margins  
 24 thereof, including ponds, small lakes and stream bottom lands,  
 25 which ~~he~~ the commissioner finds desirable to acquire in the  
 26 interests of water conservation relating to wildlife development  
 27 programs, and, ~~he~~ the commissioner may also acquire for this  
 28 purpose from any state agency, itself included, lands now in  
 29 state ownership or tax-forfeited which are suitable for wildlife  
 30 purposes, and when such lands are so acquired, ~~he~~ the  
 31 commissioner is authorized to develop the same in the interest  
 32 of wildlife, recreational or public hunting areas as ~~he shall~~  
 33 ~~deem-desirable~~ desired. In the determination of which lands  
 34 will be acquired as wildlife lands, the commissioner shall  
 35 assign highest priority to parcels containing type 3 or 4  
 36 wetlands, as defined in U.S. Fish and Wildlife Service Circular  
 37 No. 39 (1971 edition), which were previously determined to be  
 38 public waters. The commissioner in the purchase of such  
 39 wetlands must recognize that when a majority of land owners, or  
 40 owners of a majority of the land in the watershed, petition for  
 41 a drainage outlet, that the state should not interfere, or  
 42 unnecessarily delay such drainage proceedings when such  
 43 proceedings are conducted according to the Minnesota Drainage  
 44 Code. In no case should state lands, so purchased, or leased,  
 45 be used to produce crops unless such crops are needed to sustain  
 46 wildlife. No lands described herein shall be acquired unless  
 47 there is acquired simultaneously therewith a right-of-way or  
 48 easement from said lands to a public road so as to make entry  
 49 upon said lands available to the public. The commissioner may  
 50 designate lands or interests in lands acquired pursuant to this  
 51 section as wildlife management areas for the purposes of the  
 52 outdoor recreation system.

53 Subd. 2. PROCEDURE. Before ~~the-commissioner-acquires~~  
 54 acquiring lands by purchase or lease pursuant to this  
 55 section, ~~he~~ the commissioner shall proceed in accordance with  
 56 this subdivision.

57 (a) The commissioner shall notify the board of county  
 58 commissioners in each county and the town officers in each town  
 59 where land is to be acquired and shall furnish the board and the  
 60 town officers a description of the land to be acquired. The  
 61 county board shall approve or disapprove the proposed  
 62 acquisition within 90 days after the commissioner has notified  
 63 the county board and the town officers of the proposed  
 64 acquisition and furnished the description of the land involved.  
 65 An extension of time, not to exceed 30 days, may be given by the  
 66 commissioner to a county board. In a county in which a soil and  
 67 water conservation district is organized, the supervisors will  
 68 act as counselors to the county board regarding the best  
 69 utilization and capability of the land proposed for acquisition,  
 70 including the questions of drainage and flood control.

71 (b) If the county board approves an acquisition within the  
 72 90-day period or extension thereof, the commissioner may proceed  
 73 with the acquisition.

74 (c) If the county board disapproves an acquisition, it  
 75 shall, at the time of its decision, set forth valid reasons for



1 disapproval. The landowner or the commissioner may appeal the  
 2 county board's disapproval to the district court in the county  
 3 in which any of the lands are situated. If the district court,  
 4 or an appellate court, finds that the county board's disapproval  
 5 is arbitrary or capricious or that the reasons stated for  
 6 disapproval are invalid, or if the county board fails to give  
 7 any reasons or fails to act to approve or disapprove of the  
 8 acquisition within the 90-day period or extension thereof, the  
 9 commissioner or the owner of the land which the commissioner  
 10 seeks to acquire may submit the proposed acquisition to the land  
 11 exchange board which shall consider the interests of the county,  
 12 the state, and the landowner and determine whether the  
 13 acquisition will be in the public interest.

14 (d) The land exchange board shall conduct a hearing upon  
 15 each acquisition submitted to it after giving notice to all  
 16 interested parties, including, but not limited to, the board of  
 17 county commissioners in the county where the land to be acquired  
 18 is located, the commissioner, and the owner of the land. The  
 19 land exchange board shall hold its hearing and make its decision  
 20 within 60 days after submission of the proposed acquisition to  
 21 it.

22 If a majority of the members of the land exchange board  
 23 approves the acquisition, the commissioner may proceed with the  
 24 acquisition. If a majority of the members of the land exchange  
 25 board disapproves the acquisition, the commissioner shall not  
 26 acquire the property.

097\*#482S

27 97.482 SURCHARGE ON SMALL GAME HUNTING LICENSES  
 28 APPROPRIATED.

29 Subdivision 1. To provide funds for the purpose of  
 30 carrying out the provisions of sections 97.481 to 97.484, there  
 31 is hereby imposed upon all small game hunting licenses a  
 32 surcharge of \$4, which shall be added to such license fee, and  
 33 which surcharge shall be free from any commissions and so stated  
 34 on the back of the small game hunting licenses, together with  
 35 the following statement: "This \$4 surcharge is being paid by  
 36 sportsmen hunters for the acquisition and development of  
 37 wildlife lands." \*

38 No change for subd 2

097\*#4842S

39 97.4842 TROUT AND SALMON STAMP.

40 Subdivision 1. STAMP REQUIRED. No person over the  
 41 age of 16 and under the age of 65 years who is otherwise  
 42 required to possess a Minnesota fishing license shall angle in  
 43 any stream designated by the commissioner as a trout stream, in  
 44 any lake designated by the commissioner as a trout lake, or in  
 45 Lake Superior, without first purchasing a stamp and having the  
 46 stamp in his possession while angling in any designated trout  
 47 stream, designated trout lake, or Lake Superior. Each stamp  
 48 shall be validated by the signature of the licensee written  
 49 across its face. The commissioner shall determine the form of  
 50 the stamp and shall furnish and distribute stamps to county  
 51 auditors for sale by them and their authorized subagents as  
 52 prescribed by order of the commissioner. The commissioner shall  
 53 encourage the purchase of stamps by any persons who are  
 54 interested in the improvement of trout and salmon streams and  
 55 lakes. \*

56 No change for subd 2 to 3

097\*#487S

57 97.487 PREDATOR CONTROL PROGRAM.

58 No change for subd 1 to 2

59 Subd. 3. INVESTIGATION OF PREDATION. If the  
 60 commissioner has reason to believe that a predator or predators  
 61 are causing damage to domestic or wild animals and if he the  
 62 commissioner determines that corrective action is necessary, he  
 63 the commissioner shall request the controllers to take predators  
 64 causing the damage by any method authorized for the taking of  
 65 unprotected wild animals. The commissioner shall specify the  
 66 county or other defined area in which the predator control  
 67 activities are to be conducted, the objectives to be achieved,  
 68 payments to be made, and he the commissioner shall approve the  
 69 methods to be used. All of the controllers shall cease their  
 70 activities when the objective is achieved or when so directed by  
 71 the commissioner. \*

72 No change for subd 4

73 Subd. 5. PREDATOR CONTROL PAYMENTS. Upon



1 satisfactory proof being made to the commissioner by a  
 2 controller, the commissioner shall pay ~~him~~ the controller the \*  
 3 amount prescribed by order for each predator taken. The  
 4 commissioner shall not pay in excess of \$60 nor less than \$25  
 5 for each wolf, brush wolf or coyote taken in the county or  
 6 defined area. The commissioner shall make payments for other  
 7 predators according to the provisions of this section as ~~he~~ the \*  
 8 commissioner may determine. The commissioner may require the \*  
 9 controller to submit a signed statement of information  
 10 concerning the predators taken, where ~~he~~ the commissioner deems \*  
 11 it necessary.

12 No change for subd 6

097\*#488S

13 97.488 PROTECTION OF THREATENED AND ENDANGERED SPECIES.

14 No change for subd 1 to 2

15 Subd. 3. STUDIES. The commissioner of natural  
 16 resources may conduct such investigations as ~~he~~ the commissioner \*  
 17 shall deem appropriate to determine the status and requirements  
 18 for survival of any resident species of wild animal or plant.

19 Subd. 4. MANAGEMENT. Notwithstanding any other  
 20 provision of law, whenever any resident species of wild animal  
 21 or plant has been designated as threatened or endangered  
 22 pursuant to this section, the commissioner of natural resources  
 23 may undertake management programs and in connection therewith  
 24 may issue orders, related to wild animals, and adopt rules as ~~he~~ \*  
 25 the commissioner deems necessary to bring the species to a point \*  
 26 at which it is no longer threatened or endangered. Subject to  
 27 the provisions of subdivision 6, management programs for  
 28 endangered or threatened species may include, but need not be  
 29 limited to, methods and procedures such as research, census, law  
 30 enforcement, habitat acquisition and maintenance, propagation,  
 31 live trapping, transplantation and regulated taking.

32 No change for subd 5 to 8

097\*#50S

33 97.50 POLICE POWERS.

34 Subdivision 1. POWERS. The commissioner, director,  
 35 game refuge patrolmen patrol officers, and conservation officers \*  
 36 are authorized to:

37 (1) execute and serve all warrants and processes issued by  
 38 any court having jurisdiction under any law relating to wild  
 39 animals, wild rice, use of water, conservation, protection or  
 40 control of public waters, state-owned dams or other works  
 41 affecting public waters or water pollution, in the same manner  
 42 as a constable or sheriff;

43 (2) arrest, without a warrant, any person detected in the  
 44 actual violation of any provisions of chapters 84, 84A, 85, 86A,  
 45 88 to 106, 361, and sections 18.341 to 18.436; 106A.005 to  
 46 106A.811; 609.66, subdivision 1, clauses (1), (2), (5), and (7);  
 47 and 609.68; and

48 (3) take the person before any court in the county in which  
 49 the offense was committed and make proper complaint.

50 When a person who is arrested for any violation of the  
 51 provisions of law listed in clause (2), which is punishable as a  
 52 misdemeanor, is not taken into custody and immediately taken  
 53 before a court, the arresting officer shall prepare, in  
 54 quadruplicate, written notice to appear before a court. The  
 55 notice shall be in the form and has the effect of a summons and  
 56 complaint. It shall contain the name and address of the person  
 57 arrested, the offense charged, and the time and the place ~~he is~~ \*  
 58 to appear before the court. This place must be before a court  
 59 which has jurisdiction within the county in which the offense is  
 60 alleged to have been committed.

61 In order to secure release, without being taken into  
 62 custody and immediately taken before the court, the arrested  
 63 person must give ~~his~~ a written promise to appear before the \*  
 64 court by signing, in quadruplicate, the written notice prepared  
 65 by the arresting officer. The officer shall retain the original  
 66 of the notice and deliver the copy marked "SUMMONS" to the  
 67 person arrested. The officer shall then release the person from  
 68 custody.

69 On or before the return day, the officer shall return the  
 70 notice or summons to the court before whom it is returnable. If  
 71 the person summoned fails to appear on the return day, the court  
 72 shall issue a warrant for ~~his~~ the person's arrest. Upon ~~his or~~ \*  
 73 her arrest, proceedings shall be had as in other cases. \*

74 Subd. 2. The commissioner, director, game refuge patrolmen \*



1 patrol officers, and conservation officers are hereby authorized \*  
 2 and empowered to enter upon any lands within the state for the  
 3 purpose of carrying out the duties and functions of the  
 4 division, or to make investigations of any violations of the  
 5 game and fish laws, and in aid thereof to take affidavits upon  
 6 oath administered by them, and to cause proceedings to be  
 7 instituted if proofs at hand warrant it.

8 Subd. 3. The commissioner, director, game refuge patrolmen \*  
 9 patrol officers, and conservation officers are hereby authorized \*  
 10 and empowered to enter and inspect any commercial cold storage  
 11 warehouse and any hotel, restaurant, ice house, locker plant,  
 12 butcher shop or other plant or building used for the storage of  
 13 dressed meats, game or fish, for the purpose of determining  
 14 whether wild animals are kept or stored therein in violation of  
 15 chapters 97 to 102; to examine and inspect the books and records  
 16 of all persons, firms or corporations which they have reason to  
 17 believe have violated the laws relating to wild animals and to  
 18 open, enter and examine all camps, vessels, boats, wagons,  
 19 automobiles, airplanes, or other vehicles, cars, stages, tents,  
 20 suitcases, valises, packages, crates, boxes and other  
 21 receptacles and places where they have reason to believe wild  
 22 animals unlawfully taken, or possessed, are to be found.

23 Subd. 4. The commissioner, director, game refuge patrolmen \*  
 24 patrol officers, and conservation officers are hereby authorized \*  
 25 and empowered to enter and inspect at all reasonable times the  
 26 premises whereon is being conducted any business or activity  
 27 requiring a license under provisions of chapters 97 to 102.

28 Subd. 5. The commissioner, director, game refuge patrolmen \*  
 29 patrol officers, and conservation officers are hereby authorized \*  
 30 and empowered to seize and confiscate in the name of the state,  
 31 any wild animals or wild rice or other aquatic vegetation taken,  
 32 bought, sold, transported or possessed in violation of chapters  
 33 84 and 97 to 102, and to seize, confiscate and dispose of all  
 34 guns, firearms, bows and arrows, nets, boats, lines, rods,  
 35 poles, fishing tackle, lights, lanterns, snares, traps, spears,  
 36 dark houses, or wild rice harvesting equipment used, by the  
 37 owner or any other with his the owner's knowledge, in unlawfully \*  
 38 taking or transporting such wild animals or wild rice or other \*  
 39 aquatic vegetation. Articles which have no lawful use may be  
 40 summarily destroyed. All other articles may be retained for use  
 41 of the division, or sold at the highest price obtainable, in the  
 42 manner prescribed by the commissioner.

43 Subd. 6. VIOLATION; PERMITS. The commissioner,  
 44 director, game refuge patrolmen patrol officers, and \*  
 45 conservation officers shall seize all motor vehicles, trailers,  
 46 and airplanes, used in violation of section 100.29, subdivisions  
 47 10 or 11, or section 97.45, subdivision 15, and all boats,  
 48 motors and motor boats used or possessed in violation of section  
 49 98.45 with respect to the licenses, operations, or species of  
 50 fish specified in section 98.46, subdivisions 10, 11, 12 and 13,  
 51 or in violation of sections 102.26, 102.27, or 102.28, or in  
 52 violation of any order or rule of the commissioner relating to  
 53 those sections, and hold them, subject to the order of the  
 54 district court of the county in which the offense was  
 55 committed. The property held shall be confiscated after  
 56 conviction of the person from whom it was seized, upon  
 57 compliance with the following procedure:

58 The commissioner, director, or his commissioner's agents, \*  
 59 shall file with the court a separate complaint against the \*  
 60 property, describing it and charging its use in the specified  
 61 violation, and specifying substantially the time and place of  
 62 the unlawful use. A copy of the complaint shall be served upon  
 63 the defendant or person in charge of the property at the time of  
 64 seizure, if any. If the person arrested is acquitted, the court  
 65 shall dismiss the complaint against the property and order it  
 66 returned to the persons legally entitled to it. Upon conviction  
 67 of the person arrested, the court shall issue an order directed  
 68 to any person known or believed to have any right or title or  
 69 interest in, or lien upon, any of the property, and to persons  
 70 unknown claiming any right, title, interest or lien, describing  
 71 the property and stating that it was seized and that a complaint  
 72 against it, charging the specified violation, has been filed  
 73 with the court, and requiring those persons to file with the  
 74 clerk of the court their answer to the complaint, setting forth  
 75 any claim they may have to any right or title to, interest in,  
 76 or lien upon the property, within ten days after the service of



1 the order, and notifying them in substance that if they fail to  
 2 file their answer within that time, the property will be ordered  
 3 sold by the commissioner or ~~his~~ commissioner's agents. The \*  
 4 court shall cause the order to be served upon any person known  
 5 or believed to have any right, title, interest or lien as in the  
 6 case of a summons in a civil action, and upon unknown persons by  
 7 publication, as provided for service of summons in a civil  
 8 action. If no answer is filed within the time prescribed, the  
 9 court shall, upon affidavit by the clerk of the court, setting  
 10 forth that fact, order the property sold by the commissioner  
 11 or ~~his~~ commissioner's agents. The proceeds of the sale, after \*  
 12 deducting the expense of keeping the property and fees and costs  
 13 of sale, shall be paid into the state treasury, to be credited  
 14 to the game and fish fund. If an answer is filed within the  
 15 time provided, the court shall fix a time for hearing, which  
 16 shall be not less than ten nor more than 30 days after the time  
 17 for filing answer expires. At the time fixed for hearing,  
 18 unless continued for cause, the matter shall be heard and  
 19 determined by the court, without a jury, as in other civil  
 20 cases. If the court finds that the property, or any part of it,  
 21 was used in any violation as specified in the complaint, ~~he~~ it \*  
 22 shall order the property unlawfully used, sold unless the owner  
 23 shows to the satisfaction of the court that ~~he~~ the owner had no \*  
 24 notice, knowledge, or reason to believe that the property was  
 25 used or intended to be used in the violation. The officer  
 26 making the sale, after deducting the expense of keeping the  
 27 property, the fee for seizure, and the costs of the sale, shall  
 28 pay all liens according to their priority, which are established  
 29 at the hearing as being bona fide and as existing without the  
 30 lienor having any notice or knowledge that the property was  
 31 being used or was intended to be used for or in connection with  
 32 the violation as specified in the order of the court. ~~He~~ The \*  
 33 officer shall pay the balance of the proceeds into the state \*  
 34 treasury, to be credited to the game and fish fund. Any sale  
 35 under the provisions of this section shall operate to free the  
 36 property sold from any liens on it. Appeal from the order of  
 37 the district court will lie as in other civil cases. At any  
 38 time after seizure of the articles specified in this  
 39 subdivision, and before the hearing provided for, the property  
 40 shall be returned to the owner or person having a legal right to  
 41 possession of it, upon execution by ~~him~~ that person of a good \*  
 42 and valid bond to the state of Minnesota, with corporate surety,  
 43 in the sum of not less than \$100 and not more than double the  
 44 value of the property seized, to be approved by the court in  
 45 which the case is triable, or a judge thereof, conditioned to  
 46 abide any order and the judgment of the court, and to pay the  
 47 full value of the property at the time of seizure.

48 Subd. 7. SEARCH WARRANT. Upon complaint made to any  
 49 judge, who has authority to issue warrants in criminal cases, by  
 50 any person that ~~he~~ the person knows or has good reason to \*  
 51 believe that any wild animal taken, bought, sold, transported or  
 52 possessed contrary to the provisions of chapters 97 to 102, or  
 53 any article declared contraband therein, is concealed or  
 54 illegally kept in any place, not otherwise authorized herein to  
 55 be entered, inspected and searched, the judge shall issue a  
 56 search warrant and cause a search to be made of the place. ~~He~~ \*  
 57 The judge may direct that the place be entered, broken open, and \*  
 58 examined. Property seized under the warrant shall be safely  
 59 kept under the direction of the court so long as necessary for  
 60 the purpose of being used as evidence on any trial, and  
 61 subsequently disposed of as otherwise provided.

62 No change for subd 8 to 9

097\*#501S

63 97.501 RECIPROCITY WITH OTHER STATES IN APPOINTING  
 64 OFFICERS.

65 No change for subd 1

66 Subd. 2. OFFICERS OF OTHER STATES OR THE UNITED STATES  
 67 AS SPECIAL CONSERVATION OFFICERS. Upon request or with the  
 68 approval of the proper authority of another state or of the  
 69 United States, respectively, to continue in effect as provided  
 70 by the laws thereof, the commissioner may appoint as a special  
 71 conservation officer of this state in the unclassified service  
 72 thereof any salaried and bonded officer of such other state or  
 73 of the United States who is authorized to enforce any provision  
 74 of the laws thereof relating to wild animals, to serve at the  
 75 pleasure of the commissioner and subject to ~~his~~ the \*



1 commissioner's supervision and control. Except as otherwise \*  
 2 expressly provided by law or directed by the commissioner, every  
 3 such special conservation officer shall have the same powers and  
 4 be subject to the same liabilities as regular conservation  
 5 officers of this state, but shall receive no compensation from  
 6 this state.

7 Subd. 3. OFFICERS OF THIS STATE AS OFFICERS OF OTHER  
 8 STATES OR THE UNITED STATES. Upon request or with the  
 9 approval of the commissioner and under such conditions as he the \*  
 10 commissioner may prescribe, to continue in effect at ~~his~~ the \*  
 11 commissioner's pleasure, any conservation officer or other \*  
 12 officer of this state who is authorized to enforce the laws  
 13 relating to wild animals may accept appointment and serve in a  
 14 like capacity under another state or under the United States as  
 15 may be provided by the laws thereof, respectively, so far as is  
 16 not incompatible with ~~his~~ duties as an officer of this state. \*

097\*#52S

17 97.52 ENFORCEMENT.

18 No change for subd 1

19 Subd. 2. No person shall wilfully hinder, resist, or  
 20 obstruct the commissioner, director, conservation officers,  
 21 agents or other employees of the division in the performance of  
 22 their official duties, or refuse to submit any wild animals,  
 23 firearms in the field or any motor vehicle, boat, aircraft or  
 24 other conveyance used therein, and licenses in ~~his~~ possession to \*  
 25 inspection.

26 No change for subd 3

097\*#55S

27 97.55 VIOLATIONS, PENALTIES.

28 No change for subd 1 to 5

29 Subd. 6. Every person who shall falsely impersonate a \*  
 30 conservation officer or a game refuge patrolman patrol officer  
 31 or other officer acting by or under authority of laws relating  
 32 to wild animals, or who shall falsely claim to have special  
 33 authority under those laws to perform any act affecting the  
 34 rights or interests of another, or who, without authority, shall  
 35 assume any uniform or badge by which such an officer or person  
 36 is lawfully distinguished, and in such assumed character shall  
 37 do an act purporting to be official whereby another is injured  
 38 or defrauded shall be guilty of a gross misdemeanor.

39 No change for subd 7 to 10

40 Subd. 11. Any person making a false statement in any  
 41 affidavit given in connection with a game law violation or in  
 42 any application for any license authorized to be issued under  
 43 chapters 97 to 102 shall be guilty of a misdemeanor. Any  
 44 license agent who knowingly antedates a game and fish license or  
 45 issues a game and fish license to a person whom he the agent \*  
 46 knows is not entitled to such license shall be guilty of a  
 47 misdemeanor.

48 Subd. 12. MS 1961 Renumbered 97.55, subd 13

49 No change for subd 12 to 17

097\*#56S

50 97.56 REMOVAL OF BEAVER FROM STATE OWNED LANDS.

51 In any county in the state where the board of county  
 52 commissioners shall by resolution so request ~~him-to-do-so~~, the \*  
 53 commissioner of natural resources may take necessary steps to  
 54 remove beaver, at state expense, from state owned lands located  
 55 in that county.

097\*#611S

56 97.611 EXHIBITION OF WILDLIFE; STANDARDS, PERMITS,  
 57 PENALTIES, INSPECTIONS, EXCEPTIONS.

58 No change for subd 1

59 Subd. 2. (a) No person in connection with any commercial  
 60 enterprise shall possess any wildlife in captivity for public  
 61 exhibition purposes, except as provided in clause (b).

62 (b) The commissioner of natural resources shall adopt, in  
 63 the manner provided in chapter 14, reasonable standards for the  
 64 care and treatment of captive wildlife for public display  
 65 purposes, including standards of sanitation. The commissioner,  
 66 upon application of any person qualified by education or  
 67 experience in the care and treatment of wildlife, may issue a  
 68 permit at a cost of \$10 to the person, under terms and  
 69 conditions as he the commissioner prescribes, to possess \*  
 70 wildlife for public exhibition purposes, in accordance with such  
 71 standards. Each application for a permit shall include the  
 72 following: (1) a statement regarding the applicant's education



1 or experience in the care and treatment of wildlife and the  
 2 education or experience of any individual employed by the  
 3 applicant for that purpose; (2) a description of the facilities  
 4 used to keep the wildlife in captivity; (3) a statement of the  
 5 number of species or subspecies of wildlife to be covered by the  
 6 permit and a statement describing where and from whom the  
 7 wildlife was acquired; (4) a signed agreement that the standards  
 8 prescribed by the commissioner will be adhered to; and (5) other  
 9 information as the commissioner deems appropriate.

10 No change for subd 3 to 5

097\*#81S

11 97.81 SAFE USE OF FIREARMS, INSTRUCTIONS IN USING.

12 No change for subd 1

13 Subd. 2. The commissioner or ~~his~~ an authorized agent shall \*  
 14 issue a certificate of satisfactory completion of the course of  
 15 instruction required by Laws 1957, Chapter 537, to any person  
 16 entitled thereto. The form and content of the certificate shall  
 17 be as prescribed by the commissioner.

097\*#82S

18 97.82 ADMINISTRATION, SUPERVISION AND ENFORCEMENT.

19 The conservation officer service of the department of  
 20 natural resources shall be the commissioner's authorized agent  
 21 to administer, supervise, and enforce sections 97.81 to 97.85.  
 22 The commissioner shall appoint a qualified person from the  
 23 conservation officer service according to civil service  
 24 regulations, as conservation officer supervisor of hunting  
 25 safety and shall prescribe ~~his~~ the supervisor's duties and \*  
 26 responsibilities. The commissioner shall provide the  
 27 conservation officer service with such assistants and clerical  
 28 help as the commissioner shall determine necessary. The  
 29 commissioner may appoint one or more county directors of hunting  
 30 safety in each county of the state. Such county director shall  
 31 be responsible to the conservation officer service, and shall  
 32 serve on a voluntary basis without compensation. The  
 33 conservation officer service may appoint such instructors as may  
 34 be necessary to carry out the purposes of Laws 1957, Chapter  
 35 537, who shall serve without compensation.

097\*#83S

36 97.83 USE OF FIREARMS IN TAKING WILD ANIMALS, WHEN  
 37 FORBIDDEN.

38 Subdivision 1. Except as hereinafter provided, it is  
 39 unlawful for any person under the age of 16, unless accompanied  
 40 by a parent or guardian, to have in ~~his~~ possession or under ~~his~~ \*  
 41 control any firearm or air gun of any kind for hunting or target  
 42 practice or any other purpose. Any person between the ages of  
 43 14 to 16, who has a certificate herein provided for is hereby  
 44 exempted. No certificate shall be issued to a person under 12  
 45 years of age. A person aged 11 may take the course for the  
 46 certificate and if successful may receive the certificate upon  
 47 becoming age 12. However, this section shall not apply to any  
 48 person using firearms on land owned or occupied as a usual place  
 49 of abode, by ~~himself~~ the person, parent or guardian. The \*  
 50 provisions of section 98.47, subdivision 10 and section 609.66  
 51 are not affected hereby, except that it is lawful for any person  
 52 participating in the foregoing course of instruction to carry a  
 53 properly encased and unloaded firearm to and from class and to  
 54 handle the same during such instruction. Also, such person  
 55 shall be allowed participation in organized target shooting  
 56 programs conducted under qualified adult supervision. For the  
 57 purposes of this subdivision the word "guardian" is defined as  
 58 legal guardian or any other person over the age of 18 who has  
 59 been selected by the parent or legal guardian to supervise the  
 60 person under the age of 16 while ~~he~~ the person under 16 has in \*  
 61 ~~his~~ possession or under ~~his~~ control any firearm or air gun of \*  
 62 any kind for hunting or target practice or any other purpose.

63 No change for subd 2

64 Subd. 3. The conservation officer in whose custody a  
 65 firearm seized under Laws 1957, Chapter 537 is deposited shall  
 66 hold the firearm until 90 days after the next commencing date of  
 67 a firearm training course in the county, and if, during such  
 68 time, the youth from whom the weapon was taken presents a  
 69 certificate of completion of the course of instruction provided  
 70 for in Laws 1957, Chapter 537, the firearm shall be returned to  
 71 ~~him~~ the youth. However, after the firearm has been held for \*  
 72 such time, if no valid demand has been made for the return  
 73 thereof, the firearm is contraband and forfeited to the state



1 and shall be disposed of as the commissioner may prescribe.

097\*#86S

2 97.86 IMPROVEMENT OF FISHING RESOURCES.

3 Subdivision 1. LICENSE SURCHARGE. A surcharge of  
4 \$2.50 shall be added to the annual license fee for each license  
5 issued pursuant to section 98.46, subdivision 2, clauses (4) and  
6 (5), subdivision 2a, subdivision 5, clause (3), and subdivision  
7 15. The proceeds of the surcharge shall be credited to the game  
8 and fish fund.

9 The commissioner may spend the proceeds of the surcharge  
10 for the following purposes:

11 (a) Rehabilitation and improvement of marginal fish  
12 producing waters administered on a cost sharing basis under  
13 agreements between the commissioner and other parties interested  
14 in sport fishing.

15 (b) Expansion of fishing programs including, but not  
16 limited to, aeration, stocking of marginal fishing waters in  
17 urban areas, shore fishing areas, and fishing piers. In the  
18 expenditure of funds pursuant to this clause, preference shall  
19 be given to local units of government and other parties willing  
20 and able to share costs.

21 (c) Upgrading of fish propagation capabilities in order to  
22 improve the efficiency of fish production, expansion of walleyed  
23 pike production from waters subject to winter kill for stocking  
24 in more suitable waters, introduction of new species where  
25 deemed biologically appropriate by the commissioner, and  
26 purchase of fish from private hatcheries for stocking purposes.

27 (d) Financing the preservation and improvement of fish  
28 habitat. First priority shall be given to expansion of habitat  
29 improvement programs approved by the commissioner and  
30 implemented in cooperation with other interested parties.

31 (e) Increasing enforcement through use of covert  
32 operations, workteams, and added surveillance, communication,  
33 and navigational equipment.

34 (f) Purchase by the commissioner of the walleyed pike quota  
35 of commercial ~~fishermen~~ fishers as prescribed in section 102.26,  
36 subdivision 3d. \*

37 (g) Not more than ten percent of the money available under  
38 this subdivision may be used for administrative or permanent  
39 personnel costs.

40 No change for subd 2

098\*#45S

41 98.45 REQUIREMENT.

42 Subdivision 1. Except as specifically permitted in  
43 chapters 97 to 102, no person may take, buy, sell, transport, or  
44 possess any protected wild animals of this state or any aquatic  
45 plants without first procuring a license therefor as provided in  
46 section 98.46 or in section 98.48. Every license is issued for  
47 a year beginning on the first day of March and is void after the  
48 last day of the open season or the lawful time within that year  
49 during which the acts authorized may be performed. Except as  
50 provided in this section, no license to take deer with firearm  
51 or with bow and arrow may be issued after the day prior to the  
52 first day of the regular rifle season, and all license agents  
53 shall return all stubs and unsold license blanks to the county  
54 auditor on the first business day following the first day of  
55 such season. A license to take deer with bow and arrow issued  
56 after the opening of the bow and arrow deer season shall not be  
57 valid until the fifth day after it is issued. A resident who is  
58 discharged from the military or naval forces of the United  
59 States, or any active reserve or component thereof, during the  
60 regular season for taking deer by firearm or within ten days  
61 before its commencement, may be issued, at any time during the  
62 firearm deer season and upon a showing of ~~his~~ an official  
63 discharge paper, a license to take deer with firearm. Only one  
64 license of each kind, except as authorized by order of the  
65 commissioner adopted pursuant to section 97.53 and except the  
66 non-resident short term angling license, may be issued to a  
67 person in any licensing year. No license may be transferred  
68 except as expressly authorized.

69 Subd. 2. Every person to whom a license is issued shall  
70 have it upon ~~his~~ the person while doing any act for which the  
71 license is required and while traveling to and from the grounds  
72 upon which such acts are performed, and upon the request of any  
73 conservation officer or peace officer shall exhibit the license  
74 ~~issued-to-him~~. No receipt for license fees, copy of any \*



1 license, or any evidence purporting to show the issuance of a  
 2 license is valid evidence so as to entitle the holder to  
 3 exercise the rights or privileges conferred by a license. Every  
 4 person who may take fish without a license by reason of ~~his~~-age \*  
 5 being 65 years of age or over shall have on ~~his~~ the person while \*  
 6 taking fish and while traveling to and from the location where  
 7 fish are taken a valid driver's license, nonqualification  
 8 certificate, or other document showing proof of ~~his~~ age and \*  
 9 residency, and upon the request of any conservation officer or  
 10 peace officer shall exhibit the proof of age ~~to-him~~. \*

11 Subd. 3. No person may lend or transfer to another or  
 12 borrow or solicit from another any license, coupon, tag, or seal  
 13 attached thereto or issued therewith, or use any license,  
 14 coupon, tag, or seal not issued to ~~him~~ that person unless \*  
 15 otherwise expressly authorized.

16 No change for subd 4 to 6

17 Subd. 7. A non-resident who is a bona fide full-time  
 18 student at a public or private educational institution in this  
 19 state who resides in the state of Minnesota during the full term  
 20 of the school year may take fish, or small game, and obtain  
 21 licenses therefor as a resident upon such proof of ~~his~~ status as \*  
 22 a student as the commissioner may prescribe.

23 No change for subd 8 to 9

098\*#46S

24 98.46 FEES.

25 No change for subd 1 to 2

26 Subd. 2a. The commissioner of natural resources shall  
 27 issue Minnesota sportsman sporting licenses by March 1, 1978. \*  
 28 The licenses shall be issued to residents only. The fee for  
 29 licenses shall be \$12 if the angling license is for one person  
 30 and \$16 if the angling license is a combination husband and wife  
 31 license. These fees do not include the surcharge authorized  
 32 pursuant to section 97.482 nor the state waterfowl stamp  
 33 required by section 97.4841.

34 The license shall authorize the licensee to:

- 35 (1) take small game;
- 36 (2) take fish by angling.

37 No change for subd 2b to 4

38 Subd. 5. Fees for the following licenses, to be issued to  
 39 residents only, shall be:

- 40 (1) to spear fish from a dark house, \$7.50;
- 41 (2) for any fish house or dark house used during the winter  
 42 fishing season, \$5 for each fish house or dark house not rented  
 43 or offered for hire, and \$15 for each fish house or dark house  
 44 rented or offered for hire. Each fish house or dark house shall  
 45 have attached to the outside a metal tag at least two inches in  
 46 diameter with a 3/16 inch hole in the center, which will be  
 47 issued with a license. Each metal tag shall be stamped with a  
 48 number to correspond with the fish house or dark house license  
 49 and also shall be stamped with the year of issuance. The metal  
 50 tag shall be attached to the fish house or dark house as  
 51 designated by commissioner's order;
- 52 (3) to net whitefish, tullibees or herring from inland  
 53 lakes or international waters, for domestic use only, for each  
 54 net, \$3;
- 55 (4) to conduct a taxidermist business, for three  
 56 consecutive years for residents 18 years of age and older, \$40;  
 57 for residents under the age of 18, \$25;
- 58 (5) to maintain fur and game farms, including deer, \$15;
- 59 (6) to take, transport, purchase and possess for sale  
 60 unprocessed turtles and tortoises within the state, \$50;
- 61 (7) to prepare dressed game fish for transportation or  
 62 shipment as provided by section 97.45, subdivision 6, \$13;
- 63 (8) minnow dealer, \$70 plus \$10 for each vehicle;
- 64 (9) minnow dealer's helper, \$5 for each helper. Minnow  
 65 dealer's helpers' licenses shall be issued to the minnow dealer  
 66 and are transferable by the dealer at will to ~~his-own~~ helpers; \*
- 67 (10) exporting minnow dealer, \$250, plus \$10 for each  
 68 vehicle.

69 Each vehicle license shall cover a specified vehicle. The  
 70 serial number, license number, make, and model shall be  
 71 specified on the license which must be conspicuously posted in  
 72 the vehicle licensed.

73 No change for subd 5a to 9

74 Subd. 9a. Licenses to net commercial fish in inland waters  
 75 shall be issued annually and shall be valid for commercial



1 fishing during the period from the day after Labor Day to the  
 2 day preceding the opening of the season for the taking of  
 3 walleye. License fees shall be \$70, plus:  
 4 (a) 75 cents for each hoop net pocket;  
 5 (b) \$15 for each 1,000 feet of seine. Provided that in the  
 6 license application to the commissioner, each applicant shall  
 7 list the number of feet of seine of each depth for which ~~he~~ the  
 8 applicant wishes to be licensed; and

9 (c) \$5 for each helper's license.

10 No change for subd 10 to 18

11 Subd. 19. Fees for the following licenses, to be issued to  
 12 either residents or nonresidents, shall be:

13 (1) to buy fish from licensed commercial ~~fishermen~~ fishers  
 14 on Lake Superior:

15 (a) for the purpose of selling to retailers, \$50;

16 (b) for the purpose of retail selling only, \$10.

17 (2) to buy fish from licensed commercial ~~fishermen~~ fishers  
 18 on Lake of the Woods, Namakan, Sand Point, or Rainy Lake:

19 (a) wholesale fish buyer's license, \$100;

20 (b) fish buyer's license to ship from one place to another  
 21 on international waters only, \$10.

22 (3) to tan or dress raw furs, \$15;

23 (4) fish peddler's license, to peddle with the use of a  
 24 motor vehicle, any fish lawfully salable within the state, \$25.

25 It shall be unlawful to misrepresent the species of any fish  
 26 sold by any licensed fish peddler or peddler's employee. Upon  
 27 conviction of misrepresentation of the species of fish sold by  
 28 any fish peddler licensed hereunder or employee, the license  
 29 shall be revoked, and the licensee shall not be eligible to  
 30 obtain a fish peddler's license for the period of one year after  
 31 revocation. Misrepresentation shall include the following acts  
 32 in addition to any other acts constituting misrepresentation in  
 33 fact: (1) the designation of any fish by any name other than  
 34 its common name in Minnesota; (2) the designation of any fish by  
 35 any other name than its common name in the locality where it was  
 36 taken if it is not generally known by any common name in  
 37 Minnesota.

38 Subd. 20. Repealed, 1982 c 543 s 21

39 No change for subd 21 to 26

098\*#47S

40 98.47 EXEMPTIONS.

41 Subdivision 1. Residents who have attained the age of 65  
 42 years may take fish by angling or spearing without a license.  
 43 Residents under the age of 16 years may take fish without  
 44 procuring a license. Residents under the age of 13 years may  
 45 take small game without a license. Residents under the age of  
 46 16 years and over 12 may take small game provided they have in  
 47 their possession while hunting a valid firearm safety  
 48 certificate. Residents under 14 must be accompanied by a parent  
 49 or guardian while hunting. No hunting license shall be issued  
 50 to any resident under the age of 16, except that such residents  
 51 who possess a valid certificate may purchase a big game hunting  
 52 license. Nonresidents under the age of 16 years may take fish  
 53 by angling without procuring a license, if their parent or legal  
 54 guardian has obtained a nonresident fishing license. Fish so  
 55 taken shall be included in the daily and possession limit of the  
 56 parent or legal guardian. Any nonresident under the age of 16  
 57 years who is attending a camp adjacent to any public waters of  
 58 the state conducted by a social, charitable, or welfare  
 59 organization or institution, not for profit, may take fish by  
 60 angling in such waters or other adjacent waters without  
 61 procuring a license, provided the organization or institution  
 62 conducting the camp shall have a certificate from the  
 63 commissioner that the camp is qualified hereunder, describing  
 64 the waters affected as determined by the commissioner, and each  
 65 such nonresident shall carry ~~with-him~~ at all times while taking  
 66 or attempting to take fish by angling in such waters a  
 67 certificate identifying ~~him~~ the nonresident and describing the  
 68 waters, in such form as the commissioner shall prescribe, signed  
 69 and dated by the officer or agent of the organization or  
 70 institution in charge of the camp within the current calendar  
 71 year.

72 Subd. 2. Any resident in the military or naval forces of  
 73 the United States, or in any reserve or component thereof,  
 74 either now or hereafter organized, who is stationed outside of  
 75 the state and is within the state upon regularly granted leave



1 or furlough, may hunt and fish at such times without having  
 2 procured the regular license so to do, provided ~~he-or-she~~  
 3 carries official leave or furlough papers are carried on his the  
 4 ~~person his-official-leave-or-furlough-papers~~ in lieu of the  
 5 license required of other residents, and provided further such  
 6 hunting and fishing be in conformity with all other provisions  
 7 of chapters 97 to 102, ~~and-he-obtains~~ including obtaining the  
 8 seals, tags, or coupons required of other licensees, to be  
 9 furnished without charge. This subdivision does not apply to  
 10 the taking of moose.

11 No change for subd 3 to 8

12 Subd. 9. Helpers' licenses shall be issued under section  
 13 98.46, subdivision 7, clause (6), subdivision 8, clause (3),  
 14 subdivision 10, clause (6), subdivision 11, clause (3),  
 15 subdiviision 12, clause (4), and subdivision 13, clause (3), to  
 16 the holder of a master's license, and shall be transferable upon  
 17 ~~his~~ application. Every person assisting the holder of a  
 18 master's license, in going to and from fishing locations, or in  
 19 setting or lifting nets, or removing fish from nets, shall have  
 20 a helper's license, unless ~~he-be~~ also the holder of a master's  
 21 license.

22 Subd. 10. The resident owner or lessee of any lands  
 23 occupied ~~by-himself in person~~ as a permanent abode, and any  
 24 member of such person's immediate family residing with ~~him the~~  
 25 owner or lessee, may take small game with legal firearms or bow  
 26 and arrow and may trap protected fur bearing animals upon such  
 27 lands without procuring a small game license, at any time not  
 28 otherwise prohibited by law.

29 No change for subd 11 to 15

30 Subd. 16. A permanent license to take fish shall be issued  
 31 without charge to any Minnesota veteran as defined in section  
 32 197.447, who has a 100 percent service connected disability as  
 33 defined by the United States veterans administration, and  
 34 furnishes satisfactory evidence of ~~his the~~ disability to the  
 35 county auditor or a subagent of the county auditor, acting under  
 36 the provisions of section 98.50.

37 No change for subd 17

38 Subd. 18. A license to take deer shall be issued without  
 39 charge to any resident of Minnesota who is a veteran as defined  
 40 in section 197.447, with a 100 percent service connected  
 41 disability as defined by the United States veterans  
 42 administration, and who furnishes satisfactory evidence of ~~his~~  
 43 the disability to the county auditor or a subagent of the county  
 44 auditor, acting under the provisions of section 98.50. This  
 45 license must be issued in accordance with any rules the  
 46 commissioner may prescribe.

098\*#48S

47 98.48 SPECIAL PERMITS.

48 No change for subd 1

49 Subd. 2. The commissioner may issue special permits,  
 50 without fee, to hold field dog trials by any responsible  
 51 association organized for that purpose, and for training  
 52 retrieving dogs by the use of firearms and live ammunition on  
 53 domestic birds, or banded game birds which have been legally  
 54 purchased from licensed game farms, under such restrictions as  
 55 he the commissioner may prescribe.

56 Subd. 3. The commissioner may issue special permits,  
 57 without fee, to take, possess and transport wild animals in such  
 58 manner and under such conditions as he the commissioner may  
 59 prescribe for scientific, educational or exhibition purposes, or  
 60 for use as pets, provided no wild or native deer may be taken or  
 61 possessed for propagation or exhibition, except those now  
 62 lawfully possessed for such purposes. The commissioner shall  
 63 establish criteria for issuing special permits to persons for  
 64 the purpose of possessing wild and native deer as pets, pursuant  
 65 to ~~his-authority-under~~ section 97.53, subdivision 2. All  
 66 animals possessed under authority of this provision, as well as  
 67 deer now contained on game farms, private and public parks and  
 68 zoos, and their progeny, or possessed as pets, may be disposed  
 69 of only as prescribed by the commissioner.

70 Subd. 4. The commissioner may issue special permits, with  
 71 or without a fee, to take any wild animals from game refuges,  
 72 wildlife management areas or state parks in accordance with  
 73 rules and regulations prescribed by him the commissioner.

74 Subd. 5. The commissioner may issue special permits, with  
 75 or without a fee, to take any protected wild animals which are



1 doing damage to private or public property, in accordance with  
2 rules and regulations prescribed by ~~him~~ the commissioner. \*

3 Any special permit issued by the commissioner to take  
4 beaver which are doing damage to private or public property  
5 shall state the number of beaver which may be so taken under the  
6 permit.

7 Subd. 6. The commissioner may issue special permits, with  
8 or without a fee, to take muskrats from shallow marshes or  
9 sloughs when in danger of freezing out or starving in the  
10 winter, in accordance with rules and regulations prescribed by  
11 ~~him~~. \*

12 No change for subd 7 to 8

13 Subd. 9. (a) The commissioner may issue special permits,  
14 with fee, to gather or harvest any aquatic plants, or plant  
15 parts, other than wild rice from public waters of the state, to  
16 transplant any aquatic plants into other public waters, or to  
17 destroy any harmful or undesirable aquatic vegetation or  
18 organisms in public waters by such means and under such  
19 conditions as ~~he~~ the commissioner may prescribe for protection  
20 of such waters and desirable species of fish, vegetation, and  
21 other forms of aquatic life therein and for the protection of  
22 the public. \*

23 (b) Each application for a permit shall be accompanied by a  
24 permit fee when required by a fee schedule established by the  
25 commissioner pursuant to rules and regulations adopted after  
26 public hearing and published in the manner provided by section  
27 97.53. The schedule may provide exemptions from fees, maximum  
28 fees not to exceed \$100 per permit based upon the cost of  
29 receiving, processing, analyzing and issuing the permit and  
30 additional costs which may be imposed subsequent to the  
31 application for inspecting and monitoring the activities  
32 authorized by the permit. No fee may be imposed on any state or  
33 federal governmental agency applying for a permit. All money  
34 received pursuant to this subdivision shall be deposited in the  
35 game and fish fund.

36 (c) The commissioner shall promulgate, by January 1, 1975,  
37 after public hearing and shall publish in the manner provided by  
38 section 97.53, rules and regulations containing standards and  
39 criteria governing the issuance and denial of permits for  
40 activities affecting aquatic plants including, but not limited  
41 to, provisions to insure that aquatic plant control is  
42 consistent with shoreland conservation ordinances, lake  
43 management plans and programs, wild and scenic river plans,  
44 penalties for failure to comply with permit regulations and  
45 enforcement procedures.

46 No change for subd 10

47 Subd. 11. The commissioner may issue special permits,  
48 without fee, to authorize the director of the United States Fish  
49 and Wildlife Service and ~~his~~ duly authorized agents of the  
50 service or any other authorized officer or agent of the United  
51 States to conduct fish cultural operations, rescue work, and all  
52 fishing and other operations necessary therefor, any other laws  
53 of the state to the contrary notwithstanding. \*

54 Subd. 12. MS 1957 Renumbered, subd 14

55 No change for subd 12 to 16

098\*#50S

56 98.50 ISSUANCE.

57 Subdivision 1. County auditors are hereby appointed agents  
58 of the commissioner for the sale of licenses to take big and  
59 small game and fish, and to trap fur-bearing animals, and to  
60 harvest wild rice, to residents of the state, and to take big  
61 and small game and fish, to nonresidents of the state. Each  
62 county auditor may appoint subagents within ~~his~~ the county or  
63 within adjacent counties to sell such licenses, and upon such  
64 appointment the auditor shall notify the commissioner forthwith  
65 of the name and address of the subagent. Such appointments may  
66 be revoked by the auditor at any time, and ~~he~~ the auditor shall  
67 revoke any agency upon demand of the commissioner. The auditor  
68 shall furnish license blanks on consignment to any subagent who  
69 furnishes a surety bond in favor of the county in an amount at  
70 least equal to the value of the license blanks to be consigned  
71 to that subagent. The county auditor shall be responsible for  
72 all license blanks issued to, and license fees received by, ~~his~~  
73 the agents, except in a county to which Laws 1951, Chapter 381,  
74 applies, or in a county wherein the county auditor does not  
75 retain fees paid for such license purposes. In such county the \*



1 responsibility imposed above upon the county auditor is imposed  
2 upon the county.

3 Subd. 2. The commissioner may require county auditors to  
4 furnish such additional corporate surety bonds as in ~~his~~ the \*  
5 commissioner's opinion may be required to secure the state, in \*  
6 addition to the auditor's official bond. The commissioner shall  
7 prescribe rules and regulations setting up such accounting and  
8 procedural requirements as ~~he~~ the commissioner may deem \*  
9 necessary to assure the efficient handling of licenses and  
10 license fees, and all county auditors and other agents shall  
11 strictly comply therewith. The commissioner may by order  
12 adopted pursuant to section 97.53 establish such standards and  
13 other requirements for the establishment and revocation of  
14 subagencies as ~~he~~ the commissioner may deem necessary to assure \*  
15 the efficient distribution of licenses throughout the state, and  
16 all county auditors shall strictly comply therewith.

17 Subd. 3. Repealed, 1976 c 143 s 7

18 Subd. 4. Repealed, 1961 c 561 s 17

19 Subd. 5. Any resident desiring to sell the licenses  
20 referred to in subdivision 1 may either purchase for cash or  
21 obtain on consignment license blanks from a county auditor in  
22 groups of not less than five nonresident, and ten resident  
23 license blanks. In addition to the basic license fee, ~~he~~ the \*  
24 resident shall collect a fee for issuing each license in the \*  
25 amount of \$1 for the license to take deer and for the sportsman \*  
26 sporting license authorized in section 98.46, subdivision 2a, \*  
27 and 75 cents for all other licenses. The state migratory  
28 waterfowl stamp required by section 97.4841, the trout stamp  
29 required by section 97.4842, the pheasant stamp required by  
30 section 97.4843, and any other similar state stamp required by  
31 statute, each shall be considered to be a "license" within the  
32 meaning of this subdivision except that only one issuing fee  
33 shall be collected when any stamps are issued in the same  
34 transaction with the appropriate small game, fishing,  
35 or sportsman's sporting license, or when a collector purchases \*  
36 more than one stamp in the same transaction after the end of the  
37 season for which the stamp was issued. In selling such  
38 licenses, ~~he~~ the resident shall be deemed an agent of the county \*  
39 auditor and the commissioner, and ~~he~~ shall observe all rules and \*  
40 regulations promulgated by the commissioner for the accounting  
41 for and handling of such licenses.

42 The county auditor shall promptly deposit all moneys  
43 received from the sale of licenses with the county treasurer,  
44 and shall promptly transmit such reports as may be required by  
45 the commissioner, together with ~~his~~ a warrant on the county \*  
46 treasurer for 100 percent of the surcharge imposed by section  
47 97.482 plus 96 percent of the price to the licensee, exclusively  
48 of said surcharge and the issuing fee, for each license sold or  
49 consigned by ~~him~~ the auditor and subsequently sold to a licensee \*  
50 during the accounting period. The county auditor shall retain  
51 as ~~his~~ a commission four percent of all license fees, excluding \*  
52 issuing fees for licenses consigned to subagents. In addition,  
53 for licenses sold for cash directly to the licensee, the auditor  
54 shall collect the same issuing fee as a subagent. Unsold  
55 license blanks in the hands of any agent shall be redeemed by  
56 the commissioner if presented for redemption within the time  
57 prescribed by the commissioner therefor. Any license blanks not  
58 presented for redemption within the period prescribed shall be  
59 conclusively presumed to have been sold, and the agent  
60 possessing the same or to whom they are charged shall be  
61 accountable therefor. The commissioner shall collect the same  
62 issuing fee as a subagent for licenses sold directly through a  
63 license distribution center operated by the department of  
64 natural resources. The issuing fees so collected by the  
65 commissioner shall be credited to the game and fish fund.

66 No change for subd 6

67 Subd. 7. In addition to other penalties, any agent to sell  
68 licenses, who violates any provision of law or regulation of the  
69 commissioner relating to the sale, handling or accounting for  
70 such licenses, shall forfeit ~~his~~ the agency or ~~his~~ the right to \*  
71 sell or handle licenses for a period of one year.

72 Subd. 8. Repealed, 1967 c 50 s 2

73 No change for subd 9 to 10

098\*#501S

74 98.501 AGENTS FEE.

75 The basic license fee for each license referred to in



1 section 98.50, subdivision 1, shall be increased by the amount  
 2 of the seller's fee permitted by section 98.50, subdivision 5,  
 3 for that particular license. The seller shall collect ~~his~~ a  
 4 seller's fee by retaining the permitted fee from the purchase  
 5 price of a license. Each license shall contain an explanation  
 6 of the amount of the license fee which is retained by the seller  
 7 of the license as ~~his~~ the seller's fee.

098\*#51S

8 98.51 REPORTS AND RECORDS.

9 Subdivision 1. When requested to do so by the  
 10 commissioner, any person who has taken any protected quadruped  
 11 or bird shall on or before the last day of January each year,  
 12 mail or deliver to the commissioner a written report on a form  
 13 furnished ~~him~~ the person, stating the number and kind of each  
 14 protected quadruped or bird taken during the preceding calendar  
 15 year.

16 Subd. 2. Every person who is required by chapters 97 to  
 17 102 to obtain a license for buying or selling any wild animals  
 18 or other things or substances, or for tanning or dressing raw  
 19 furs, or mounting specimens of wild animals, shall keep a  
 20 correct and complete book record in the English language of all  
 21 transactions and activities covered by the license as carried on  
 22 by the licensee. Such records shall show from whom obtained and  
 23 to whom disposed of, giving the post-office addresses, together  
 24 with the date of receipt, shipping or sale of such animals, a  
 25 detailed account as to the number and kinds thereof contained in  
 26 each shipment, purchase, or sale, and the serial number of each  
 27 seal, tag, or permit, where such seal, tag, or permit is  
 28 required to be affixed to the wild animals handled, and the  
 29 trapping license number if the wild animal handled is a  
 30 protected animal, but if the trapper is exempt from the license  
 31 requirement, such fact shall be noted. Provided a licensed fur  
 32 dealer, buying for one employer only, at ~~his~~ the employer's  
 33 established place of business, need not keep a separate book  
 34 record if the employer shall first notify the commissioner in  
 35 writing of the fact of such employment and ~~his~~ the employer's  
 36 agreement to identify in ~~his~~ the employer's own records each  
 37 transaction of the employee so excepted. All records required  
 38 hereby shall be open for inspection by the commissioner,  
 39 director, or their agents at all reasonable hours. They shall  
 40 be kept intact for a period of two years after the expiration of  
 41 any license issued.

42 No change for subd 3

098\*#52S

43 98.52 LOSS AND REVOCATION OF LICENSES.

44 No change for subd 1 to 2

45 Subd. 3. ~~Where-in-his-opinion,~~ the commissioner believes  
 46 that the public welfare will not be injured, the commissioner  
 47 may reinstate the following types of licenses which have become  
 48 null and void by operation of subdivision 1:

49 (1) To maintain and operate fur and game farms or private  
 50 fish hatcheries;

51 (2) To take fish commercially in Lake of the Woods, Rainy  
 52 Lake, Namakan Lake, or Lake Superior;

53 (3) To buy fish from licensed commercial fishermen fishers  
 54 in Lake of the Woods, Rainy Lake, Namakan Lake, or Lake Superior;

55 (4) To sell live minnows.

56 No change for subd 4 to 6

099\*#25S

57 99.25 GAME REFUGES; ESTABLISHMENT, VACATION.

58 No change for subd 1 to 2

59 Subd. 3. All lands, or any part thereof, described in a  
 60 petition which is subscribed by either the owner, the lessee, or  
 61 the person in possession of each tract in the area, may be  
 62 designated as a state game refuge by order of the commissioner,  
 63 provided the certificate of the auditor of the county where the  
 64 lands are situated stating that the persons named in the  
 65 petition are all of the owners, lessees or persons in possession  
 66 of the land described, according to the records of the county,  
 67 and ~~his~~ information available to the auditor, shall accompany  
 68 said petition.

69 Subd. 4. All lands, or any part thereof, described in a  
 70 petition, subscribed by 50 or more residents of the county or  
 71 counties wherein the lands are situated, may be declared a state  
 72 game refuge by order of the commissioner, after ~~he-has-held~~  
 73 a public hearing upon the petition and ~~has-found~~ a finding that by



1 reason of the depletion of protected wild animals the same are  
 2 in danger of extermination or that the public interest will be  
 3 best served by the establishment of the refuge. Such public  
 4 hearing shall be held at a time and place designated in notices  
 5 posted in five of the most conspicuous places within the  
 6 proposed game refuge at least 15 days in advance of the hearing,  
 7 and published at least once in a legal newspaper in each county  
 8 in which the lands are situated at least seven days in advance  
 9 of the hearing.

10 No change for subd 5 to 6a

11 Subd. 7. No state game refuge shall become effective as  
 12 such until the boundaries thereof have been posted with notices  
 13 consisting of black letters upon a white background at least 12  
 14 inches in diameter, except state park posted notices which shall  
 15 be black letters upon a yellow background, and except for a  
 16 timber wolf sanctuary, comprising an area of not less than 2,000  
 17 square miles, established pursuant to section 97.488 which may  
 18 be designated and posted in the manner prescribed by order of  
 19 the commissioner and in a manner other than required by this  
 20 subdivision. Such signs shall proclaim the area as a state  
 21 park, or state game refuge, as the case may be, and shall be  
 22 posted at intervals of not more than 30 rods around the  
 23 boundaries, as well as at all public road entrances to such  
 24 areas, except where the boundary of a state game refuge is an  
 25 international boundary in public waters, or a state boundary  
 26 line in public waters. In any case where the boundary of a  
 27 state game refuge extends for more than 30 rods continuously  
 28 through any stream or body of water, in lieu of placing any such  
 29 signs in such waters, it shall be sufficient to place such  
 30 signs, with the following words appended, "Adjacent Waters  
 31 Included," on the shore of said waters not more than one rod  
 32 above the high water mark thereof at the intersection of said  
 33 boundary therewith, and at intervals of not more than 30 rods  
 34 along the intervening shore. The certificate of the  
 35 commissioner, the director, or a conservation officer, refuge  
 36 supervisor or ~~patrolman~~ patrol officer, or other authorized \*  
 37 officer or employee stating the completion of such posting, or a  
 38 certified copy of such certificate filed with the commissioner  
 39 or director shall be prima facie evidence of such posting.

40 Subd. 8. Any state game refuge may be vacated, or modified  
 41 as to boundary, by order of the commissioner, upon observance of  
 42 the same formalities as are required for its establishment;  
 43 provided, that any refuge established under subdivision 2 or 3  
 44 may be vacated or modified by discretionary order of the \*  
 45 commissioner ~~7-in-his-discretion~~. \*

099\*#26S

46 99.26 GAME REFUGES; PROTECTION.

47 No change for subd 1

48 Subd. 2. Whenever the commissioner shall find that any  
 49 species of protected wild animal on any refuge, including state  
 50 parks, has attained an abundance in excess of the capacity of  
 51 such refuge to support it, or causing substantial damage to  
 52 agricultural or forest crops in the vicinity, or is threatening  
 53 the well-being and continued production of that species or of  
 54 other protected wild animals, or when ~~he~~ the commissioner has \*  
 55 determined that there is a harvestable surplus of wild  
 56 animals, ~~he~~ the commissioner may include such refuge or any part \*  
 57 thereof in the open territory prescribed for the taking of such  
 58 species, during the succeeding regular open season, and may  
 59 prescribe any reasonable regulations for the hunting or trapping  
 60 thereof.

61 No change for subd 3

62 Subd. 4. Whenever a petition, signed by ten residents,  
 63 asserting that they are licensed Minnesota hunters and that any  
 64 duly established game refuge or any portion thereof is primarily  
 65 a migratory waterfowl refuge, shall be presented to the  
 66 commissioner, the commissioner, upon finding the correctness of  
 67 the facts so asserted, shall, by order, designate such game  
 68 refuge or any portion thereof as a migratory waterfowl refuge,  
 69 and such refuge or portion thereof shall thereupon be duly  
 70 posted as a migratory waterfowl refuge. When so posted, it  
 71 shall be unlawful for any person to enter upon any such  
 72 migratory waterfowl refuge during the open season for the taking  
 73 of migratory waterfowl, unless accompanied by a state  
 74 conservation officer or refuge ~~patrolman~~ patrol officer. \*

75 Subd. 5. Whenever a petition shall be presented to the \*



1 commissioner signed by at least ten residents, asserting that \*  
 2 they are licensed Minnesota hunters and that any described water  
 3 area in the public waters of this state constitutes a  
 4 substantial feeding and resting ground for migratory  
 5 waterfowl, ~~shall be presented to~~ the commissioner, ~~he~~ upon \*  
 6 finding the correctness of the facts so asserted, and that  
 7 suitable and adequate free access for the public to such lake  
 8 exists near the hunting areas thereon, may by order designate  
 9 not to exceed 13 lakes, including Lake Christina in Grant and  
 10 Douglas counties, Lake Heron in Jackson county, Hole-in-the Day  
 11 Lake in Crow Wing county, Muskrat (Crane) Lake in Beltrami  
 12 county, Marsh Lake in Big Stone, Swift, and Lac qui Parle  
 13 counties, Lake Johanna in Pope county, and Squaw Lake in Itasca  
 14 county, or any portions thereof, as a migratory waterfowl  
 15 feeding and resting area, and such area shall thereupon be duly  
 16 posted as a migratory waterfowl feeding and resting area. When  
 17 so posted it shall be unlawful for any person to enter upon such  
 18 migratory waterfowl feeding and resting area during the open  
 19 migratory waterfowl season with any kind of motor propelled  
 20 boat, raft, watercraft or aircraft. In addition, when so  
 21 posted, it shall be unlawful to hunt migratory waterfowl on  
 22 Muskrat (Crane) Lake in Beltrami county.

099\*#27S

23 99.27 GAME AND FUR FARMS.  
 24 Subdivision 1. Breeding and propagating fur-bearing  
 25 animals, game birds, bear or deer, shall be authorized under  
 26 license only upon privately owned or leased lands and waters.  
 27 "Private waters," as used herein, includes all bodies of waters  
 28 or streams, whether meandered or not, of a shallow, swampy,  
 29 marshy, or boggy nature, not navigable in fact, and of no  
 30 substantial beneficial use to the general public. The owner or  
 31 lessee, applying for the license, shall have first enclosed the  
 32 area, in the manner approved by the commissioner, sufficiently  
 33 to confine the respective birds or animals to be raised thereon.  
 34 Licenses shall be granted only in cases where the commissioner  
 35 finds the application is made in good faith with intention to  
 36 actually carry on the business described in the application and  
 37 where the facilities, in ~~his~~ the judgment of the commissioner, \*  
 38 are adequate therefor.

39 No change for subd 2 to 4  
 40 Subd. 5. No foxes or mink shall be bought or sold by any  
 41 licensee for breeding or propagating purposes that have not been  
 42 pen-bred for two successive generations. No live beaver shall  
 43 be transported, except under special permit from the  
 44 commissioner, to be issued in accordance with rules and  
 45 regulations prescribed by ~~him~~ the commissioner. \*

46 Subd. 6. No sale or contract for sale of any live animals  
 47 raised or contained on any licensed fur or game farm shall be  
 48 valid unless such animals are actually delivered to the  
 49 purchaser, or if not delivered, unless and until they are  
 50 segregated, identified, and kept separately, subject to the  
 51 rights of the purchaser under the sale or contract for sale,  
 52 which sale or contract must be in writing. After such  
 53 segregation and identification, the animals sold, and their  
 54 offspring, shall be assessed as personal property of the  
 55 purchaser. The licensee must notify such purchaser within 30  
 56 days of the death of any animal, and ~~must notify him~~ of the \*  
 57 number of increase before July 20th of each year.

58 No change for subd 7

099\*#28S

59 99.28 MUSKRAT FARMS.  
 60 No change for subd 1 to 3  
 61 Subd. 4. The licensee shall become the owner of all of the  
 62 muskrats on said lands and of all of their offspring remaining  
 63 thereon, and subject to the provisions of subdivision 11, ~~to may~~ \*  
 64 take and trap the same at any time or in any manner which ~~he~~ the \*  
 65 licensee sees fit and deems to be to the best advantage of \*  
 66 ~~his~~ the licensee's business, and ~~to may~~ sell and transport at \*  
 67 any time said muskrats or the pelts taken from them. All such  
 68 pelts so transported shall be tagged with a tag to be furnished  
 69 by the commissioner of natural resources to the licensee at  
 70 cost. Such tags shall be numbered to correspond with the number  
 71 of the license held by the licensee.  
 72 No change for subd 5 to 6  
 73 Subd. 7. Such license shall be prima facie evidence in all  
 74 courts and proceedings of the lawful right of the licensee



1 therein named, ~~his-or-its~~ or the licensee's successors or \*  
 2 assigns, for the term of the license, to establish and operate a  
 3 muskrat farm upon said premises, and shall entitle the licensee  
 4 therein named or ~~his~~ the successors or assigns, to the exclusive \*  
 5 right for and during said term to breed and propagate muskrats  
 6 thereon, and to the exclusive and sole ownership of any property  
 7 in all muskrats caught or taken therefrom. Such license shall  
 8 expire on December 31 of each year, but may be renewed from year  
 9 to year upon payment by the licensee of the annual license fee,  
 10 at the discretion of the commissioner.

11 Subd. 8. Any person other than the licensee or ~~his~~ agents \*  
 12 thereof who shall hunt or trap muskrats upon any lands described \*  
 13 in any such license, shall be liable to the licensee in the sum  
 14 of \$25, in addition to all damage which ~~he-may-cause~~ may be \*  
 15 caused to said farm or to the rats and property thereon, but all \*  
 16 actions for such trespass shall be brought by such licensee.

17 Subd. 9. On or before the first day of March of each year,  
 18 each such licensee shall make a report, verified by affidavit,  
 19 to the commissioner of natural resources covering the period  
 20 from January 1 to December 31 of the previous year, upon blanks  
 21 furnished by the commissioner of natural resources stating the  
 22 number of ~~his~~ the license and the total number and value of \*  
 23 muskrats killed, transported or sold from said muskrat farm, and  
 24 such other information as the commissioner may require.

25 No change for subd 10 to 11

26 Subd. 12. Any person operating a muskrat farm who moves \*  
 27 ~~his~~ posts or expands ~~his~~ the farm without the consent of the  
 28 commissioner, shall be guilty of a misdemeanor.

100\*#27S

29 100.27 SEASONS.

30 No change for subd 1 to 8

31 Subd. 9. In addition to the season prescribed in  
 32 subdivision 2, clause (1), bear may be taken in such areas of  
 33 the state, under such restrictions, and on such dates as the  
 34 commissioner may, by order, provide. Nothing in this  
 35 subdivision shall prevent a person from taking a bear to protect  
 36 ~~his~~ that person's property. Such taking shall be reported to a \*  
 37 conservation officer within 48 hours. Bear so taken may  
 38 thereafter be disposed of in the same manner as provided in  
 39 section 97.50, subdivision 5, for the disposition of wild  
 40 animals unlawfully taken.

100\*#271S

41 100.271 MOOSE OR TURKEY; LICENSES.

42 Subdivision 1. At the time of issuing the order setting  
 43 the dates of a moose or turkey season, the commissioner shall  
 44 include in the same order the number of licenses to be issued  
 45 for that season. Those eligible to receive a license shall be  
 46 determined by the commissioner according to the provisions of  
 47 this section and such rules as the commissioner may provide.  
 48 The commissioner may, ~~if-he-deems~~ on deeming it advisable, \*  
 49 conduct a separate selection for not to exceed 20 percent of the  
 50 licenses to be issued for any one area, for which selection the  
 51 only eligible applicants for turkey licenses will be persons who  
 52 live as owners or tenants on 40 acres or more of agricultural or  
 53 grazing land within the prescribed area, and the only eligible  
 54 applicants for moose licenses shall be persons who are owners of  
 55 or live as tenants on not less than 160 acres of agricultural or  
 56 grazing land within the prescribed area. Landowners or tenants  
 57 who are unsuccessful in these separate selections shall be  
 58 included in the selections for the remaining licenses.

59 Any landowner or tenant who is successful in the  
 60 commissioner's separate selection shall permit turkey hunting on  
 61 ~~his~~ the owned or leased land during the turkey season. \*

62 No change for subd 2 to 5

100\*#273S

63 100.273 TRESPASS.

64 No change for subd 1 to 2

65 Subd. 3. No person shall enter upon any land ~~not-his-own~~ \*  
 66 of another regardless if it is agricultural land with intent to \*  
 67 take any wild animals after being notified not to do so, either  
 68 orally by the owner, occupant or lessee, or by signs erected  
 69 pursuant to subdivision 6.

70 No change for subd 4

71 Subd. 5. No person shall take any wild animal with a  
 72 firearm without the written permission of the owner or occupant  
 73 of the premises on any private agricultural land ~~not-his-own~~ of \*



1 another or any public right-of-way within 500 feet of any \*  
 2 building occupied by a human being or by livestock, or within  
 3 500 feet of any stockade or corral containing livestock, nor  
 4 shall any person take any wild animal with a firearm within 200  
 5 feet of any building occupied by a human being on any land other  
 6 than agricultural land without the oral permission of the owner  
 7 or occupant of the premises, or within 500 feet of any burning  
 8 area.

9 Subd. 6. No person shall erect "no hunting," "no  
 10 trapping," "no fishing," "no trespassing," or other signs  
 11 prohibiting trespass upon any lands or waters in which he the \*  
 12 person erecting the sign has no right, title, interests, or \*  
 13 license. The owner, occupant, or lessee of any private land, or  
 14 a duly constituted legal authority of public land, may erect  
 15 signs prohibiting trespassing, hunting, trapping, or fishing if  
 16 the signs bear letters not less than two inches high, are signed  
 17 by the owner, occupant, or lessee, and are posted at intervals  
 18 of not more than 1,000 feet upon the boundaries of the area so  
 19 protected, or in a wooded area where boundary lines are not  
 20 clear, at intervals of not more than 500 feet.

21 No change for subd 7 to 8

22 Subd. 9. (a) Violation of any provision of this section is  
 23 a misdemeanor, except as provided in paragraph (b).

24 (b) A person is guilty of a gross misdemeanor who: (1)  
 25 knowingly disregards signs prohibiting trespass, (2) trespasses  
 26 after personally being notified by the landowner or lessee not  
 27 to trespass, or (3) is convicted of violating this section more  
 28 than once in a three-year period.

29 (c) Upon a person's conviction for violating any provision  
 30 of this section, any license issued to him the violator pursuant \*  
 31 to chapter 98, or any registration pursuant to section 84.82,  
 32 under which he the violator was exercising or attempting to \*  
 33 exercise a privilege while violating this section shall  
 34 immediately become null and void.

35 (d) A person convicted of a gross misdemeanor under  
 36 paragraph (b) may not be issued a license to hunt or trap any  
 37 wild animal for two years after the conviction.

100\*#29S

38 100.29 RESTRICTIONS AND PROHIBITIONS.

39 No change for subd 1 to 2

40 Subd. 3. Within any area where deer may be taken by  
 41 firearms, it shall be unlawful during the period beginning the  
 42 tenth day before the open firearms season and ending the second  
 43 day after the close of the season, inclusive, to have any  
 44 firearm or ammunition in possession out of doors other than:

- 45 (1) Shotguns using shot;
- 46 (2) Handguns and rifles using .22 caliber short, long and  
 47 long rifle cartridges; and
- 48 (3) Firearms described in subdivision 9, as legal for  
 49 taking big game subject to weapon zone restrictions as  
 50 prescribed by the commissioner, provided the bearer has a big  
 51 game license on his the person and is afield during the time and \*  
 52 within the area the big game license is valid.

53 Except for pistols and revolvers carried in compliance with  
 54 sections 624.714 to 624.715 and firearms in possession upon  
 55 target ranges operated under a permit from the commissioner, all  
 56 firearms carried out of doors other than in conformity with this  
 57 subdivision must be unloaded and contained in a case or unloaded  
 58 and contained in the trunk of a car with the trunk door closed.

59 No change for subd 4 to 12

60 Subd. 13. It shall be unlawful to take wolves, bobcat,  
 61 lynx, fox, or bear with the aid of any snare, except under a  
 62 permit from the commissioner and under such regulations as he \*  
 63 shall prescribe the commissioner prescribes. \*

64 No change for subd 14 to 19

65 Subd. 20. Hunting dogs may not be taken afield for the  
 66 purpose of training between April 16 and July and. No \*  
 67 person taking a dog afield for training purpose except in open  
 68 season for game birds, who carries shall carry any firearms,  
 69 shall have while having any cartridges or shells, except blanks,  
 70 on-his-person in immediate possession. \*

71 Subd. 21. Repealed, 1978 c 794 s 3

72 Subd. 22. Repealed, 1978 c 794 s 3

73 No change for subd 23 to 32

74 Subd. 33. It shall be unlawful for any person, other than  
 75 the trapper or his agent of the trapper or landowner or lessee \*



1 of the land or an agent of the commissioner, to remove or tamper  
2 with any trap legally set for the purpose of taking fur bearing  
3 animals or unprotected wild animals. A violation of this  
4 subdivision shall be a misdemeanor.

100\*#35S

5 100.35 LICENSE OR PERMIT; HUNTERS' LICENSES; TAGS;  
6 RECORDS; LIMITS.

7 No change for subd 1 to 6

8 Subd. 7. The commissioner shall provide by reasonable  
9 rules and regulations the minimum number of each species,  
10 authorized to be taken upon the preserve, which shall be  
11 released, and the percentage of such species which shall be  
12 permitted to be taken. ~~He~~ The commissioner shall prescribe \*  
13 reasonable regulations for marking or identifying the birds to  
14 be released.

100\*#37S

15 100.37 REVOCATION OF LICENSE OR PERMIT.

16 The commissioner of natural resources may revoke any  
17 shooting preserve license or permit issued under the authority  
18 of sections 100.32 to 100.37 when the licensee or persons ~~he-has~~ \*  
19 authorized by the licensee to hunt on the area shall have been \*  
20 convicted of a violation of any of the provisions of sections  
21 100.32 to 100.37. After such revocation, a new license or  
22 permit may be issued if in the discretion of the natural  
23 resources department the circumstances warrant.

101\*#41S

24 101.41 SEASONS, LIMITS.

25 No change for subd 1 to 2

26 Subd. 2a. Notwithstanding subdivision 2, the commissioner  
27 may by order authorize the use of two lines and two baits in  
28 areas designated by the commissioner in Lake Superior by anglers  
29 other than ~~licensed~~ commercial fishermen licensees. \*

30 Subd. 3. Repealed, 1965 c 318 s 4

31 No change for subd 4

32 Subd. 5. Whitefish, tullibees and herring may be taken,  
33 under the license provided therefor, from such inland waters or  
34 international waters of the state and at such times as the  
35 commissioner shall declare open by order, and possessed without  
36 limit, but neither bought nor sold, subject, however, to the  
37 following restrictions:

38 (1) No licensee may use more than two nets or any net  
39 exceeding 100 feet in length or three feet in width.

40 (2) The size of mesh of whitefish or tullibee nets shall  
41 not be less than three and one-half inches, extension measure,  
42 and of herring nets not less than one and three-fourths inches,  
43 extension measure.

44 (3) No net shall be set in water deeper than six feet at  
45 any point, measured from the lake bed to the top surface of the  
46 water or ice provided that in waters designated by the  
47 commissioner nets may be set so that portions thereof extend  
48 into deeper water, under such conditions as ~~he~~ the commissioner \*  
49 shall prescribe for protection of game fish. At one end of each  
50 net there shall be a pole or stake projecting at least two feet  
51 above the surface of the water or ice.

52 (4) No net shall be set within 50 feet of another net.

53 (5) Any rough fish caught in a net may be retained by the  
54 licensee.

55 No change for subd 6

101\*#42S

56 101.42 RESTRICTIONS AND PROHIBITIONS.

57 No change for subd 1 to 5

58 Subd. 6. Except as otherwise specifically permitted, it  
59 shall be unlawful to use game fish, gold fish, or carp minnows  
60 for bait purposes and no live minnows imported from other states  
61 or countries may be used for bait purposes, propagation purposes  
62 (except as to or ornamental use in home aquariums) or any other  
63 purpose which shall permit their being placed in any waters of  
64 the state, artificial ponds, stationary or mobile tanks or to  
65 possess or transport such minnows for sale or storage within the  
66 state or to transport live carp minnows for any purpose.

67 No minnows (except as to ornamentals) shall be transported  
68 from other states or countries into or through Minnesota, unless  
69 the possessor shall have first obtained a permit from the  
70 commissioner or ~~his~~ of the commissioner, showing the name \*  
71 and address of the owner, the number and kind of minnows to be  
72 transported, the point of entry into Minnesota, the destination,



1 and the route to be followed through Minnesota, such permit  
2 shall be valid for not more than 12 hours after its date, and  
3 time of issuance.

4 No change for subd 7 to 15

5 Subd. 16. Except as otherwise specifically permitted, it  
6 shall be unlawful to have on the ice on any waters of this state  
7 a dark house, fish house or shelter, whether or not used for the  
8 purpose of taking fish, without the name and address of the  
9 owner plainly and legibly painted on the exterior in letters and  
10 figures at least three inches in height. Any dark house, fish  
11 house, or shelter used for the purpose of taking fish shall be  
12 licensed by the owner and shall have attached to the exterior a  
13 metal license tag, issued by the commissioner of natural  
14 resources, while such dark house, fish house or shelter is on  
15 the ice. It is also unlawful to use a dark house, fish house or  
16 shelter for taking fish unless the door thereto is constructed  
17 so that it can be opened from the outside at all times when in  
18 use; to permit any such structure to remain on the ice after  
19 February 28; or to burn any such structure on the ice of any  
20 waters of this state except under the supervision of the  
21 department of natural resources. The department, upon request  
22 of the owner of said structure, shall allow burning only after  
23 determination by the department that no other reasonable course  
24 of action will allow the structure to be removed from the ice.  
25 After burning, the owner or ~~those-employed-by-him~~ employee of  
26 the owner shall remove the remains of said structure from the  
27 ice by whatever means necessary. No person shall erect a dark  
28 house, fish house or shelter for taking fish within ten feet of  
29 a previously existing dark house, fish house or shelter for  
30 taking fish. The commissioner may by order extend the time for  
31 such structures to remain on the ice on international boundary  
32 waters or any part thereof to a later date. Copies of such  
33 orders shall be conspicuously posted on the shores of the  
34 affected waters as the commissioner directs. Any such  
35 structures found or used on the ice in violation of any  
36 provision hereof may be seized and confiscated as provided by  
37 section 97.50, subdivision 5. It shall be the duty of every  
38 conservation officer to summarily confiscate and remove, burn or  
39 otherwise destroy any such structure found on the ice after the  
40 time herein limited. The contents of any such structure left on  
41 the ice shall be seized by the conservation officer and held for  
42 a period of 60 days after which articles which have not been  
43 claimed by the owner may be retained for the use of the division  
44 or sold at the highest price obtainable in the manner prescribed  
45 by the commissioner. When angling in a dark house it shall be  
46 unlawful to have a spear within the interior of a dark house,  
47 fish house, or shelter.

48 The provisions of this subdivision are subject to the  
49 following exceptions:

50 A fish house or shelter may be used on the ice after  
51 February 28 if the season for taking any species of fish  
52 therefrom is open at the location thereof, provided no fish  
53 house or shelter be placed upon the ice prior to 7:00 o'clock  
54 a.m. and they are removed therefrom by 12 o'clock midnight each  
55 day. Any such fish house or shelter left on the ice after 12  
56 o'clock midnight shall be subject to all the foregoing  
57 provisions hereof.

58 No change for subd 17 to 20

59 Subd. 21. Except as may be authorized by commissioner's  
60 order, it is unlawful for any person to conduct a fishing  
61 contest whereby entry fees over \$10 per person or total prizes  
62 valued over \$2,000 are involved on any waters of this state  
63 without a permit issued pursuant to this subdivision by the  
64 commissioner of natural resources. The commissioner, by order  
65 promulgated pursuant to section 97.53, shall establish  
66 limitations on such fishing contests as ~~he~~ the commissioner  
67 deems desirable for the preservation, protection, and  
68 propagation of fish and fish habitat and for the safety of  
69 participants in the contest. Any permit which the commissioner  
70 may issue pursuant to the limitations so established shall be  
71 issued without fee. The commissioner must either grant or deny  
72 the permit within 14 days, excluding holidays, after receipt of  
73 the permit application or the application is deemed granted.

101\*#425S

74 101.425 BOUNDARY WATERS; PORTABLE FISH HOUSES.

75 Notwithstanding any law or regulation of the commissioner



1 of natural resources to the contrary, it shall be lawful to  
2 utilize fish houses or dark houses for the purpose of taking  
3 fish within the boundary waters canoe area, provided any fish  
4 house or dark house so utilized is of a portable type, and the  
5 owner or occupant thereof removes the same from any lake within  
6 the boundary waters canoe area and collapses or disassembles the  
7 portable fish house each night. The owner or occupant shall  
8 remove the portable fish house or dark house from the boundary  
9 waters canoe area each time ~~he~~ the owner or occupant leaves the  
10 boundary waters canoe area. \*

101\*#441S

11 101.441 FROGS, PERMITS FOR SALE, IMPORT, AND RAISING.

12 The commissioner of natural resources may issue permits for  
13 the importing, raising and sale of frogs for human consumption  
14 in the state of Minnesota under such regulations as ~~he~~ the  
15 commissioner shall prescribe. \*  
\*

101\*#48S

16 101.48 TROUT AND SALMON, LAKE SUPERIOR STREAMS.

17 The commissioner of natural resources may open any stream  
18 or any portion thereof flowing into Lake Superior for taking  
19 brook, brown, rainbow, and steelhead trout, and salmon at such  
20 times and under such regulations as ~~he~~ the commissioner may  
21 prescribe. \*

102\*#25S

22 102.25 INLAND, MISSISSIPPI AND MINNESOTA RIVER FISHING.

23 No change for subd 1

24 Subd. 2. Licensed set lines to take rough fish, containing  
25 not more than ten hooks, in the Minnesota River from Mankato to  
26 its junction with the Mississippi River, and in the Mississippi  
27 River from St. Anthony Falls to the St. Croix River junction,  
28 shall be set in the flowing waters of the river only, staked  
29 only at one end, and the location thereof shall not be changed  
30 from the place designated in the application for license except  
31 after notice to and approval by the commissioner ~~and his~~  
32 ~~approval thereof~~. No person shall use more than one such set  
33 line. \*  
\*

102\*#26S

34 102.26 LAKE OF THE WOODS AND RAINY LAKE FISHING.

35 Subdivision 1. Unless otherwise changed by order of the  
36 commissioner under authority of section 97.48, subdivision 3,  
37 the following regulations and restrictions shall apply to all  
38 commercial fishing operations conducted in Lake of the Woods and  
39 Rainy Lake:

40 (1) Any variety of fish, except black bass, rock bass,  
41 muskellunge, crappies, sturgeon and sunfish, may be taken  
42 subject to all other restrictions contained in chapters 97 to  
43 102.

44 (2) Pound nets and staked trap nets shall be of mesh not  
45 less than two and one-half inches nor more than four inches  
46 stretch measure in the pound or crib.

47 (3) Gill nets shall be of mesh not less than four inches  
48 stretch measure, and shall not be more than 30 meshes in width.

49 (4) Fyke nets shall be of mesh not less than two and  
50 one-half inches nor more than four inches stretch measure in the  
51 pot or crib, with hoop or opening not more than six feet in  
52 height, the wings not more than 100 feet in length, and a single  
53 lead not be more than 400 feet in length.

54 (5) Submerged trap nets shall be of mesh not less than two  
55 and one-half inches nor more than three inches stretch measure  
56 in the heart, pot, or crib, with pot or crib not exceeding 150  
57 square feet in area, and lead not exceeding 300 feet in length.  
58 The depth of pot or lead shall not exceed 12 feet.

59 (6) Trawls may be used only on Lake of the Woods and shall  
60 be of such specification as the commissioner of natural  
61 resources may prescribe. Such specifications shall include but  
62 not be limited to the following:

63 1. Not more than one trawl net shall be operated by a  
64 licensed trawler.

65 2. No member of the trawler crew may operate other  
66 commercial fishing gear on the same day that ~~he~~ the crew member  
67 is conducting trawling operations or possess fish caught in  
68 other commercial fishing gear while aboard the trawler. \*

69 3. The head rope of the trawl shall be no longer than 88  
70 feet measured along that portion of the head rope on which the  
71 webbing is attached.

72 4. The mesh of the cod end or bag shall be of a size no



1 smaller than 3 1/2 inches or larger than 4 inches, stretch  
 2 measure.  
 3 5. The walleyed pike catch shall not exceed 1,000 pounds  
 4 in any calendar month and the total for the season shall not  
 5 exceed 5,000 pounds. The sauger catch shall not exceed 5,000  
 6 pounds in any calendar month and 25,000 pounds during a season.  
 7 At such times as these game fish quotas are exceeded, the  
 8 operator shall suspend operations for the remainder of the month  
 9 or season, whichever shall apply.

10 6. No northern pike shall be taken in trawling operations.  
 11 No change for subd 2

12 Subd. 3. The maximum amount of nets permitted to be  
 13 licensed shall be as follows:

14 (1) In Lake of the Woods, 50 pound nets, 80,000 feet of  
 15 gill nets or 160 submerged trap nets, 80 fyke or staked trap  
 16 nets, and two trawls. Licenses for submerged trap nets may be  
 17 issued in lieu of licenses for gill nets in the ratio of not  
 18 more than one submerged trap net per 500 feet of gill net, and  
 19 the maximum permissible amount of gill nets shall be reduced by  
 20 500 feet for each submerged trap net licensed. The commissioner  
 21 may authorize submerged trap net licensees, before the beginning  
 22 of the third season following the first exchange, to exchange  
 23 such trap nets for gill nets. Licenses for trawls may be issued  
 24 in lieu of licenses for gill nets. Trawl licenses may be issued  
 25 for 1963 and 1964 only. The holder of a trawl license may be  
 26 issued a gill net license in 1965 if the trawl license provision  
 27 is not extended;

28 (2) In Rainy Lake, 20 pound nets, and 20,000 feet of gill  
 29 nets;

30 (3) When any licensee has lost or surrendered his a license \*  
 31 for any reason, the commissioner shall not be required to issue  
 32 licenses for the amount of netting previously authorized under  
 33 such license;

34 (4) At any time when commercial fishing is prohibited in  
 35 any of the international waters by Canadian authorities, such  
 36 fishing may be prohibited in the Minnesota portions of such  
 37 waters;

38 (5) The commissioner by regulation may limit the total  
 39 amount of game fish that may be taken by commercial fishermen \*  
 40 licensees in Lake of the Woods in any one season and shall \*  
 41 apportion said amount to each licensee in accordance with the  
 42 number and length of nets licensed;

43 (6) The commissioner of natural resources may limit by  
 44 order the amount of game fish taken in trawls in Lake of the  
 45 Woods.

46 Subd. 3a. Beginning March 1, 1984, the commissioner shall  
 47 limit the maximum poundage of walleye that may be taken by  
 48 commercial fishermen licensees in Lake of the Woods in any one \*  
 49 season on the following schedule:

50 SEASONAL COMMERCIAL

51 YEAR	WALLEYE TAKE IN POUNDS
52 1984	164,000
53 1985	150,000
54 1986	135,000
55 1987	120,000
56 1988	100,000
57 1989	80,000
58 1990	60,000
59 1991	30,000
60 1992	0

61 For the 1984 license year, 150,000 pounds of walleye shall  
 62 be allocated equally among the ten existing gill net licensees  
 63 according to order of the commissioner. Up to 14,000 pounds of  
 64 walleye shall be allocated among existing trap or pound  
 65 licensees, provided that no licensee shall take more than the  
 66 highest poundage harvested in any of the last three years. For  
 67 1985 and subsequent years the allocation of walleye poundage  
 68 among the licensees shall be determined by order of the  
 69 commissioner.

70 Subd. 3b. Beginning March 1, 1984, the commissioner shall  
 71 limit the maximum poundage of walleye that may be taken by  
 72 commercial fishermen licensees in Rainy Lake in any one season \*  
 73 on the following schedule:

74 SEASONAL COMMERCIAL

75 YEAR	WALLEYE TAKE IN POUNDS
76 1984	14,500



1	1985	12,500
2	1986	10,500
3	1987	8,500
4	1988	6,500
5	1989	4,500
6	1990	2,500
7	1991	1,000
8	1992	0

9 For the 1984 license year and subsequent years, the  
10 seasonal commercial walleye take in pounds in Rainy Lake shall  
11 be allocated among the licensees by order of the commissioner.

12 Subd. 3c. All gill net licenses on Lake of the Woods and  
13 Rainy Lake shall be canceled after the 1987 license year. A  
14 gill net licensee whose license is canceled as provided in this  
15 subdivision retains the walleye quota ~~which he holds~~ held at the \*  
16 time of cancellation, subject to the quota phase-out schedule in  
17 subdivision 3a or 3b. Notwithstanding the provisions of section  
18 102.235, the licensee may be issued a pound or trap net license  
19 for the netting of game fish in accordance with the quota of the  
20 licensee.

21 Subd. 3d. In 1984 and any subsequent year an existing  
22 licensee may transfer the walleye quota allocated ~~to him~~ under \*  
23 subdivision 3a or 3b to any other existing licensee or, after  
24 July 1, 1985, ~~he~~ may sell the quota to the state. If a licensee \*  
25 sells the quota to the state, ~~he must sell~~ the quota for all \*  
26 years remaining in the quota schedule as provided in subdivision  
27 3a or 3b must be sold. A sale to the state shall be at the \*  
28 present wholesale value of the quota as determined by assuming  
29 the following: (a) an allocation to the licensee of the same  
30 proportion of the total remaining walleye quota as allocated in  
31 the year of sale; (b) a walleye wholesale price in the round of  
32 \$1.15 per pound. A licensee may elect to receive payment for a  
33 sale to the state in a lump sum or in up to four annual  
34 installments. Any quota sold to the state shall cancel and is  
35 not available for reallocation to any other licensee. When a  
36 walleye quota is sold to the state and canceled, the gill net  
37 license of the licensee shall be canceled.

38 Subd. 4. The commissioner may require any person licensed  
39 to take fish for commercial purposes in the waters covered by  
40 this section, when it can be done in connection with the  
41 licensed commercial fishing, to take eggs for propagation  
42 purposes under such regulations as ~~he~~ the commissioner shall \*  
43 prescribe.

44 No change for subd 5

102\*#27S

45 102.27 NAMAKAN AND SAND POINT LAKES; FISHING.

46 Subdivision 1. Unless otherwise changed by order of the  
47 commissioner, under authority of section 97.48, subdivision 3,  
48 whitefish, and rough fish may be taken by ~~licensed~~ commercial \*  
49 fishermen licensees from Namakan Lake and Sand Point Lake; \*  
50 provided, that gill nets shall not be used therefor in Sand  
51 Point Lake.

52 No change for subd 2 to 3

102\*#28S

53 102.28 LAKE SUPERIOR FISHING.

54 Subdivision 1. Herring, lake trout, ciscoes, chubs,  
55 alewives, whitefish, Menominee whitefish, smelt and rough fish  
56 may be taken by ~~licensed~~ commercial fishermen licensees from \*  
57 Lake Superior, in accordance with the following provisions.

58 No change for subd 2 to 3

59 Subd. 4. Gill nets for taking herring and ciscoes shall  
60 not be less than 2 1/4 inch mesh and shall not exceed 2 3/4 inch  
61 mesh, extension measure.

62 The amount of gill net to be licensed in Minnesota waters  
63 of Lake Superior shall not exceed 300,000 feet for the taking of  
64 herring and 300,000 feet for the taking of ciscoes.

65 A licensee shall not be permitted to operate more than  
66 6,000 feet of gill net for the taking of herring or 25,000 feet  
67 of gill net for the taking of ciscoes. The commissioner may  
68 authorize gill net footage in excess of the individual limits  
69 ~~when he determines~~ upon determination in any license year that \*  
70 all of the gill net footage permitted for Minnesota waters of  
71 Lake Superior would not otherwise be allocated. The  
72 commissioner must allocate this excess gill net footage  
73 equitably among those licensees who have applied for it.

74 Subd. 5. The commissioner of natural resources is hereby



1 authorized and directed to issue special permits to duly  
 2 licensed commercial fishermen licensees not exceeding 20 in \*  
 3 number for the purpose of taking trout and whitefish spawn  
 4 during the closed season for the propagation of trout and lake  
 5 trout in Lake Superior and adjacent waters under-such in \*  
 6 accordance with prescribed rules and regulations as-may-be \*  
 7 prescribed-by-him. \*

102\*#285S

8 102.285 COMMERCIAL FISHING IN INLAND WATERS.  
 9 Subdivision 1. The commissioner shall by order regulate  
 10 the taking, possession, transportation and sale of commercial  
 11 fish and the licensing issuance of commercial fishermen-in \*  
 12 licenses for inland waters. For the purposes of this section \*  
 13 and section 98.46, subdivision 9a "inland waters" means all  
 14 waters entirely located within the boundaries of the state and  
 15 the border waters between Minnesota and North Dakota, South  
 16 Dakota and Iowa, excluding those waters described in section  
 17 102.25. Licenses to net commercial fish in inland waters,  
 18 except for helper's licenses, shall be issued only to Minnesota  
 19 residents, provided that non-residents may be licensed to fish  
 20 waters not previously assigned to residents. For purposes of  
 21 this section and section 98.46, subdivision 9a, "commercial  
 22 fish" are carp, buffalo fish, suckers, redhorse, sheepshead,  
 23 dogfish, eelpout, tullibeas, garfish, goldeyes, bullheads, smelt  
 24 and whitefish.

25 No change for subd 2

26 Subd. 3. The commissioner shall assign licensed inland \*  
 27 commercial fishermen licensees to commercial fishing areas and \*  
 28 each fisherman licensee shall be obligated to fish his the \*  
 29 assigned area. The commissioner's assignment shall be valid as \*  
 30 long as the assigned fisherman licensee continues to purchase a \*  
 31 license, continues to provide an adequate removal effort in a  
 32 good and workmanlike manner and is not convicted of two or more  
 33 violations of laws or rules governing inland commercial fishing  
 34 operations during any one license period. In the fisherman area \*  
 35 assignment, the commissioner shall consider the proximity of  
 36 the fisherman licensee to the area, the type and quantity of \*  
 37 fish gear and equipment possessed, knowledge of the affected  
 38 waters, and general ability to perform the work well.

39 Subd. 4. Whenever an area is not assigned, or the  
 40 fisherman-licensed-for licensee assigned to that area is not \*  
 41 fishing that area or is unable to fish that area, the  
 42 commissioner shall have the authority to issue a special inland  
 43 commercial fishing permit to any individual holding a valid  
 44 inland commercial fishing license allowing the fisherman permit \*  
 45 holder to fish that area and operate beyond the limits of his \*  
 46 the regularly assigned area. The permit shall indicate the \*  
 47 specific waters involved, the county, the species to be removed,  
 48 the gear to be used and the time period of the total operation.

49 Subd. 5. A-licensed An inland commercial fisherman \*  
 50 licensee shall submit monthly reports on his-licensed fishing \*  
 51 activities in each month to the commissioner, on forms provided  
 52 by the commissioner, prior to the 15th of the following month.  
 53 These reports shall be submitted regardless of whether or not  
 54 any fishing activity took place unless the fisherman licensee \*  
 55 has a written release from this obligation signed by the  
 56 commissioner.

57 No change for subd 6

58 Subd. 7. The commissioner shall consult with  
 59 representatives of the inland commercial fishermen's licensee's \*  
 60 trade association when disagreements arise in the areas of  
 61 license issuance, problems with performance pursuant to the  
 62 license, area assignments and the entry of new  
 63 commercial fishermen licensees into the inland commercial \*  
 64 fishery.

104\*#03S

65 104.03 FLOOD PLAINS; COMMISSIONER'S DUTIES; USES OF  
 66 FLOOD PLAINS.

67 Subdivision 1. The commissioner shall (a) collect and  
 68 distribute information relating to flooding and flood plain  
 69 management; (b) coordinate local, state, and federal flood plain  
 70 management activities to the greatest extent possible, and to  
 71 this end shall encourage the United States army corps of  
 72 engineers and the United States soil conservation service to  
 73 make their flood control planning data available to local  
 74 governmental units for planning purposes, in order to allow



1 adequate local participation in the planning process and in the  
 2 selection of desirable alternatives; (c) assist local  
 3 governmental units in their flood plain management activities  
 4 within the limits of available appropriations and personnel in  
 5 cooperation with the commissioner of energy, planning and  
 6 development; (d) do all other things, within his lawful \*  
 7 authority, which are necessary or desirable to manage the flood  
 8 plains for beneficial uses compatible with the preservation of  
 9 the capacity of the flood plain to carry and discharge the  
 10 regional flood. In cooperation with local governmental units,  
 11 the commissioner shall conduct, whenever possible, periodic  
 12 inspections to determine the effectiveness of local flood plain  
 13 management programs, including an evaluation of the enforcement  
 14 of and compliance with local flood plain management ordinances.

15 No change for subd 2 to 2a

16 Subd. 3. When emergency flood protection measures are  
 17 constructed, the affected local governmental unit shall submit  
 18 to the commissioner a plan outlining their use as a part of a  
 19 future comprehensive flood emergency program. The plan shall be  
 20 submitted within the following time limits: As to those  
 21 measures constructed before May 20, 1973, the plan shall be  
 22 submitted within 120 days after May 20, 1973; as to those  
 23 measures constructed on or after May 20, 1973, within 120 days  
 24 after construction. The commissioner shall review the plan and,  
 25 in so doing, shall consult with the state office of civil  
 26 defense and other state and federal agencies as appropriate.  
 27 Following his the review, the commissioner shall accept, require \*  
 28 modification, or reject the plan. If required modifications are  
 29 not made, or if the plan is rejected, the commissioner shall  
 30 order the removal of the emergency protection measures.

104\*#04S

31 104.04 FLOOD PLAIN MANAGEMENT ORDINANCES.

32 No change for subd 1

33 Subd. 2. No later than June 30, 1970, every local  
 34 governmental unit shall submit a letter of intent to comply with  
 35 sections 104.01 to 104.07, on a form provided by the  
 36 commissioner including any existing flood plain management  
 37 ordinances, to the commissioner for his review. The letter of \*  
 38 intent shall list the watercourses within the boundaries of the  
 39 local governmental unit in the order of the degree of flood  
 40 damage potential associated with each watercourse and shall  
 41 include a description of the type of information that is  
 42 available for each, such as high watermarks and topographic maps.

43 Subd. 3. When The commissioner determines, upon \*  
 44 determining that sufficient technical information is available \*  
 45 for the delineation of flood plains and floodways on a \*  
 46 watercourse, he shall notify affected local governmental units \*  
 47 that this technical information is available. Within six months  
 48 after receiving this notice, each local governmental unit shall  
 49 prepare or amend its flood plain management ordinance in  
 50 conformance with the provisions of sections 104.01 to 104.07,  
 51 and shall submit the ordinance to the commissioner for his \*  
 52 review and approval before adoption. The commissioner shall \*  
 53 approve or disapprove the proposed ordinance within 120 days \*  
 54 after receiving it. If ~~the commissioner disapproves~~ the \*  
 55 proposed ordinance he is disapproved, the commissioner shall \*  
 56 return it to the local governmental unit with a written  
 57 statement of his reasons for disapproval. Within 90 days \*  
 58 thereafter, the local governmental unit shall resubmit an  
 59 amended proposed ordinance for his further review and approval \*  
 60 before adoption. The local governmental unit shall adopt a  
 61 flood plain management ordinance within 90 days after approval  
 62 by the commissioner. A flood plain management ordinance adopted  
 63 by a local governmental unit after June 30, 1970, is invalid  
 64 unless it is approved by the commissioner. A local governmental  
 65 unit may adopt a flood plain management ordinance in the absence  
 66 of notification by the commissioner that the required technical  
 67 data is available, provided that any such ordinance is submitted  
 68 to the commissioner prior to its adoption for his approval. \*  
 69 Nothing in sections 104.01 to 104.07 limits the power of a local  
 70 governmental unit or town to adopt or continue in force a flood  
 71 plain management ordinance which is more restrictive than that  
 72 which may be required pursuant to sections 104.01 to 104.07.

73 No change for subd 4 to 6

104\*#08S

74 104.08 FLOOD INSURANCE.



1 No change for subd 1  
 2 Subd. 2. Within 90 days after May 20, 1973 the  
 3 commissioner shall prepare a list of local governmental units  
 4 having areas subject to recurrent flooding and shall notify each  
 5 local governmental unit included on the list of ~~his~~ the findings. \*  
 6 If a local governmental unit objects to the commissioner's  
 7 findings, it shall submit evidence supporting its objections  
 8 within 45 days after receiving the commissioner's notification.  
 9 Thereafter the commissioner shall accept or reject the findings  
 10 of each local governmental unit submitting evidence, shall  
 11 prepare an amended list of local governmental units having areas  
 12 subject to recurrent flooding, and shall notify each local  
 13 governmental unit of its inclusion on the amended list.

14 No change for subd 3

104\*#25S

15 104.25 LOWER ST. CROIX WILD AND SCENIC RIVERS ACT OF  
 16 1972; STATE RECOGNITION AND IMPLEMENTATION.

17 No change for subd 1 to 2

18 Subd. 3. POWERS AND DUTIES OF COMMISSIONER OF NATURAL  
 19 RESOURCES; MUNICIPAL ZONING. After the comprehensive master  
 20 plan has been adopted and is in effect, the commissioner has the  
 21 powers and duties necessary to the following: (a) The  
 22 acquisition, by the commissioner of administration for the  
 23 commissioner of natural resources, of lands, scenic easements or  
 24 other interests in land by gift, purchase, or other lawful  
 25 means, and ~~he~~ the commissioner may acquire also by eminent \*  
 26 domain the scenic easements interest in land. The acquisitions  
 27 are those which are proposed for acquisition by the state of  
 28 Minnesota by the comprehensive master plan; (b) the promulgation  
 29 of rules and regulations in the manner provided in chapter 14,  
 30 which will establish guidelines and specify standards for local  
 31 zoning ordinances applicable to the area within the boundaries  
 32 established pursuant to subdivision 2. The guidelines and  
 33 standards shall be consistent with the purposes of this act, the  
 34 federal Wild and Scenic Rivers Act, and the federal Lower St.  
 35 Croix River Act of 1972. The standards specified in the  
 36 guidelines shall include but not be limited to the following:  
 37 (1) The prohibition of new residential, commercial, or  
 38 industrial uses other than those which are consistent with the  
 39 above mentioned acts, and (2) the protection of riverway lands  
 40 by means of acreage, frontage, and setback requirements on  
 41 development. Cities, counties and towns lying within the areas  
 42 affected by the guidelines are empowered to and shall adopt  
 43 zoning ordinances complying with the guidelines and standards  
 44 promulgated by the commissioner within the time schedule  
 45 prescribed by the commissioner; (c) the administration, in  
 46 cooperation with appropriate federal authorities and authorities  
 47 of the state of Wisconsin, of state lands and waters in  
 48 conformance with this act, the federal Wild and Scenic Rivers  
 49 Act, and the federal Lower St. Croix River Act of 1972.

104\*#34S

50 104.34 COMMISSIONER'S DUTIES.

51 Subdivision 1. The commissioner of natural resources shall  
 52 be responsible for administering the wild and scenic rivers  
 53 system ~~and his~~. The commissioner's duties shall include but not \*  
 54 be limited to conducting studies, developing criteria for  
 55 classification and designation of rivers, designating rivers for  
 56 inclusion within the system, and management of the components of  
 57 the system including promulgation of regulations with respect  
 58 thereto.

59 No change for subd 2

104\*#37S

60 104.37 ACQUISITION OF INTERESTS IN LAND; DEVELOPMENT.

61 Subdivision 1. To further the purposes of sections 104.31  
 62 to 104.40, the commissioner of natural resources may acquire the  
 63 title, scenic easements or other interests in land, by purchase,  
 64 grant, gift, devise, exchange, lease, or other lawful means.  
 65 "Scenic easement" means an interest in land, less than the fee  
 66 title, which limits the use of such land for the purpose of  
 67 protecting the scenic, recreational, or natural characteristics  
 68 of a wild, scenic or recreational river area. Unless otherwise  
 69 expressly and specifically provided by the parties, such  
 70 easement shall be (a) perpetually held for the benefit of the  
 71 people of Minnesota; (b) specifically enforceable by its holder  
 72 or any beneficiary; and (c) binding upon the holder of the  
 73 servient estate, ~~his~~ and the holder's heirs, successors and \*



1 assigns. Unless specifically provided by the parties, no such  
 2 easement shall give the holder or any beneficiary the right to  
 3 enter on the land except for enforcement of the easement.

4 No change for subd 2 to 4

104\*#45S

5 104.45 OPERATION WITHIN AGENCY.

6 No change for subd 1 to 2

7 Subd. 3. STAFF POSITION. A professional engineer  
 8 shall be employed by the state board to work exclusively on the  
 9 technical implementation and engineering of the pilot project  
 10 established pursuant to sections 104.42 to 104.50. ~~He~~ The  
 11 engineer shall assist the local units of government and the  
 12 state board to achieve the purposes of the project, and shall  
 13 have duties including:

14 (a) Field review and analysis of projects and project sites;

15 (b) Preparation of permit applications, including  
 16 evaluation of environmental effects;

17 (c) Development of recommended pertinent provisions of  
 18 permits for specific projects;

19 (d) Preparation of plans for further consideration of  
 20 remedial flood control structural measures as part of a general  
 21 rural flood plain management effort; and

22 (e) Evaluation of the effectiveness of completed projects  
 23 constructed under this project.

105\*#37S

24 105.37 DEFINITIONS.

25 No change for subd 1 to 10

26 Subd. 11. "Altered natural watercourse" means a former  
 27 natural watercourse which has been affected by ~~man-made~~  
 28 artificial changes in straightening, deepening, narrowing, or  
 29 widening of the original channel.

30 Subd. 12. "Artificial watercourse" means a watercourse  
 31 which has been artificially constructed by ~~man~~ human beings  
 32 where there was no previous natural watercourse.

33 No change for subd 13 to 16

105\*#39S

34 105.39 AUTHORITY AND POWERS OF COMMISSIONER.

35 No change for subd 1

36 Subd. 2. SURVEYS AND INVESTIGATIONS. The  
 37 commissioner is authorized to cause to be made all such surveys,  
 38 maps, investigations and studies of the water resources and  
 39 topography of the state as ~~he may deem~~ the commissioner deems  
 40 necessary to provide the information to formulate a program and  
 41 carry out the provisions of sections 105.37 to 105.55.

42 No change for subd 3 to 4

43 Subd. 5. CONTRACTS. The commissioner is authorized  
 44 to approve contracts for all works under sections 105.37 to  
 45 105.55, to change the plans thereof when necessary, and to  
 46 supervise, control, and accept the same when complete. ~~He~~ The  
 47 commissioner is further authorized to cause the same, together  
 48 with expenses incurred in connection therewith, to be paid for  
 49 out of any funds made available to the use of the commissioner.

50 No change for subd 6

105\*#391S

51 105.391 WATERS INVENTORY AND CLASSIFICATION.

52 Subdivision 1. On the basis of all information available  
 53 to ~~him~~ the commissioner and the criteria set forth in section  
 54 105.37, subdivisions 14 and 15, the commissioner shall inventory  
 55 the waters of each county and make a preliminary designation as  
 56 to which constitute public waters and wetlands. The  
 57 commissioner shall send a list and map of the waters ~~which he~~  
 58 has preliminarily designated as public waters and wetlands in  
 59 each county to the county board of that county for its review  
 60 and comment. The county board shall conduct at least one public  
 61 informational meeting within the county regarding the  
 62 commissioner's preliminary designation. After conducting the  
 63 meetings and within 90 days after receipt of the list or maps,  
 64 the county board shall present its recommendation to the  
 65 commissioner, listing any waters regarding which the board  
 66 disagrees with the commissioner's preliminary designation and  
 67 stating with particularity the waters involved and the reasons  
 68 for disagreement. The commissioner shall review the county  
 69 board's response and, if ~~he agrees~~ in agreement with any of the  
 70 board's recommendations, ~~he~~ shall revise the list and map to  
 71 reflect the recommendations. Within 30 days after receiving the  
 72 county board's recommendations, ~~he~~ the commissioner shall also



1 notify the county board as to which recommendations ~~he-accepts~~ \*  
 2 ~~and-rejects~~ are accepted and rejected and the reasons for his \*  
 3 the decision. After the revision of the map and list, if any, \*  
 4 or if no response is received from the county board within the  
 5 90 days review period, the commissioner shall file the revised  
 6 list and map with the recorder of each county and shall cause  
 7 the list and map to be published in the official newspaper of  
 8 the county. The published notice shall also state that any  
 9 person or any county may challenge the designation of specific  
 10 waters as public waters or wetlands or may request the  
 11 designation of additional waters as public waters or wetlands,  
 12 by filing a petition for a hearing with the commissioner within  
 13 90 days following the date of publication. The petition shall  
 14 state with particularity the waters for which the commissioner's  
 15 designation is disputed and shall set forth the reasons for  
 16 disputing the designation. If any designations are disputed by  
 17 petition, the commissioner shall order a public hearing to be  
 18 held within the county within 60 days following the 90 day  
 19 period, notice of which shall be published in the state register  
 20 and the official newspaper of the county. The hearings shall be  
 21 conducted by a hearings unit composed of one person appointed by  
 22 the affected county board, one person appointed by the  
 23 commissioner and one board member of the local soil and water  
 24 conservation district or districts within the county who shall  
 25 be selected by the other two members at least 20 days prior to  
 26 the hearing date. The expenses of and per diem payments to any  
 27 member of the hearings unit who is not a state employee shall be  
 28 paid as provided for in section 15.059, subdivision 3, within  
 29 the limits of funds available from grants to the county pursuant  
 30 to Laws 1979, Chapter 199, Section 16. In the event there is a  
 31 watershed district whose boundaries include the waters involved,  
 32 the district may provide the hearings unit with its  
 33 recommendations. Within 60 days following completion of the  
 34 hearing, the hearings unit shall issue its findings of fact,  
 35 conclusions and an order, which shall be considered the decision  
 36 of an agency in a contested case for purposes of judicial review  
 37 pursuant to sections 14.63 to 14.69. The commissioner, the  
 38 county or any person aggrieved by the decision of the hearings  
 39 unit may appeal from the hearings unit's order. Upon receipt of  
 40 the order of the hearings unit and after the appeal period has  
 41 expired, or upon receipt of the final order of the court in the  
 42 case of an appeal, the commissioner shall publish a list of the  
 43 waters determined to be public waters and wetlands. The  
 44 commissioner shall complete the public waters and wetlands  
 45 inventory by December 31, 1982.

46 Subd. 2. Repealed, 1979 c 199 s 17

47 Subd. 3. Except as provided below, no public waters or  
 48 wetlands shall be drained, and no permit authorizing drainage of  
 49 public waters or wetlands shall be issued, unless the public  
 50 waters or wetlands being drained are replaced by public waters  
 51 or wetlands which will have equal or greater public value.  
 52 However, after a state waterbank program has been established,  
 53 wetlands which are eligible for inclusion in that program may be  
 54 drained without a permit and without replacement of wetlands of  
 55 equal or greater public value if the commissioner does not  
 56 elect, within 60 days of the receipt of an application for a  
 57 permit to drain the wetlands, to either (1) place the wetlands  
 58 in the state waterbank program, or (2) acquire it pursuant to  
 59 section 97.481, or (3) indemnify the landowner through any other  
 60 appropriate means, including but not limited to conservation  
 61 restrictions, easements, leases, or any applicable federal  
 62 program. ~~If~~ The applicant is, if not offered his a choice of \*  
 63 the above alternatives, he is entitled to drain the wetlands \*  
 64 involved.

65 In addition, the owner or owners of lands underlying  
 66 wetlands situated on privately owned lands may apply to the  
 67 commissioner for a permit to drain the wetlands at any time  
 68 after the expiration of ten years following the original  
 69 designation thereof. Upon receipt of an application, the  
 70 commissioner shall review the current status and conditions of  
 71 the wetlands. ~~If he~~ the commissioner finds that the current \*  
 72 status or conditions are such that it appears likely that the  
 73 economic or other benefits to the owner or owners which would  
 74 result from drainage would exceed the public benefits of  
 75 maintaining the wetlands, ~~he~~ the commissioner shall grant the \*  
 76 application and issue a drainage permit. If the application is



1 denied, no additional application shall be made until the  
 2 expiration of an additional ten years.  
 3 Subd. 4. Repealed, 1979 c 199 s 17  
 4 Subd. 5. Repealed, 1979 c 199 s 17  
 5 Subd. 6. Repealed, 1979 c 199 s 17  
 6 Subd. 7. Repealed, 1979 c 199 s 17  
 7 Subd. 8. Repealed, 1979 c 199 s 17  
 8 No change for subd 9 to 12

105\*#392S

9 105.392 WATER BANK PROGRAM.

10 No change for subd 1 to 2

11 Subd. 3. In the agreement between the commissioner and an  
 12 owner, the owner shall agree:

13 (1) to place in the program for the period of the agreement  
 14 eligible wetland areas ~~he~~ the owner designates, which areas may \*  
 15 include wetlands covered by a federal or state government  
 16 easement which permits agricultural use, together with such  
 17 adjacent areas as determined desirable by the commissioner;

18 (2) not to drain, burn, fill, or otherwise destroy the  
 19 wetland character of such areas, nor to use such areas for  
 20 agricultural purposes, as determined by the commissioner;

21 (3) to effectuate the wetland conservation and development  
 22 plan for ~~his~~ the land in accordance with the terms of the \*  
 23 agreement, unless any requirement thereof is waived or modified  
 24 by the commissioner;

25 (4) to forfeit all rights to further payments or grants  
 26 under the agreement and to refund to the state all payments or  
 27 grants received thereunder upon ~~his-violation-of~~ violating the \*  
 28 agreement at any stage during the time ~~he~~ the owner has control \*  
 29 of the land subject to the agreement if the commissioner  
 30 determines that ~~such~~ the violation is of such a nature as to \*  
 31 warrant termination of the agreement, or to make refunds or  
 32 accept such payment adjustments as the commissioner may deem  
 33 appropriate if ~~he~~ the commissioner determines that the violation \*  
 34 by the owner does not warrant termination of the agreement;

35 (5) upon transfer of ~~his~~ right and interest in the lands \*  
 36 subject to the agreement during the agreement period, to forfeit  
 37 all rights to further payments or grants under the agreement and  
 38 refund to the state all payments or grants received thereunder  
 39 during the year of the transfer unless the transferee of any  
 40 such land agrees with the commissioner to assume all obligations  
 41 of the agreement;

42 (6) not to adopt any practice specified by the commissioner  
 43 in the agreement as a practice which would tend to defeat the  
 44 purposes of the agreement; and

45 (7) to additional provisions which the commissioner  
 46 determines are desirable and includes in the agreement to  
 47 effectuate the purposes of the program or to facilitate its  
 48 administration.

49 Subd. 4. In return for the agreement of the owner, the  
 50 commissioner shall (1) make an annual payment to the owner for  
 51 the period of the agreement at the rate as the commissioner  
 52 determines to be fair and reasonable in consideration of the  
 53 obligations undertaken by the owner; and (2) provide advice on  
 54 conservation and development practices on the wetlands and  
 55 adjacent areas for the purposes of this section as the  
 56 commissioner determines to be appropriate. In making ~~his~~ the \*  
 57 determination, the commissioner shall consider, among other  
 58 things, the rate of compensation necessary to encourage owners  
 59 of wetlands to participate in the waterbank program.

60 Subd. 5. Any agreement may be renewed or extended at the  
 61 end of the agreement period for an additional period of ten  
 62 years by mutual agreement of the commissioner and the owner,  
 63 subject to any rate redetermination by the commissioner. If  
 64 during the agreement period the owner sells or otherwise ~~divests~~ \*  
 65 ~~himself~~ disposes of the ownership or right of occupancy of the \*  
 66 land, the new owner may continue such agreement under the same  
 67 terms or conditions, or enter into a new agreement in accordance  
 68 with the provisions of this section, including the provisions  
 69 for renewal and adjustment of payment rates, or ~~he~~ may choose \*  
 70 not to participate in the program, except any water designated  
 71 as wetlands shall not be drained.

72 Subd. 6. The commissioner may terminate any agreement by  
 73 mutual agreement with the owner if the commissioner determines  
 74 that the termination would be in the public interest, and may  
 75 agree to any modification of agreements ~~he~~ the commissioner may \*



1 determine to be desirable to carry out the purposes of the  
2 program or facilitate its administration.

105\*#40S

3 105.40 DIRECTOR; QUALIFICATIONS, DUTIES.

4 Subdivision 1. The director of the division of waters,  
5 soils and minerals of the department of natural resources shall  
6 be a registered professional engineer, skilled in hydraulics.  
7 Under the direction of the commissioner, ~~he~~ the director shall \*  
8 make the surveys and engineering investigations required by  
9 sections 105.37 to 105.55 and perform the following duties.

10 No change for subd 2 to 5

11 Subd. 6. The director is authorized to investigate the  
12 methods employed in the manufacture of drain tile and the causes  
13 of any failures thereof, and to conduct research and  
14 experimentation for the purpose of improving the quality of  
15 drain tile. ~~He~~ The director may make inspections and tests of \*  
16 manufacturing processes and materials used and the resultant  
17 product in any manufacturing plant in the state where drain tile  
18 is made and sold to the general public. The director, or ~~his~~ an \*  
19 authorized representative of the director, shall have free \*  
20 access to all such manufacturing plants for the purpose of such  
21 inspections and tests, and the results thereof shall be made  
22 public for the information of officials concerned in public  
23 ditch proceedings, tile manufacturers and others interested in  
24 the use of drain tile.

25 No change for subd 7 to 8

26 Subd. 9. The director is authorized to purchase such  
27 technical and scientific equipment as may be necessary to  
28 perform the functions and discharge the duties of ~~his~~ the \*  
29 director's office. \*

30 No change for subd 10 to 14

105\*#416S

31 105.416 IRRIGATION FROM GROUNDWATER.

32 Subdivision 1. PERMIT. Permit applications required  
33 by section 105.41, for appropriation of groundwater for purposes  
34 of agricultural irrigation shall be processed as either class A  
35 or class B applications. Class A applications are for wells  
36 located in areas for which the commissioner of natural resources  
37 has adequate groundwater availability data. Class B are those  
38 for all other areas. The commissioner shall evaluate available  
39 groundwater data, determine its adequacy, and designate areas A  
40 and B, statewide. The commissioner shall solicit, receive, and  
41 evaluate groundwater data from soil and water conservation  
42 districts, and where appropriate revise ~~his~~ the area A and B \*  
43 designations. The commissioner of natural resources shall file  
44 with the secretary of state a commissioner's order defining  
45 these areas by county and township. Additional areas may be  
46 added by a subsequent order of the commissioner. Class A and B  
47 applications shall be processed in the order received.

48 Subd. 2. CLASS B PERMITS; INFORMATION REQUIREMENTS.

49 Class B applications are not complete until the applicant has  
50 supplied the following data:

51 (a) A summary of the anticipated well depth and subsurface  
52 geologic formation expected to be penetrated by the well. For  
53 glacial drift aquifers, this data shall include the logs of test  
54 holes drilled for the purpose of locating the site of the  
55 proposed production well;

56 (b) The formation and aquifer expected to serve as the  
57 groundwater source;

58 (c) The maximum daily, seasonal and annual pumpage expected;

59 (d) The anticipated groundwater quality in terms of the  
60 measures of quality commonly specified for the proposed water  
61 use;

62 (e) The results of a pumping test supervised by the  
63 commissioner or ~~his~~ a designee of the commissioner, conducted at \*  
64 a rate not to exceed the proposed pumping rate for a period not  
65 to exceed 72 hours for wells under water table conditions and  
66 not to exceed 24 hours for wells under artesian conditions.  
67 Before, during and after the pumping test the commissioner shall  
68 require monitoring of water levels in one observation well  
69 located at such distance from the pumping well which ~~he~~ the \*  
70 commissioner has reason to believe may be affected by the new \*  
71 appropriation. The permit applicant shall be responsible for  
72 all costs of the pumping tests and monitoring in the one  
73 observation well. ~~He~~ The applicant shall be responsible for the \*  
74 construction of this one observation well if suitable existing



1 wells cannot be located for this purpose. If the commissioner  
 2 believes that more than one observation well is needed he the \*  
 3 commissioner shall instruct the applicant to install and monitor \*  
 4 additional observation wells. The commissioner shall reimburse  
 5 the applicant for these added costs; and

6 (f) Upon determination of the area of influence of the  
 7 proposed well, the location of existing wells within the area of  
 8 influence which were reported pursuant to section 156A.07,  
 9 together with readily available facts on depths, geologic  
 10 formations, pumping and nonpumping water levels and details of  
 11 well construction as related to the commissioner of health  
 12 "Water Well Construction Code".

13 The commissioner may in any specific application waive any  
 14 of the requirements of clauses (d) to (f) when the necessary  
 15 data is already available.

16 Subd. 3. ISSUANCE OF NEW PERMITS; CONDITIONS. The  
 17 commissioner shall issue permits for irrigation appropriation  
 18 from groundwater only where he the commissioner determines that \*  
 19 proposed soil and water conservation measures are adequate based  
 20 on recommendations of the soil and water conservation districts  
 21 and that water supply is available for the proposed use without  
 22 reducing water levels beyond the reach of vicinity wells  
 23 constructed in accordance with the water well construction code,  
 24 contained in the rules of the Minnesota state commissioner of  
 25 health, MHD 217 to 222.

105\*#417S

26 105.417 WATER APPROPRIATIONS FROM SURFACE SOURCES.

27 No change for subd 1 to 2

28 Subd. 3. WATERBASINS. (a) Permits to appropriate  
 29 water for any purpose from waterbasins shall be limited so that  
 30 the collective annual withdrawals do not exceed a total volume  
 31 of water amounting to one-half acre-foot per acre of waterbasin  
 32 based on Minnesota department of conservation bulletin No. 25,  
 33 "An Inventory of Minnesota Lakes."

34 (b) As a condition to any surface water appropriation  
 35 permit, the commissioner of natural resources shall establish an  
 36 elevation for the subject waterbasin, below which no  
 37 appropriation shall be allowed. During the determination of the  
 38 elevation, which for the purposes of this section shall be known  
 39 as the "protection elevation," the commissioner shall take into  
 40 account the elevation of important aquatic vegetation  
 41 characteristics related to fish and wildlife habitat, existing  
 42 uses of the waterbasin by the public and riparian land owners,  
 43 the total volume within the waterbasin and the slope of the  
 44 littoral zone.

45 (c) As part of any application for appropriation of water  
 46 for any purpose from a waterbasin of less than 500 acres in  
 47 surface area, the applicant shall obtain a signed statement from  
 48 as many landowners with land riparian to the subject waterbasin  
 49 stating their support to the proposed appropriation as he the \*  
 50 applicant is able to obtain and it shall indicate the number \*  
 51 whose signature he the applicant is unable to obtain. \*

52 No change for subd 4

53 Subd. 5. CONTINGENCY PLANNING. No application for  
 54 use of surface waters of the state for any purpose is complete  
 55 until the applicant submits, as part of the application, a  
 56 contingency plan which describes the alternatives he the \*  
 57 applicant will utilize if further appropriation is restricted \*  
 58 due to the flow of the stream or the level of a waterbasin. No  
 59 surface water appropriation for any purpose shall be allowed  
 60 unless the contingency plan is feasible or the permittee agrees  
 61 to withstand the results of no appropriation.

105\*#42S

62 105.42 PERMITS; WORK IN PUBLIC WATERS.

63 Subdivision 1. It shall be unlawful for the state, any  
 64 person, partnership, association, private or public corporation,  
 65 county, municipality or other political subdivision of the  
 66 state, to construct, reconstruct, remove, abandon, transfer  
 67 ownership, or make any change in any reservoir, dam or waterway  
 68 obstruction on any public water; or in any manner, to change or  
 69 diminish the course, current or cross-section of any public  
 70 waters, wholly or partly within the state, by any means,  
 71 including but not limited to, filling, excavating, or placing of  
 72 any materials in or on the beds of public waters, without a  
 73 written permit from the commissioner previously obtained.  
 74 Application for such permit shall be in writing to the



1 commissioner on forms prescribed by him the commissioner. No \*  
 2 permit shall be required for work in altered natural  
 3 watercourses which are part of drainage systems established  
 4 pursuant to sections 106A.005 to 106A.811 and chapter 112 when  
 5 the work in the waters is undertaken pursuant to those chapters.

6 This section does not apply to any public drainage system  
 7 lawfully established under the provisions of sections 106A.005  
 8 to 106A.811 which does not substantially affect any public  
 9 waters.

10 The commissioner, subject to the approval of the county  
 11 board, shall have power to grant, and to prescribe terms and \*  
 12 conditions for granting, permits ~~under such terms and conditions~~ \*  
 13 ~~as he shall prescribe,~~ to establish, construct, maintain and \*  
 14 control wharfs, docks, piers, levees, breakwaters, basins,  
 15 canals and hangars in or adjacent to public waters of the state  
 16 except within the corporate limits of cities.

17 Subd. 1a. The commissioner shall recommend by January 15,  
 18 1975, to the legislature a comprehensive law containing  
 19 standards and criteria governing the issuance and denial of  
 20 permits under this section. These standards and criteria shall  
 21 relate to the diversion of water from other uses and changes in  
 22 the level of public waters to insure that projects will be  
 23 completed and maintained in a satisfactory manner. The  
 24 commissioner may by rule identify classes of activities in  
 25 waterbasins and classes of watercourses on which the  
 26 commissioner may delegate permit authority to the appropriate  
 27 county or city under such guidelines as the commissioner may  
 28 provide based on agreement with the involved county or city and  
 29 in compliance with the requirements of section 105.45. After  
 30 November 15, 1975, a permit shall be granted under this section  
 31 only when the project conforms to state, regional, and local  
 32 water and related land resources management plans, and only when  
 33 it will involve a minimum of encroachment, change, or damage to  
 34 the environment, particularly the ecology of the waterway. In  
 35 those instances where a major change in the resource is  
 36 justified, permits shall include provisions to compensate for  
 37 the detrimental aspects of the change.

38 In unincorporated areas and, after January 1, 1976, in  
 39 incorporated areas, permits that will involve excavation in the  
 40 beds of public waters shall be granted only where the area in  
 41 which the excavation will take place is covered by a shoreland  
 42 conservation ordinance approved by the commissioner and only  
 43 where the work to be authorized is consistent with the shoreland  
 44 conservation ordinance. Each permit that will involve  
 45 excavation in the public waters shall include provisions  
 46 governing the deposition of spoil materials.

47 No permit affecting flood waters shall be granted except  
 48 where the area covered by the permit is governed by a flood  
 49 plain management ordinance approved by the commissioner and the  
 50 conduct authorized by the permit is consistent with the flood  
 51 plain management ordinance, provided that the commissioner has  
 52 determined that sufficient information is available for the  
 53 adoption of a flood plain ordinance. No permit involving the  
 54 control of flood waters by structural means, such as dams,  
 55 dikes, levees, and channel improvements, shall be granted until  
 56 after the commissioner has given due consideration to all other  
 57 flood damage reduction alternatives. In developing his a policy \*  
 58 with regard to placing emergency levees along the banks of  
 59 public waters under flood emergency conditions, the commissioner  
 60 shall consult and cooperate with the office of emergency  
 61 services.

62 No permit that will involve a change in the level of public  
 63 waters shall be granted unless the shoreland adjacent to the  
 64 waters to be changed is governed by a shoreland conservation  
 65 ordinance approved by the commissioner and the change in water  
 66 level is consistent with that shoreland conservation ordinance.  
 67 Standards and procedures for use in deciding the level of a  
 68 particular lake must insure that the rights of all persons are  
 69 protected when lake levels are changed and shall include  
 70 provisions for providing technical advice to all persons  
 71 involved, for establishing alternatives to assist local agencies  
 72 in resolving water level conflicts, and mechanics necessary to  
 73 provide for local resolution of water problems within the state  
 74 guidelines.

75 No change for subd 2 to 4



1 105.44 PROCEDURE UPON APPLICATION.

2 No change for subd 1 to 2

3 Subd. 3. WAIVER OF HEARING. The commissioner ~~in-his~~ \*  
 4 ~~discretion~~ may waive hearing on any application and ~~make-his~~ \*  
 5 order the granting or ~~refusing~~ refusal of such application. In \*  
 6 such case, if any application is granted, with or without  
 7 conditions, or is refused, the applicant, the managers of the  
 8 watershed district, the board of supervisors of the soil and  
 9 water conservation district, or the mayor of the city may within  
 10 30 days after mailed notice thereof file with the commissioner a  
 11 demand for hearing on the application together with the bond  
 12 required by subdivision 6. The application shall thereupon be  
 13 fully heard on notice as hereinafter provided, and determined  
 14 the same as though no previous order had been made. Any hearing  
 15 pursuant to this section shall be conducted as a contested case  
 16 in accordance with chapter 14. If the commissioner elects to  
 17 waive a hearing, and if no demand for hearing be made, or if a  
 18 hearing is demanded but no bond is filed as required by  
 19 subdivision 6, the order shall become final at the expiration of  
 20 30 days after mailed notice thereof to the applicant, the  
 21 managers of the watershed district, the board of supervisors of  
 22 the soil and water conservation district, or the mayor of the  
 23 city and no appeal of the order may be taken to the district  
 24 court.

25 Subd. 4. TIME. The commissioner shall act upon all  
 26 applications, except for appropriations for irrigation, pursuant  
 27 to subdivision 8, within 30 days after the application and all  
 28 required data is filed in ~~his~~ the commissioner's office; either \*  
 29 waiving hearing and making an order thereon or directing hearing  
 30 thereon.

31 No change for subd 5

32 Subd. 6. HEARING COSTS. Except where a public  
 33 hearing is demanded by a public authority which is not the  
 34 applicant, the applicant shall pay the following, if after the  
 35 hearing the commissioner's action, taken pursuant to subdivision  
 36 2, is affirmed without material modification: (1) Costs of the  
 37 stenographic record and transcript, (2) rental expenses, if any,  
 38 of the place of hearing, (3) costs of publication of orders made  
 39 by the commissioner; however, in no event shall the applicant  
 40 pay more than \$750.

41 Where the public hearing is demanded by a public authority  
 42 which is not the applicant, the public authority making the  
 43 demand shall pay the costs and expenses listed above if the  
 44 commissioner's action is affirmed without material  
 45 modification. An applicant filing a demand for a public hearing  
 46 shall execute and file a corporate surety bond or equivalent  
 47 security to the state of Minnesota, to be approved by the  
 48 commissioner, and in an amount and form fixed by the  
 49 commissioner. The bond or security shall be conditioned for the  
 50 payment of all costs and expenses of the public hearing if the  
 51 commissioner's action taken pursuant to subdivision 2 is  
 52 affirmed without material modification. No bond or security is  
 53 required of a public authority which demands a public hearing.  
 54 The commissioner, ~~in-his-discretion,~~ may waive the requirement \*  
 55 for a bond or other security. In all other instances, costs of  
 56 the hearing shall be borne in the manner prescribed by chapter  
 57 14 and the chief administrative law judge.

58 No change for subd 7

59 Subd. 8. PERMIT TO IRRIGATE AGRICULTURAL LAND. When  
 60 an application for permit to irrigate agricultural land from  
 61 public waters is made, the soil and water conservation district  
 62 may make recommendations to the commissioner regarding the  
 63 disposition of the application and its compatibility to a  
 64 comprehensive soil and water conservation plan approved pursuant  
 65 to section 40.07, subdivision 9, within 30 days of the receipt  
 66 of the application. Within 30 days of receipt of the  
 67 application the commissioner may require additional specific  
 68 information from the applicant. Upon receipt of all additional  
 69 specific information required of the applicant, the commissioner  
 70 shall have an additional 60 days to review that information,  
 71 consider the soil and water conservation recommendations and  
 72 decide whether to grant or deny the permit; provided that if the  
 73 commissioner orders a hearing, then the time within which ~~he~~ the \*  
 74 commissioner must grant or deny the application shall be ten \*  
 75 days after receipt of the report of the hearing officer. In the  
 76 case of an application for permit to irrigate agricultural land,



1 failure of the commissioner to act thereon within the specified  
 2 time period, shall be deemed an order granting the application.  
 3 This order shall be deemed granted ten days after the applicant  
 4 has given written notice to the commissioner stating ~~his~~ an  
 5 intention to proceed with the appropriation. \*

6 Subd. 9. LIMITATIONS ON PERMITS. Except as  
 7 otherwise expressly provided by law, every permit issued by the  
 8 commissioner of natural resources under the provisions of  
 9 Minnesota Statutes 1949, Sections 105.37 to 105.55, or any  
 10 amendment thereof, shall be subject to the following:

11 (1) Cancellation by the commissioner at any time if deemed  
 12 necessary ~~by him~~ for any cause for the protection of the public  
 13 interests; \*

14 (2) Such further conditions respecting the term of the  
 15 permit or the cancellation thereof as the commissioner may  
 16 prescribe and insert in the permit;

17 (3) All applicable provisions of law existing at the time  
 18 of the issuance of the permit or thereafter enacted by the  
 19 legislature;

20 (4) Any applications granted under subdivision 8, or deemed  
 21 granted under the provisions thereof, shall likewise be subject  
 22 to the foregoing provisions of this subdivision, and shall be  
 23 subject also to cancellation by the commissioner upon the  
 24 recommendation of the supervisors of the soil and water  
 25 conservation district wherein the land to be irrigated is  
 26 located.

27 No change for subd 10

105\*#45S

28 105.45 PERMITS AND ORDERS OF COMMISSIONER; NOTICE.

29 The commissioner shall make findings of fact upon all  
 30 issues necessary for determination of the applications  
 31 considered ~~by him~~. All orders made by the commissioner shall be  
 32 based upon findings of fact made on substantial evidence. He  
 33 The commissioner may cause investigations to be made, and in  
 34 such event the facts disclosed thereby shall be put in evidence  
 35 at the hearing or any adjournment thereof. \*

36 If the commissioner concludes that the plans of the  
 37 applicant are reasonable, practical, and will adequately protect  
 38 public safety and promote the public welfare, ~~he~~ the  
 39 commissioner shall grant the permit, and, if that be in issue,  
 40 fix the control levels of public waters accordingly. In all  
 41 other cases the commissioner shall reject the application or he  
 42 may require such modification of the plan as ~~he~~ the commissioner  
 43 deems proper to protect the public interest. In all permit  
 44 applications the applicant has the burden of proving that the  
 45 proposed project is reasonable, practical, and will adequately  
 46 protect public safety and promote the public welfare. \*

47 In granting a permit the commissioner may include therein  
 48 such terms and reservations with respect to the amount and  
 49 manner of such use or appropriation or method of construction or  
 50 operation of controls as appears reasonably necessary for the  
 51 safety and welfare of the people of the state. \*

52 Notice of all orders made after hearing shall be given by  
 53 publication of the order once each week for two successive weeks  
 54 in a legal newspaper in the county where the hearing was held,  
 55 and by mailing copies of the order to all parties who entered an  
 56 appearance at such hearing.

57 The commissioner shall make ~~his~~ an order pursuant to  
 58 hearing within 60 days after the completion of the hearing. \*

105\*#46S

59 105.46 TIME LIMIT.

60 The commissioner shall fix the time within which all  
 61 construction authorized in the permit must be completed, or  
 62 within which the appropriation or use of water must be made,  
 63 which time shall not exceed five years from the date of the  
 64 permit. Such time may be thereafter extended by the  
 65 commissioner for good cause shown. Permits granted in  
 66 connection with the mining, transporting, concentration or  
 67 shipment of taconite as defined in Minnesota Statutes 1945,  
 68 Section 93.20, and permits granted in connection with the  
 69 mining, production or beneficiation of copper, copper-nickel or  
 70 nickel, shall be irrevocable for the term thereof without the  
 71 consent of the permittee, except for breach or nonperformance of  
 72 any condition of the permit by the permittee and the  
 73 commissioner may allow and prescribe therein such time as ~~he~~ the  
 74 commissioner deems reasonable, regardless of the limitations of \*



1 time contained in this section, for the commencement or  
 2 completion of any construction or operations under such permit,  
 3 or the exercising of the rights granted thereunder, or may  
 4 extend such time, for cause shown, upon the application of the  
 5 permittee.

105\*#462S

6 105.462 INVESTIGATIONS; ORDERS WITHOUT A PERMIT  
 7 APPLICATION.

8 ~~When the commissioner determines~~ On determining that the \*  
 9 public interest requires it, ~~he~~ the commissioner may investigate \*  
 10 ~~on his own motion~~ any activities being conducted in relation to \*  
 11 public waters without a permit as required by sections 105.37 to  
 12 105.55. With or without a public hearing, the commissioner may  
 13 make findings and issue orders as otherwise may be issued  
 14 pursuant to sections 105.37 to 105.55. A copy of ~~his~~ the \*  
 15 findings and order shall be served upon the person to whom the  
 16 order is issued. If the commissioner issues ~~his~~ the findings \*  
 17 and order without a hearing, the person to whom the order is  
 18 issued may file with the commissioner a demand for a hearing,  
 19 together with the bond required by section 105.44, subdivision  
 20 6, within 30 days after being served with a copy of the  
 21 commissioner's order. The matter shall be heard in the same  
 22 manner and pursuant to the same laws as an application is heard  
 23 following a demand made under section 105.44, subdivision 3,  
 24 insofar as applicable. If no demand for hearing is made by the  
 25 person to whom the order is issued under this section, or if  
 26 that person demands a hearing but fails to file the required  
 27 bond, the commissioner's order becomes final at the expiration  
 28 of 30 days after the person is served with the order and no  
 29 appeal of the order may be taken.

105\*#48S

30 105.48 DAM CONSTRUCTION AND MAINTENANCE BY STATE.

31 The commissioner, in order to improve navigation, protect  
 32 and improve domestic water supply, protect and preserve fish and  
 33 other wild life, protect the public interest in the shore and  
 34 shore lines of public waters, and promote public health, shall  
 35 have power to construct, maintain, and operate all necessary  
 36 dikes, dams and other structures necessary to maintain such  
 37 uniform water levels as may be established under sections 105.37  
 38 to 105.55.

39 For the purposes of sections 105.37 to 105.55 the  
 40 commissioner is authorized to acquire lands or any necessary  
 41 interest therein by purchase, gift or condemnation.

42 All dams owned by the state or erected upon lands owned or  
 43 controlled by the state shall be maintained under the direction  
 44 of the commissioner and the same shall be operated under ~~his~~ the \*  
 45 commissioner's direction and control. \*

46 The commissioner is authorized to accept from local  
 47 governmental and civic agencies or persons funds for the purpose  
 48 of constructing, maintaining, or operating dams and control  
 49 structures or acquiring the lands required therefor.

105\*#482S

50 105.482 DAMS; REPAIR, RECONSTRUCTION; GRANTS.

51 No change for subd 1 to 3

52 Subd. 4. PROCEDURES. The commissioner shall repair  
 53 or reconstruct a state owned dam or make a grant to a local  
 54 governmental unit only after making an investigation of the  
 55 dam. A local governmental unit desiring a grant for the repair  
 56 or reconstruction of a dam shall apply for the grant on forms  
 57 supplied by the commissioner. The commissioner shall consider  
 58 all relevant factors, including but not limited to the following  
 59 in determining whether to repair or reconstruct a state owned  
 60 dam or to make a grant to a local governmental unit: (a) the  
 61 age and type of construction of the dam; (b) the use of the dam  
 62 for water supply, flood control, navigation, hydroelectric power  
 63 generation, recreation, wildlife management, scenic, or other  
 64 purpose related to public health, safety, and welfare; (c) the  
 65 consequences of abandonment, removal, or alteration of the dam;  
 66 (d) prospective future uses of the dam; and (e) the relative  
 67 importance of the dam to the statewide water resource program.  
 68 Upon ~~his~~ the commissioner's own initiative or at the request of \*  
 69 a governmental unit applying for a grant, the commissioner may  
 70 hold a public hearing on the proposed repair or reconstruction  
 71 in the manner provided in section 105.44, after giving the same  
 72 notice as required for such a hearing. If the hearing is held  
 73 at the request of a governmental unit, the costs of publishing



1 notice and of taking and preparing the stenographic record shall  
2 be paid by the governmental unit. To receive a grant the local  
3 governmental unit shall enter into an agreement with the  
4 commissioner giving assurance that the governmental unit will  
5 operate and maintain the dam in a safe condition for the benefit  
6 of the public and shall agree to such other conditions as the  
7 commissioner deems reasonable.

8 Subd. 5. LIMITATIONS. If the cost of repair or  
9 reconstruction of a state owned dam or a grant to a local  
10 governmental unit is less than \$75,000, the commissioner may  
11 direct that the state owned dam be repaired or reconstructed or  
12 that a grant be made to repair or reconstruct a dam owned by a  
13 local governmental unit without the approval of the state  
14 executive council. If the cost of repair or reconstruction of a  
15 state owned dam, or a grant to a local governmental unit is  
16 \$75,000 or more but less than \$150,000, the expenditure shall be  
17 made only with the approval of the state executive council. If  
18 the cost of repair or reconstruction of a state owned dam or a  
19 grant to a local governmental unit is \$150,000 or more, the  
20 commissioner may recommend the project to the legislature for  
21 its consideration and action, except in the following emergency  
22 situations. With the approval of the executive council, the  
23 commissioner may direct that a state owned dam be repaired or  
24 reconstructed or a grant be made to a local governmental unit  
25 where he the commissioner determines that an emergency condition \*  
26 exists and that there is danger that life will be lost or that  
27 substantial property losses will be suffered if such action is  
28 not promptly taken.

29 Subd. 5a. LOANS. When the commissioner of natural  
30 resources decides to recommend to the legislature a dam repair  
31 or reconstruction grant to a local governmental unit, he the \*  
32 commissioner shall notify the local governmental unit and the \*  
33 commissioner of finance of the decision. The local government  
34 unit may then apply to the commissioner of finance on forms  
35 supplied by the commissioner of finance for a loan to cover up  
36 to 90 percent of the local share of project costs. The loan is  
37 repayable over a period not to exceed 20 years, with interest at  
38 a rate sufficient to cover the cost to the state of borrowing  
39 the money. Each local unit of government receiving a dam safety  
40 loan shall levy for the loan payment in that year and each year  
41 thereafter, until its loan is paid, (a) the amount of its annual  
42 loan payment, or (b) the amount of the required loan payment  
43 levy less the amount the local unit certifies is available from  
44 other sources for the loan payment. Upon approval of the  
45 project grant by the legislature, the commissioner of finance  
46 shall make the loan in an amount and on terms that are  
47 appropriate. Loans made pursuant to this subdivision shall not  
48 require approval by the electors of the local governmental unit  
49 as provided in section 475.58. All principal and interest  
50 payments received by the commissioner of finance in repayment of  
51 these loans are appropriated to the Minnesota state building  
52 bond account.

53 No change for subd 6

54 Subd. 7. PRIORITY LIST OF DAMS NEEDING REPAIR. On  
55 the basis of his examinations of dams owned by the state or \*  
56 local governmental units, the commissioner shall report annually  
57 to the legislature those state or local governmental dams in  
58 need of repair or reconstruction in the order of priority he the \*  
59 commissioner determines necessary considering danger to life, \*  
60 damage to property and those factors listed in subdivision 4.

61 No change for subd 8 to 9

105\*#485S

62 105.485 REGULATION OF SHORELAND DEVELOPMENT.

63 No change for subd 1 to 5

64 Subd. 6. MUNICIPAL SHORELAND MANAGEMENT. Before  
65 April 1, 1974, each municipality having shoreland within its  
66 corporate limits shall submit to the commissioner, for his \*  
67 review, any ordinances, rules, or regulations affecting the use  
68 and development of its shorelands. The commissioner shall  
69 review the ordinances, rules, or regulations and determine  
70 whether they are in substantial compliance with municipal  
71 shoreland management standards and criteria promulgated pursuant  
72 to subdivision 3. In making his the review the commissioner \*  
73 also shall consider any feature unique to the municipal  
74 shoreland in question, including but not limited to the  
75 characteristics of the waters which may be affected by



1 development, storm sewer facilities, and sanitary and waste  
2 disposal facilities in existence at the time of the  
3 commissioner's review. If the commissioner determines that the  
4 ordinances, rules, or regulations of a municipality do not  
5 substantially comply with the state standards and criteria for  
6 municipal shoreland management, he the commissioner shall so \*  
7 notify the municipality and shall indicate to the municipality  
8 the changes which are necessary to bring the ordinances, rules,  
9 or regulations into substantial compliance with state standards  
10 and criteria. Within one year after receiving this notice from  
11 the commissioner, the municipality shall make the changes  
12 necessary to bring the ordinances, rules, or regulations into  
13 substantial compliance with state standards and criteria. If a  
14 municipality has no ordinance, rule, or regulation affecting the  
15 use and development of shoreland on April 1, 1974, it shall  
16 adopt such an ordinance, rule, or regulation complying with  
17 state standards and criteria for municipal shoreland management,  
18 before July 1, 1975. If (a) a municipality has no ordinance,  
19 rule, or regulation affecting the use and development of  
20 shoreland on April 1, 1974, and fails to adopt such an ordinance  
21 by July 1, 1975, or if (b) the corporate boundaries of the  
22 municipality are expanded to include shorelands not previously  
23 included within the municipal boundaries and the municipality  
24 fails to adopt such an ordinance within one year after including  
25 the shorelands within its municipal boundaries, or if (c) the  
26 commissioner determines that a municipal shoreland management  
27 ordinance does not substantially comply with the state standards  
28 and criteria for municipal shoreland management and that the  
29 municipality has failed to make the necessary changes within one  
30 year after receiving notice of noncompliance, the commissioner  
31 may adopt an ordinance, rules, or regulations for the  
32 municipality in the following manner. The commissioner shall  
33 hold at least one public hearing on the proposed ordinance,  
34 rules, or regulations in the manner provided in section 462.357,  
35 after giving notice as provided in section 462.357. The  
36 ordinance, rules, or regulations are effective for the  
37 municipality on the date and in accordance with such regulations  
38 relating to compliance as the commissioner shall prescribe. The  
39 ordinance shall be enforced as provided in section 462.362. The  
40 penalties provided in section 462.362 apply to violations of the  
41 ordinances, rules, or regulations adopted for the municipality  
42 by the commissioner. The costs incurred by the commissioner in  
43 adopting the ordinances, rules, or regulations for the  
44 municipality shall be paid by the municipality and collected  
45 from the municipality in the same manner as such costs are paid  
46 by a county and collected from a county pursuant to subdivision  
47 5; and any tax levied to pay the costs shall be levied in excess  
48 of any limitation as to rate or amount, but shall not cause the  
49 amount of other taxes which are subject to any limitation to be  
50 reduced in any amount whatsoever.

51 No change for subd 7 to 8

105\*#49S

52 105.49 COOPERATION WITH OTHER AGENCIES.

53 The commissioner may cooperate and enter into agreements  
54 with the United States government, any department of the state  
55 of Minnesota, or any state or country adjacent to the state of  
56 Minnesota for the purpose of effecting any of the provisions of  
57 sections 105.37 to 105.55. He The commissioner may cooperate \*  
58 with any department of the government of the United States in  
59 the execution of surveys within the state.

60 Personnel of the pollution control agency, the health  
61 department, and county and municipal governments shall cooperate  
62 with the commissioner in monitoring and enforcing water  
63 permits. It shall be the duty of all county attorneys,  
64 sheriffs, and other peace officers and other officers having  
65 authority to take all action to the extent of their authority,  
66 respectively, that may be necessary or proper for the  
67 enforcement of any of the provisions, regulations, standards,  
68 orders, or permits specified in sections 105.37 to 105.55.

105\*#50S

69 105.50 COMMISSIONER TO APPEAR FOR STATE.

70 The commissioner may appear, represent and act for the  
71 state in any matter relating to any application to be made to  
72 the federal government relating to waters within the state or  
73 the use thereof; and he may do and perform such acts in \*  
74 connection therewith as he the commissioner deems proper to \*



1 protect the interests of the people of the state consistent with  
2 the provisions of sections 105.37 to 105.55.

105\*#51S

3 105.51 WELLS; CONTROL, REPORTS BY DRILLERS.

4 No change for subd 1 to 2

5 Subd. 3. It shall be unlawful for the owner of any well  
6 having a casing six inches or more in inside diameter to abandon  
7 such well, or to cover or otherwise render the same inaccessible  
8 for inspection, or to permanently remove the pumps therefrom  
9 without notifying the commissioner of natural resources and  
10 complying with ~~his~~ the commissioner's recommendations relating \*  
11 thereto. The commissioner may make such recommendations and \*  
12 impose such conditions as ~~he~~ the commissioner may find advisable \*  
13 in the public interest. The commissioner or ~~his~~ an authorized \*  
14 agent of the commissioner shall be granted access at any \*  
15 reasonable time to inspect the site of any such well that has  
16 been abandoned, or for which notice of abandonment has been  
17 given under this subdivision.

105\*#52S

18 105.52 EXAMINATION AND REPAIR OF DAMS AND RESERVOIRS.

19 Upon complaint or ~~upon his own initiative~~ acting \*  
20 personally, the commissioner is authorized to examine any \*  
21 reservoir, dam, control structure, or waterway obstruction. In \*  
22 so doing the commissioner or ~~his~~ an authorized agent shall be \*  
23 granted access at any reasonable time to examine the reservoir,  
24 dam, control structure, or waterway obstruction. If the  
25 commissioner determines that additional engineering  
26 investigations are necessary in order to determine the safety of  
27 the dam, reservoir, control structure, or waterway obstruction  
28 and the nature and extent of the necessary repairs or  
29 alterations, ~~he~~ the commissioner shall notify the owner thereof \*  
30 to cause such investigations to be made at the owner's expense \*  
31 and filed with the commissioner for ~~his~~ use in determining the \*  
32 condition of the structures and the need for the repair,  
33 alteration or removal thereof. If the commissioner determines  
34 that such reservoir, dam, control structure, or waterway  
35 obstruction is unsafe or needs repair or alteration, ~~he~~ the \*  
36 commissioner shall notify the owner thereof to repair, alter, or \*  
37 remove the same as the exigencies of the case may require, and  
38 shall issue an order to that effect in the same manner and  
39 subject to the same conditions as if the owner had made  
40 application for permit for the said repairs, alterations, or  
41 removal. The engineering investigations or the work of repair,  
42 alteration, or removal shall be commenced and completed within  
43 such reasonable time as may be prescribed by the commissioner.

105\*#521S

44 105.521 DAM EXAMINATION REPORTS; LIMITATIONS ON  
45 TRANSFERS OF DAMS.

46 No state department or agency and no county, city, town, or  
47 other governmental entity may purchase or accept as a gift any  
48 privately owned dam subject to permit requirements until after  
49 (1) the commissioner has examined the dam, (2) the commissioner  
50 has prepared a report of ~~his~~ the examination and filed it with \*  
51 the legislature, and (3) the legislature has had an opportunity \*  
52 to consider the report and has not prohibited the purchase or  
53 gift during the legislative session in which the report is  
54 filed, or, if the report is filed when the legislature is not in  
55 session, the legislature has not prohibited the gift or purchase  
56 at the next succeeding session.

105\*#63S

57 105.63 TRANSFER OF CUSTODY OF CERTAIN DAM AND WATER  
58 CONTROLS FROM STATE AGENCY.

59 Subdivision 1. Upon application by resolution of the  
60 governing body of any governmental subdivision of the state  
61 having authority to maintain and operate dams or other control  
62 works affecting public waters, the commissioner of natural  
63 resources, hereinafter called the commissioner, with the  
64 approval of the executive council, may transfer to such  
65 subdivision the custody of any such dam or other water control  
66 works belonging to the state and under the supervision or  
67 control of the commissioner in any case where ~~he~~ the \*  
68 commissioner shall determine that the transfer will be in \*  
69 furtherance of the best interests of the public. Such transfer  
70 shall be made by order of the commissioner upon such terms and  
71 conditions as ~~he~~ the commissioner shall prescribe respecting \*  
72 maintenance and operation of the project. In connection with



1 such transfer the commissioner may convey to the transferee by  
2 deed or other appropriate instrument in the name of the state  
3 any lands, easements, or other property of the state pertaining  
4 to the project, subject to such conditions and reservations as  
5 he the commissioner may deem proper. A duplicate of every \*  
6 order, conveyance, or other instrument executed by the  
7 commissioner in connection with a transfer shall be filed with  
8 the commissioner of finance.

9 No change for subd 2

105\*#64S

10 105.64 DRAINAGE OR DIVERSION OF WATER TO FACILITATE  
11 MINING.

12 Subdivision 1. The commissioner of natural resources may  
13 grant permits for the drainage, diversion, control, or use of  
14 any waters under his the commissioner's jurisdiction when \*  
15 necessary for the mining of iron ore, taconite, copper,  
16 copper-nickel or nickel, wherever situated, as herein provided.

17 Subd. 2. Application for such permit shall be made to the \*  
18 commissioner in such form as he the commissioner shall prescribe  
19 by the owner of the iron ore, taconite, copper, copper-nickel or  
20 nickel deposits affected or by the owner of the right to mine  
21 the same. Except as otherwise herein provided, all matters  
22 pertaining to such application, to the proceedings thereon, and  
23 to any permit issued thereon shall be governed by the provisions  
24 of sections 105.37 to 105.55 relating to applications and  
25 permits affecting waters, so far as applicable.

26 No change for subd 3

27 Subd. 4. In any case where the operations authorized by a  
28 permit hereunder may affect any public or private property not  
29 owned by the permittee, before proceeding with such operations,  
30 he the permittee shall acquire all rights or easements necessary \*  
31 therefor, shall pay or furnish security for the payment of all  
32 damages to such property that may result therefrom, and shall  
33 furnish such evidence of compliance with the provisions hereof  
34 as the commissioner may require. Neither the state nor any of  
35 its officers, agents, or employees shall incur any liability on  
36 account of the issuance of a permit hereunder or on account of  
37 any act or omission of the permittee, his or the permittee's \*  
38 agents or servants, under or in connection with any such permit.

39 Subd. 5. Notwithstanding any other limitations prescribed  
40 by law, every permit hereunder shall be granted for such term as  
41 the commissioner shall find necessary for the completion of the  
42 proposed mining operations, and he the commissioner may allow \*  
43 and prescribe in the permit such time as he the commissioner \*  
44 deems reasonable for the commencement or completion of any  
45 operations or construction under the permit or the exercise of  
46 the rights granted thereby. The original term of the permit or  
47 the time allowed for the performance of any condition thereof  
48 may be extended by the commissioner for good cause shown upon  
49 application of the permittee. In any permit issued hereunder the  
50 commissioner may prescribe such conditions as he the \*  
51 commissioner deems necessary and practicable for restoration of \*  
52 the waters affected to their former condition after completion  
53 of the mining operations or after expiration or cancelation of  
54 the permit, and may prescribe such other conditions as he the \*  
55 commissioner deems necessary for protection of the public \*  
56 health, safety, and welfare, and may require the permittee to  
57 furnish a bond to the state, in such form and amount as the  
58 commissioner deems appropriate, as security for compliance with  
59 the conditions of the permit and all applicable provisions of  
60 law.

61 Subd. 6. Every permit issued hereunder shall be  
62 irrevocable for the term thereof and for any extension of such  
63 term except as follows:

64 (1) A permit may be modified or canceled by the  
65 commissioner at the request or with the consent of the permittee  
66 upon such conditions as the commissioner deems necessary for  
67 protection of the public interests;

68 (2) Subject to appeal in the manner provided by sections  
69 105.37 to 105.55, a permit may be modified or canceled by the  
70 commissioner in case of any breach of the terms or conditions  
71 thereof or in case of any violation of law pertaining thereto by  
72 the permittee, his or the permittee's agents or servants, or in \*  
73 case the commissioner finds such modification or cancelation  
74 necessary to protect the public health or safety, or to protect  
75 the public interests in lands or waters against substantial



1 injury resulting in any manner or to any extent not expressly  
 2 authorized by the permit, or to prevent substantial injury to  
 3 persons or property resulting in any manner or to any extent not  
 4 so authorized, upon at least 30 days written notice to the  
 5 permittee, stating the grounds of the proposed modification or  
 6 cancelation and giving the permittee an opportunity to be heard  
 7 thereon;

8 (3) By written order to the permittee the commissioner may  
 9 forthwith suspend operations under a permit if ~~he finds it~~ \*  
 10 necessary in an emergency to protect the public health or safety  
 11 or to protect public interests in lands or waters against  
 12 imminent danger of substantial injury in any manner or to any  
 13 extent not expressly authorized by the permit, or to protect  
 14 persons or property against such danger, and may require the  
 15 permittee to take any measures necessary to prevent or remedy  
 16 such injury; provided, that no such order shall be in effect for  
 17 more than 30 days from the date thereof without giving the  
 18 permittee at least ten days' written notice of such order and an  
 19 opportunity to be heard thereon.

20 No change for subd 7

105\*#71S

21 105.71 WATER RESOURCES BOARD.

22 No change for subd 1 to 2

23 Subd. 3. The board shall designate its ~~chairman~~ chair, and \*  
 24 may annually from time to time change such designation.

25 A majority of the board shall constitute a quorum, and the  
 26 concurrence of a majority in any matter within their duties  
 27 shall be required for a determination.

28 In connection with their duties as members of the board,  
 29 the board shall provide for the keeping of a full and accurate  
 30 record of all proceedings and of all resolutions, regulations,  
 31 and orders issued or adopted.

32 The commissioner of administration shall provide and make  
 33 available within the department of natural resources suitable  
 34 and adequate office facilities and space for the board. The  
 35 legislative auditor shall annually audit the books of the board  
 36 if funds and personnel permit.

105\*#78S

37 105.78 CONSENT, NOTICE AND PROCEDURE.

38 When a consent, notice, or recommendation is made by the  
 39 board a copy is filed with the agency, and such filing is notice  
 40 thereof. The board's rules may provide for a notice, in  
 41 addition to such filing by mail, posting, publication, or  
 42 otherwise which it deems will practically give information to  
 43 parties and interested persons of its actions. For the purposes  
 44 of carrying out the provisions of sections 105.72 to 105.79 the  
 45 ~~chairman~~ chair of the board, or any member thereof, has the \*  
 46 power to subpoena witnesses, to administer oaths and to compel  
 47 the production of books, records and other evidence.

48 Disobedience of any such subpoena, or refusal to be sworn, or to  
 49 answer as a witness, shall be punishable as a contempt of the  
 50 district court on complaint of the board, or any member thereof,  
 51 before the district court of the county where such disobedience  
 52 or refusal occurred. Witnesses receive the same fees and  
 53 mileage as in civil actions. All persons are sworn before  
 54 testifying and the right to examine or cross-examine is the same  
 55 as in civil actions. All hearings are public, conducted by the  
 56 board or any authorized member thereof, and all affected persons  
 57 have the opportunity to be heard. The board provides a  
 58 stenographer to take the testimony and all proceedings at the  
 59 hearings are recorded and preserved. All hearings are conducted  
 60 insofar as practicable in the same manner as civil actions. It  
 61 is proper for the divisions of state government and the agencies  
 62 thereof to adopt opposite positions in respect to the matter  
 63 before the board when full advocacy will assist to disclose the  
 64 public interest.

105\*#81S

65 105.81 PETITION; BOND; INVESTIGATION; REPORT; HEARING;  
 66 ORDER.

67 For the purpose of conserving and making more adequate use  
 68 of our water resources, any person, public or municipal  
 69 corporation, governmental subdivision, the state or any of its  
 70 departments or agencies, the commissioner of natural resources  
 71 and the United States or any of its agencies, may petition the  
 72 county board in the case of a system lying wholly within one  
 73 county or the district court in the case of a drainage system



1 affecting two or more counties for the installation of dams or  
 2 other control works in said ditches to impound or divert waters  
 3 for any beneficial use. Said petition shall contain the  
 4 location of the installation, plans and specifications for the  
 5 proposed structure, and a map of the areas likely to be affected  
 6 by the impoundment or diversion. The petitioner shall agree to  
 7 be responsible for the cost of installation and construction of  
 8 the structure. Upon filing of the petition, the petitioners  
 9 shall file a bond as provided in sections 106A.205 and  
 10 106A.211. No bond shall be required if the petition is filed by  
 11 the state, any of its departments or agencies, the commissioner  
 12 of natural resources, the United States or any of its agencies,  
 13 and cities. Said petition shall also be accompanied by a permit  
 14 from the commissioner of natural resources as required in  
 15 sections 105.41 and 105.42.

16 On receipt of the petition, bond, and permit, if required,  
 17 the board or court shall appoint an engineer to investigate the  
 18 effect of the proposed installation and file a report of his  
 19 findings. Upon filing of the engineer's report, notice shall be \*  
 20 given and a public hearing held as provided in section  
 21 106A.261. If at this hearing it appears from the engineer's  
 22 report and other evidence presented that such installation will  
 23 be of a public or private benefit and that it will not impair  
 24 the utility of the ditch or deprive affected land owners of the  
 25 benefit thereof, the board or court shall issue a permit  
 26 authorizing its installation. Before ~~the petitioner shall~~ \*  
 27 ~~install~~ installing or ~~construct~~ constructing any impoundment or \*  
 28 diversion, ~~he~~ the petitioner shall obtain such rights-of-way and \*  
 29 flowage easements from all owners of land to be affected thereby.

30 The order of the court modifying the ditch system shall  
 31 provide that all construction and subsequent maintenance and  
 32 repairs of the ditch modification shall be done and performed by  
 33 the petitioner without any cost to the owners of lands and  
 34 properties previously within the drainage system.

106A#085S

35 106A.085 ENFORCEMENT.

36 Subdivision 1. WARRANTS AND ARRESTS. The  
 37 commissioner, director of the fish and game division, game  
 38 refuge ~~patrolmen~~ patrol officers, and conservation officers may \*  
 39 execute and serve warrants, and arrest persons detected in  
 40 actual violation of sections 106A.005 to 106A.811 as provided in  
 41 section 97.50, subdivision 1.

42 No change for subd 2

106A#505S

43 106A.505 AWARDING THE CONSTRUCTION CONTRACT.

44 No change for subd 1 to 6

45 Subd. 7. AFFECTED COUNTIES CONTRACT THROUGH AUDITOR.

46 The ~~chairman~~ chair of the drainage authority and the auditor of \*  
 47 each affected county shall contract, in the names of their  
 48 respective counties, to construct the drainage system in the  
 49 time and manner and according to the plans and specifications  
 50 and the contract provisions in this chapter.

51 No change for subd 8

106A#715S

52 106A.715 PROCEDURE FOR REPAIR BY PETITION.

53 No change for subd 1 to 3

54 Subd. 4. HEARING ON REPAIR REPORT. (a) The drainage

55 authority shall make findings and order the repair to be made if:

56 (1) the drainage authority determines from the repair  
 57 report and the evidence presented that the repairs recommended  
 58 are necessary for the best interests of the affected property  
 59 owners; or

60 (2) the repair petition is signed by the owners of at least  
 61 26 percent of the property area affected by and assessed for the  
 62 original construction of the drainage system, and the drainage  
 63 authority determines that the drainage system is in need of  
 64 repair so that it no longer serves its original purpose and the  
 65 cost of the repair will not exceed the total benefits determined  
 66 in the original drainage system proceeding.

67 (b) The order must direct the auditor and the ~~chairman~~ \*  
 68 ~~chair~~ chair of the board or, for a joint county drainage system, the \*  
 69 auditors of the affected counties to proceed and prepare and  
 70 award a contract for the repair of the drainage system. The  
 71 contract must be for the repair in the repair report and as  
 72 determined necessary by the drainage authority, and be prepared  
 73 in the manner provided in this chapter for the original drainage



1 system construction.

2 No change for subd 5 to 6

110\*#14S

3 110.14 DAMS; PURPOSES; EMINENT DOMAIN.

4 When any person in order to create or improve a water power  
 5 for milling or manufacturing purposes shall desire to erect and  
 6 maintain upon ~~his~~ that person's own land a dam across any stream \*  
 7 or other watercourse not navigable, or to raise or extend any  
 8 such dam already erected, whereby lands owned by other persons  
 9 shall be overflowed or otherwise damaged, ~~he~~ the person desiring \*  
 10 to erect the dam may acquire the right so to do by causing such \*  
 11 damages to be ascertained and paid as prescribed in chapter  
 12 117. No such dam shall be erected, raised, or maintained to the  
 13 injury of any water power previously improved.

110\*#16S

14 110.16 RIGHT TO OVERFLOW, OBSTRUCT, OR IMPAIR HIGHWAYS  
15 GRANTED BY GOVERNING BODY.

16 When it shall be necessary in creating, improving, or  
 17 operating any water power to overflow, obstruct, or impair any  
 18 public street or other highway, or to dig any raceway therein,  
 19 the right so to do may be granted by the town board or common  
 20 council, as the case may be, of the town or municipality in  
 21 which the part of such highway to be affected lies. Such grant  
 22 shall be made upon petition and by an order, defining all the  
 23 terms and conditions thereof, passed at a meeting of the board  
 24 or council called to consider the petition, of which meeting and  
 25 the purpose thereof ten days posted notice shall have been given.  
 26 Testimony may be taken, and all expenses of the meeting and  
 27 examination shall be paid by the petitioner, whether ~~his~~ the \*  
 28 petitioner's prayer be granted or refused. \*

110\*#34S

29 110.34 DETERMINATION OF EASEMENT RIGHTS.

30 Subdivision 1. The extent and effect of any easement  
 31 obtained by the state as herein provided and the title and  
 32 rights of the state therein and in the lands affected thereby  
 33 and all adverse claims thereto and the rights of all parties  
 34 interested therein, respectively, may be determined by action  
 35 brought in the name of the state in the district court of the  
 36 county in which the lands affected are situated. Such action  
 37 may be brought by the attorney general upon ~~his~~ the attorney \*  
 38 general's own initiative or on request of the commissioner of \*  
 39 natural resources. On request of the attorney general the  
 40 county attorney of the county in which the lands involved are  
 41 situated shall assist in carrying on such action.

42 No change for subd 2 to 4

110\*#37S

43 110.37 ABANDONMENT OF DAMS.

44 In case any dam affected by the conditions specified in  
 45 section 110.31 and not owned or controlled by the state or any  
 46 other public agency shall not have been used or maintained by or  
 47 under the authority of the owner thereof for any lawful purpose  
 48 for a continuous period of at least 15 years, it shall be  
 49 presumed that the owner has abandoned the dam and the site  
 50 thereof, and has dedicated the same, together with any flowage  
 51 easements appurtenant thereto, to the state for the use and  
 52 benefit of the public. Thereupon the commissioner of natural  
 53 resources shall take possession of such dam and the site thereof  
 54 and such easements in behalf of the state, and shall use,  
 55 maintain, operate, and control the same for public purposes, or  
 56 may dispose of the same for such purposes, subject to the  
 57 provisions hereof or as otherwise authorized by law, unless the  
 58 commissioner of natural resources, after a hearing upon 30 days  
 59 notice published in a legal newspaper in the county in which the  
 60 dam is situated, shall determine that it is not in the public  
 61 interest for the state to use, maintain, operate, and control  
 62 the dam. If the commissioner of natural resources shall  
 63 determine under authority of other provisions of law to  
 64 construct other or additional control works to supplement or  
 65 supplant such dam, ~~he~~ the commissioner shall have authority so \*  
 66 to do.

67 The title of the state to any such dam, site, or easements  
 68 may be established and determined by action in the district  
 69 court as provided by law for actions for the determination of  
 70 title to real estate. The taking of possession of any such dam,  
 71 site, or easements by the commissioner of natural resources  
 72 shall be manifested by written certificate thereof executed by



1 ~~him~~ the commissioner and recorded in the office of the county \*  
 2 recorder of the county in which the dam is situated. No  
 3 responsibility for any such dam shall devolve upon the state or  
 4 the commissioner or any other agency of the state until such  
 5 certificate shall have been recorded or a judgment entered in an  
 6 appropriate action establishing the state's title thereto. In  
 7 case any county or counties or other political subdivision of  
 8 the state or combination thereof shall undertake to take over  
 9 such dam and easements and maintain, operate, control, or  
 10 dispose of the same for public purposes as authorized by law,  
 11 the commissioner of natural resources, ~~in his~~ has discretion, \*  
 12 may to convey the same in the name of the state to such county \*  
 13 or counties or other political subdivision or combination  
 14 thereof for such purposes.

110\*#51S

15 110.51 NOTICE OF PLAN; HEARING.

16 Before the plan of operation for any headwater lake is put  
 17 into effect, the commissioner shall publish a notice of hearing  
 18 upon said plan for two weeks in a newspaper in each county in  
 19 which the water areas to be affected lie. The hearing shall be  
 20 conducted by the commissioner or ~~his~~ a duly appointed referee. \*  
 21 All interested parties shall have an opportunity to be heard,  
 22 shall testify under oath, and shall be subject to cross  
 23 examination by any adverse parties, and by the attorney general,  
 24 or ~~his~~ the attorney general's representative, who shall \*  
 25 represent the commissioner at said hearing. The hearing will  
 26 not be governed by legal rules of evidence, but the findings of  
 27 fact and orders, to be made and formulated by the commissioner,  
 28 shall be predicated only upon relevant, material, and competent  
 29 evidence. The findings of fact and orders incorporating the  
 30 plan determined upon by the commissioner shall be published for  
 31 two weeks in the same manner as the notice of hearing was  
 32 published.

110\*#53S

33 110.53 MODIFICATIONS.

34 It is recognized that experience may require changes in the  
 35 elevations sought to be maintained on each of the headwater  
 36 lakes. Consequently, once a plan has been put into effect, the  
 37 commissioner is authorized to modify the stages sought to be  
 38 maintained by modifying ~~his~~ the plan with respect to any of the \*  
 39 lakes involved to the extent of one foot in elevation according  
 40 to the zeros of the present government gauges without the  
 41 necessity of further or additional hearings; provided that in no  
 42 event shall any departure from the elevation target be made so  
 43 as to reduce any proposed stages below the minimums prescribed  
 44 by section 110.49, clause (e) during the recreational season.  
 45 Any modification of the plan established subsequent to the  
 46 hearings herein provided which departs by more than one foot in  
 47 elevation shall be placed into effect only upon further hearing  
 48 proceeding upon the same formalities as the hearing hereinabove  
 49 prescribed.

110A#09S

50 110A.09 PETITION; SIGNATURES.

51 The petition must be signed by 50 percent of the  
 52 landowners, except the holders of easements for electric or  
 53 telephone transmission and distribution lines, within the area  
 54 outside the limits of any city constituting the proposed  
 55 district. If the proposed district includes any area within a  
 56 city, the petition must be accompanied by a resolution of the  
 57 governing body of the city requesting a specific area within the  
 58 city be included within the proposed district. On each  
 59 petition, set opposite the signature of each petitioner, shall  
 60 be stated ~~his or her~~ the petitioner's name and post office \*  
 61 address and the location of land of which ~~he or she~~ the \*  
 62 petitioner is the owner. \*

110A#10S

63 110A.10 INSTRUMENTS CONSTITUTING PETITION.

64 The petition may contain any number of separate  
 65 instruments, and to each sheet for petitioners' signatures shall  
 66 be attached a full and correct copy of the petition. Every sheet  
 67 of every petition containing signatures shall have below the  
 68 signatures an affidavit by the circulator in substantially the  
 69 following form:

70 State of Minnesota,

71 County of .....

72 ....., being first duly sworn, deposes, that he \*



1 ~~or-she~~ the affiant is the circulator of the foregoing petition \*  
 2 containing ..... signatures; that each person whose name  
 3 appears on the petition sheet personally signed the petition in  
 4 the presence of the affiant; that ~~he-or-she~~ the affiant believes \*  
 5 that each signer is an owner of the land described opposite ~~his~~ \*  
 6 ~~or-her~~ the signer's signature, to be included within the \*  
 7 proposed district, residing at the address written opposite ~~his~~ \*  
 8 ~~or-her~~ the signer's name, and that affiant stated to every \*  
 9 petitioner ~~before-he-or-she-affixed-his-or-her-signature~~ the \*  
 10 legal effect and nature of the petition before each signed. \*

11 .....

12 Circulator.

110A#23S

13 110A.23 MEMBERS; ELECTION; TERMS.

14 After the election of the board of directors members of the  
 15 board to succeed those elected in the initial election provided  
 16 for in section 110A.08, respectively, and to fill unexpired  
 17 terms, shall be nominated and elected and shall take office in  
 18 the following manner. One year from the date of the initial  
 19 election an election shall be held to elect directors to succeed  
 20 those whose terms are about to expire. The term of each director  
 21 thus elected shall commence two weeks after ~~his-or-her~~ the \*  
 22 director's election and continue for three years and until ~~his~~ \*  
 23 ~~or-her~~ a successor is elected and qualified. Election of \*  
 24 directors shall be conducted as provided by section 110A.24.

110A#24S

25 110A.24 ELECTIONS; PLACE.

26 No change for subd 1

27 Subd. 2. Every person or corporation which is a party to a  
 28 contract with the district for the purchase of water to be  
 29 furnished by the district, may cast one vote at each election  
 30 for each director to be elected. In case election divisions are  
 31 provided for, each person or corporation entitled to vote by  
 32 reason of being a party to a contract shall select the division  
 33 in which ~~he~~ the person or ~~it~~ corporation shall vote, which \*  
 34 selection shall be made under rules established by the board of  
 35 directors.

36 Subd. 3. The board shall at least 20 days prior to the  
 37 date of election, mail to each person or corporation entitled to  
 38 vote, at ~~his~~ the person's or ~~its~~ corporation's last known place \*  
 39 of residence or business, a notice stating the time, place, and  
 40 purpose of the election or, in the alternative, publish in each  
 41 county in which lands within the district lie, in a newspaper of  
 42 general circulation in the county, once each week for at least  
 43 two successive weeks before the time of election, a notice that  
 44 the election will be held giving the purpose, time and place.

45 No change for subd 4 to 5

110A#25S

46 110A.25 DIRECTORS.

47 Subdivision 1. No person shall be qualified to hold office  
 48 as a member of the board of directors of any district unless ~~he~~ \*  
 49 ~~or-she~~ that person is a party to a contract to purchase water \*  
 50 from the district.

51 No change for subd 2 to 3

110A#26S

52 110A.26 OFFICERS.

53 No change for subd 1

54 Subd. 2. The treasurer shall furnish and maintain a  
 55 corporate surety bond in an amount sufficient to cover all  
 56 moneys coming into ~~his~~ the treasurer's possession or control, \*  
 57 which shall be satisfactory in form and with sureties approved  
 58 by the board. The bond, as approved, shall be filed with the  
 59 secretary of state, and copies filed with the auditors of  
 60 counties within the district and the premium upon the bond paid  
 61 by the district.

110A#33S

62 110A.33 WORKS; OWNERSHIP; SALE.

63 No change for subd 1

64 Subd. 2. If in the judgment of the board of directors it  
 65 is for the best interest of the district to sell any portion of  
 66 the district works not needed for the performance of any  
 67 outstanding contract, and not mortgaged or pledged as provided  
 68 for in subdivision 3, the board shall pass a resolution to that  
 69 effect. The board shall call a special election at which the  
 70 question of selling the portion of the works shall be submitted  
 71 to the electors of the district qualified to vote for district



1 directors. The board shall mail to each qualified elector, at  
 2 ~~his~~ the last known place of residence or place of business of \*  
 3 the elector, a notice stating the time, place, and purpose of \*  
 4 the election, and so far as practicable shall conduct the  
 5 election in all other respects as provided in section 110A.24.  
 6 If a majority of all qualified electors of the district vote  
 7 "yes", the board may sell the portion of the works.  
 8 No change for subd 3

111\*#06S

9 111.06 NOTICES AND HEARING BY COURT.  
 10 Upon the filing of the petition with the clerk of the  
 11 district court, as provided in section 111.04, ~~he~~ the clerk \*  
 12 shall immediately notify the judge of the court of the filing  
 13 thereof, who shall, within ten days thereafter, by order fix a  
 14 time and place for hearing on the petition at some point within  
 15 the limits of the proposed district, notice of which hearing  
 16 shall be given by publication, the last of which publication  
 17 shall be at least ten days prior to the date set for hearing.  
 18 If the territory described in the petition shall be situate in  
 19 more than one county comprising two or more judicial districts,  
 20 the judge of the court where the petition is filed shall arrange  
 21 with the judges of the other districts for a joint hearing upon  
 22 the petition, which hearing may be at such time and place within  
 23 the territory described in the petition as the judges shall  
 24 jointly specify. At this hearing each judicial district shall  
 25 be represented by one judge only, but the district court in  
 26 which the petition was originally filed shall, for all other  
 27 purposes, except for the purpose of the joint hearing, and  
 28 except as hereinafter otherwise provided, have and retain  
 29 original jurisdiction.

111\*#08S

30 111.08 BOARD.  
 31 Subdivision 1. ORGANIZATION. Within ten days after  
 32 the filing of the order organizing the district in the office of  
 33 the secretary of state, the parties named therein as the first  
 34 board of directors shall meet at the office of the clerk, take  
 35 and subscribe the oath provided by statute to be taken by public  
 36 officials, and file with the clerk a surety bond in the sum of  
 37 \$1,000, the cost to be paid by the district, conditioned for the  
 38 faithful performance of ~~his~~ their duties, and thereupon organize \*  
 39 by electing one of their number as president and one of their  
 40 number, or a third party, as secretary or clerk of the board,  
 41 and provide the necessary books and records. If the place  
 42 designated in the order as general offices of the district is a  
 43 county seat, the board may elect the clerk of the district court  
 44 of such county as its clerk and thereupon and thereafter all  
 45 papers filed with the clerk shall be and constitute a filing  
 46 with the board, and it shall be the duty of the clerk to keep  
 47 and preserve the record of the board in ~~his~~ the clerk's office \*  
 48 and to do and perform such duties as are designated and required  
 49 by the board, which shall fix ~~his~~ the compensation of the clerk. \*

50 No change for subd 2 to 4

51 Subd. 5. SUBMISSION OF PLAN TO COMMISSIONER OF NATURAL  
 52 RESOURCES; APPROVAL, NOTICE. Upon the completion of the plan  
 53 for the whole or any subdistrict the board shall file a copy of  
 54 any such plan with the commissioner of natural resources who  
 55 shall approve or reject any provisions thereof. If the  
 56 commissioner of natural resources rejects such provision or  
 57 refers it back for amendment, the board shall prepare other  
 58 provisions. Upon the completion of any such plan and the  
 59 approval thereof the board shall cause notice of the completion  
 60 of such plan to be given by three successive weeks publication  
 61 in a newspaper in the counties wherein the lands proposed to be  
 62 affected are situated. This notice shall fix the time and place  
 63 for a hearing, not less than 20 days nor more than 30 days after  
 64 the last publication. All objections to the plan shall be in  
 65 writing and filed with the secretary of the board at ~~his~~ the \*  
 66 secretary's office within 10 days after the last publication of \*  
 67 the notice. After the hearing the board of directors shall  
 68 adopt the plan, with or without modifications, for the making of  
 69 improvements of said district or subdistrict thereof.

70 No change for subd 6 to 8

111\*#09S

71 111.09 ASSISTANTS, EMPLOYEES.  
 72 Subdivision 1. TREASURER. The board of directors  
 73 may elect or appoint a treasurer who shall be a resident of the



1 district and may be one of its members. Before entering upon  
 2 ~~his~~ any duties ~~he~~ the treasurer shall subscribe to the oath \*  
 3 required by statute in the case of public officials and give a  
 4 surety bond in such sum as the board directs, which shall not be  
 5 less than the total sum belonging to the district that shall at \*  
 6 any time be likely to be in ~~his~~ the hands or under ~~his~~ the \*  
 7 control ~~belonging-to-the-district~~ of the treasurer. The duties \*  
 8 of the treasurer shall be such as the board designates. ~~He~~ The \*  
 9 treasurer shall receive all moneys belonging to the district and \*  
 10 deposit the same in such banks as the board designates, and ~~he~~ \*  
 11 shall require such banks to give a proper bond for the care and \*  
 12 accounting for such moneys. ~~He~~ The treasurer shall pay out this \*  
 13 money only on proper orders signed by the president and  
 14 secretary of the board.

15 No change for subd 2

16 Subd. 3. CHIEF ENGINEER AS SUPERINTENDENT. The  
 17 chief engineer shall be superintendent of all the works and  
 18 improvements and have general charge of all work pertaining to  
 19 drainage and flood control done under proceedings had under  
 20 sections 111.02 to 111.42 within the limits of the district and  
 21 before any court or county board shall order or authorize the  
 22 construction of any drainage ditch within the district notice  
 23 shall be given the engineer and ~~he~~ the engineer shall be given \*  
 24 an opportunity to be heard with reference to any objections  
 25 thereto.

26 Subd. 4. DITCH INSPECTOR, POWERS. The board of  
 27 directors may employ a ditch inspector, who may be the chief  
 28 engineer, and provide for ~~his~~ the inspector's compensation. The \*  
 29 ditch inspector shall inspect all the works of the district at  
 30 least once each year and at such other times as directed by the  
 31 board of directors, and any other county or judicial ditches  
 32 within the district when requested so to do by the court or by  
 33 the county board of the county wherein such ditch or any part  
 34 thereof is situated. ~~He~~ The inspector shall file a written \*  
 35 report of such inspection, together with ~~his~~ any \*  
 36 recommendations, with a secretary of the district board and with  
 37 the county auditor of the county or counties affected. The  
 38 compensation of such ditch inspector shall be charged to and  
 39 paid for out of the repair fund of each ditch inspected upon the  
 40 verified statement of the ditch inspector.

111\*#10S

41 111.10 TERMS OF OFFICE OF DIRECTORS.

42 The members of the board of directors of the district shall  
 43 hold their office, where their number does not exceed three, one  
 44 for a period of two years; two for four years; and where their  
 45 number shall consist of five members, two of the board shall  
 46 hold their office for a period of two years, three for a period  
 47 of four years, and thereafter all shall hold their office for  
 48 four years. The district court of the county wherein the  
 49 general office is located shall have authority to fill all  
 50 vacancies that occur in the board from any cause and each member  
 51 of the board shall hold ~~his~~ office until ~~his~~ a successor is \*  
 52 elected and qualifies. The board when organized shall, for all  
 53 purposes of sections 111.02 to 111.42, be and constitute a  
 54 commission for the purpose of carrying into effect any and all  
 55 orders, judgments, decrees, or directions made by the district  
 56 court relative to any improvement authorized by sections 111.02  
 57 to 111.42 within the limits of the district.

111\*#12S

58 111.12 REPORT OF BOARD AND ACTION BY COURTS.

59 Before proceeding with the construction of any improvement,  
 60 the board of directors shall file in the office of the clerk the  
 61 original petition filed with them, together with the report of  
 62 the engineer and all plats connected therewith and the report of  
 63 the viewers on benefits and damages and a list of lands  
 64 assessable, with a petition or report on behalf of the board,  
 65 therein setting forth the nature and extent of the improvement  
 66 in general terms, the necessity therefor, an estimate of the  
 67 costs thereof, and that the same will be of public utility and  
 68 will result in the improvement of the public health and general  
 69 welfare (reference may be made to the reports of the engineer  
 70 and the viewers for greater particularity), and asking that a  
 71 time and place be fixed for a hearing upon the petition and the  
 72 reports, and that at the hearing an order be made establishing  
 73 the drain or improvement and authorizing the construction  
 74 thereof, and confirming the reports of the engineer and the



1 viewers and fixing the rights of the parties. Upon the filing  
2 of the petition and these reports, the clerk shall immediately  
3 notify the judge thereof, who shall, within ten days thereafter,  
4 by order, fix a time and place within the district for a hearing  
5 upon the petition and reports, of which due notice shall be  
6 given by the clerk by publication, in general terms describing  
7 the lands, public roads, and corporations, including any ditch  
8 or drain established and constructed under any law of this  
9 state, or any portions thereof, in such county affected by the  
10 improvement, and the lands, and property, if any, reported by  
11 the viewers as assessable for the construction and maintenance  
12 thereof, giving notice of the pendency of the proceedings and  
13 the nature of the proposed improvement, that plans and  
14 specifications thereof, including the engineer's and the  
15 viewers' reports, are on file in his the clerk's office subject \*  
16 to inspection, and requiring all parties interested, as shown in  
17 the petition and the reports, to appear before the court at the  
18 time and place designated in the notice and present their  
19 objections, if any they have, and show cause why an order should  
20 not be made by the court granting the petition and confirming  
21 the reports of the engineer and the viewers and ordering the  
22 establishment and construction of the improvement. If any  
23 improvement required that any ditch or drain established and  
24 constructed under any law of this state, or any portions  
25 thereof, be utilized for any purposes authorized under sections  
26 111.02 to 111.42, a printed copy of the notice shall be served  
27 by the clerk upon each public corporation in this state charged  
28 by law with the maintenance and repair of such ditch or drain,  
29 at least ten days before the day set for the hearing, in the  
30 manner provided by law for the service of a summons in a civil  
31 action.

111\*#14S

32 111.14 AWARDING OF CONTRACTS.

33 The board of directors of any drainage and conservancy  
34 district organized under the provisions of sections 111.02 to  
35 111.42 shall have full authority to let contracts for the  
36 construction of, and cause to be constructed, any and all works  
37 of improvement in accordance with the order of the court and the  
38 plans and specifications referred to in the order pursuant to  
39 the provisions of section 111.17, and under the conditions named  
40 therein, may employ and use men personnel and equipment under \*  
41 supervision of the chief engineer or other agents for the  
42 construction, repair, or improvement of any portion of the work  
43 not let by contract.

111\*#28S

44 111.28 PAYMENT OF EXPENSES.

45 After the filing of a petition under sections 111.02 to  
46 111.42 for the formation of a district, and the furnishing and  
47 filing of the bond, as provided in sections 111.04 and 111.05,  
48 the costs of publication and other official costs of such  
49 proceedings shall be paid out of the general funds of the county  
50 in which the petition is pending, by warrant of the county  
51 auditor issued upon order of the court. In case the district is  
52 organized, such costs shall be repaid to the county, out of the  
53 first funds received, by the district, through the levy of taxes  
54 or assessments or selling of bonds, or the borrowing of money.  
55 If the district is not organized, the costs shall be collected \*  
56 from the petitioners or their bondsmen bonding agents; upon the  
57 organization of the district the court may, upon ten days'  
58 notice to the county auditors of the counties affected, make an  
59 order dividing the preliminary expenses between the counties  
60 included in the district, in proportion to the interests of the  
61 various counties as may be estimated by the court; and direct \*  
62 the auditor of each county to issue his a warrant upon the  
63 treasurer for the proportion of the preliminary expenses  
64 assigned to that county by the order.

111\*#29S

65 111.29 PRELIMINARY EXPENSE FUND ESTABLISHED.

66 As soon as the district shall have been organized under the  
67 provisions of sections 111.02 to 111.42, and a board of  
68 directors shall have been appointed and has qualified and a  
69 petition and bond have been filed with the clerk of the board,  
70 as provided in section 111.11, the board may file a petition  
71 with the district court in the county where the original  
72 petition was filed, asking that an order be made creating a  
73 preliminary fund for the district, at least ten days' notice of



1 which shall be given to the auditor of each county affected by  
2 the proposed improvement, which fund shall be of a size in  
3 proportion to the size of the district. In the event the  
4 district shall include the whole or portions of five or more  
5 counties, the funds shall not exceed the sum of \$20,000 and may  
6 be of such less amount as the court may order; and the court,  
7 upon the hearing, may designate the amount of the fund and fix  
8 the proportionate amount that each county affected by the  
9 improvement shall pay, in proportion to the area within the  
10 county affected by the proposed improvement, and thereupon the  
11 court shall order the auditor of each county to draw ~~his~~ a \*  
12 warrant upon the treasurer of the county for the payment of the  
13 amount specified in the court's order, payable to the treasurer  
14 of the district, and the sum so advanced by the county shall be  
15 charged to the district, and shall be repaid with interest to  
16 each county as soon as the district has funds for that purpose,  
17 and the funds so provided shall be used by the board of the  
18 district for preliminary work, and when the board shall incur  
19 expense for surveys or other preliminary work on any proposed  
20 improvement, all expense, including time, salaries, or other  
21 expense connected with such work, shall be kept track of and  
22 figured in as the cost of construction in any such proposed  
23 improvement, and upon the improvement being ordered by the court  
24 and funds being provided for the construction thereof, as  
25 therein specified, all sums advanced out of the preliminary  
26 funds shall be repaid and the funds replaced for further similar  
27 use on other improvements. The board of directors for any such  
28 district is authorized to include in its petition to the court  
29 asking the creation of a preliminary fund, or by separate  
30 petition at a subsequent date, a request that the court shall,  
31 in addition to the creation of the fund, make a further order  
32 authorizing the board of the district to levy upon the lands  
33 affected by the proposed improvement, or in the event a  
34 municipal corporation, however organized, is benefited, against  
35 the municipality as a whole, an assessment of such sum as may be  
36 found necessary to reimburse any county for the sum advanced to  
37 create the preliminary fund, not to exceed, however, the sum of  
38 ten cents per acre on agricultural lands, and the court is  
39 hereby authorized to make such order; provided, that in all  
40 cases where the district includes the main stream of a basin  
41 draining more than 10,000 square miles, such application shall  
42 be accompanied by a plat, describing thereon, according to  
43 government survey, the lands that it is claimed will be  
44 benefited by the proposed improvement, and the order of the  
45 court in such cases shall designate the land in each county  
46 subject to such assessment. Upon the receipt of the order the  
47 board of directors of such district shall cause to be levied  
48 upon such benefited lands and municipalities such assessments as  
49 the court shall authorize and shall file with the auditor of  
50 each county a list of lands within the county affected by the  
51 assessment and, upon the filing thereof, or as soon thereafter  
52 as may be necessary, it shall be the duty of the auditor to levy  
53 such assessment upon the lands and municipalities specified and  
54 spread the same upon the assessment roll as in the case of other  
55 taxes; and it shall be the duty of the county treasurer to  
56 collect and receive such assessment and credit the same to the  
57 district and deduct from such assessment any sum, if any there  
58 is due, to the county and account to the district for all sums  
59 remaining. All municipal corporations, however organized, are  
60 authorized to appropriate such sums as may be required of them  
61 to pay their proportionate share of the preliminary expenses, as  
62 shall be determined by the board of directors according to the  
63 probable benefits that will derive to the corporation from  
64 contemplated improvements.

111\*#30S

65 111.30 APPORTIONMENT OF COSTS.

66 At the time set for hearing on the report and petition of  
67 the board of directors of any district and the report of the  
68 engineer asking for the establishment of any improvement under  
69 the provisions of sections 111.02 to 111.42, or at any time  
70 subsequent thereto, upon five days' notice, in writing, to the  
71 auditor of each county containing property affected by such  
72 improvement, the court shall apportion the amount of the total  
73 costs of the construction of the improvements among the counties  
74 affected in proportion to the benefits received and shall fix  
75 and determine the amount to be paid by each and, upon similar



1 notice to the auditor, the judge of the district court may, at  
2 any time, modify ~~his~~ the order as justice may require, or make \*  
3 additional orders covering additional expense. The word  
4 "expense," as used in this section, shall be construed to mean  
5 every item of cost of the improvement from its inception to its  
6 completion and all fees and expenses paid or incurred, including  
7 all damages awarded; and, upon the filing of the order, or a  
8 certified copy thereof, with the auditor of each county  
9 affected, together with a list of all property in the county  
10 affected and a statement of all benefits and damages affecting  
11 the same, and such other information as the court, by order, may  
12 direct, it shall be the duty of the county board of each county  
13 to provide the necessary funds to meet the proportionate share  
14 of the cost of the improvement, as specified in the order, in  
15 the same manner as now provided in the case of judicial ditch  
16 proceedings, under section 106A.635. Immediately, or at the  
17 earliest date possible following the letting of contracts for  
18 the construction of the improvement by the board of directors of  
19 the district, it shall cause to be made and filed, with its  
20 clerk and with the auditor of each county affected, a statement  
21 showing the total cost of the improvement, including expenses as  
22 nearly as they can be ascertained, and the proportionate amount  
23 that the property within each county affected shall be required  
24 to pay on the basis fixed by the order of the court, together  
25 with a list of all property benefited within such county; and  
26 thereupon it shall become the duty of the auditor of each county  
27 to cause to be made and recorded the tabular statement and lien  
28 against the property benefited within the county the amount to  
29 be paid by the property in the county, in accordance with the  
30 provisions of sections 106A.601 and 106A.605; and it shall be  
31 the duty of the county commissioners of each county to provide  
32 funds to meet the proportionate share of the total cost of the  
33 improvement, as shown by the report of the board of the drainage  
34 and conservancy district and the order of the court, and the  
35 county board is authorized to exercise all rights and authority  
36 in so doing now granted to the board of county commissioners  
37 under the provisions of sections 106A.605, subdivisions 1 and 2;  
38 and 106A.635 and other provisions relating to county and  
39 judicial ditch proceedings. It shall be the duty of the  
40 respective county auditors and county treasurers to levy and  
41 collect the amount shown in the tabular statement and lien, as  
42 provided in sections 106A.611 and 106A.615. All money received  
43 by the treasurer of any county from the sale of bonds,  
44 assessments, or otherwise for the benefit of the district shall  
45 be ~~by him~~ accounted for by that county treasurer and paid over \*  
46 to the treasurer of the district.

111\*#31S

47 111.31 ASSESSMENTS.

48 Upon the filing by the board of directors of a drainage and  
49 conservancy district with the auditor of any county of a  
50 statement as provided in section 111.30, giving a list of the  
51 property and corporations benefited or damaged or otherwise  
52 affected by any proposed improvement, it shall be the duty of  
53 the auditor to assess the amount specified in such list against  
54 the lands and municipalities or other corporations as therein  
55 specified in accordance with the provisions of section 106A.615,  
56 ~~he~~ the auditor shall proceed to levy and collect the sums \*  
57 specified in the lists against the property and corporations in  
58 accordance with the provisions thereof and, in the event the sum  
59 so reported shall become a direct charge against the county, it  
60 may be paid by such county out of its road and bridge fund, or  
61 otherwise, as the county commissioners may direct, and may be  
62 paid in whole or in installments as may be specified by the  
63 board of county commissioners of the county. No assessment  
64 shall be levied against any property or corporation benefited  
65 under the provisions of sections 111.02 to 111.42 in excess of  
66 the amounts of benefits received as fixed by the order of the  
67 court directing the construction of the improvement or  
68 subsequently determined on appeal.

111\*#33S

69 111.33 UPKEEP AND REPAIR OF DISTRICT.

70 The board of directors of any drainage and conservancy  
71 district organized under sections 111.02 to 111.42 is  
72 authorized, after the construction of any improvement, to levy,  
73 from time to time, as occasion may require, upon the property  
74 and corporations benefited by such improvement, such sum as the



1 court may order or direct upon application by the board for the  
 2 purpose of providing funds for the upkeep and repair of such  
 3 improvement, which application shall be heard upon such notice  
 4 as the court shall direct, and upon filing a copy of the order  
 5 and levy with the auditor of each county affected by such  
 6 improvement, accompanied by a list of the property and  
 7 corporations within the limits of the county, it shall be the  
 8 duty of the auditor to extend the levy against the property  
 9 within the limits of the county, as provided in other cases for  
 10 the levy, assessment, and collection of taxes ordered, levied,  
 11 and collected by the board of county commissioners in ditch  
 12 proceedings; and, upon like application and order, the board of  
 13 directors of any drainage and conservancy district is authorized  
 14 to levy upon the property and corporations benefited, within the  
 15 district, as shown by the engineer's and the viewers' reports,  
 16 as finally adopted by order of the court, such sum as the court  
 17 may authorize and direct and to cover the general expenses of  
 18 the board, not to exceed in any one district the sum of \$5,000,  
 19 and the court shall, by such order, apportion the amount of such  
 20 levy among the several counties according to the area or  
 21 valuation of the portion of each county within the district  
 22 benefited by any particular improvement, as shown by the  
 23 engineer's and the viewers' reports, and upon the filing of a  
 24 copy of the order showing the amount to be levied upon such  
 25 property and corporations benefited within the limits of each  
 26 county, the auditor of such county shall levy the same upon such  
 27 property and corporations contained in such list within the  
 28 limits of ~~his~~ that auditor's county in the same manner and with  
 29 like effect as in the levy of other taxes by municipal  
 30 corporations in this state; and all sums collected and received  
 31 by the treasurer of such county shall be accounted for to the  
 32 treasurer of the drainage and conservancy district and the same  
 33 shall be placed in the fund, as provided in sections 111.02 to  
 34 111.42, and used for the purposes for which the assessment was  
 35 made.

111\*#35S

36 111.35 BOARD TO HAVE CONTROL OF ALL CONTRACTS.

37 In all cases where contracts are let by the board of  
 38 directors of any drainage and conservancy district, it shall  
 39 have full control of all matters pertaining thereto and, in the  
 40 event of a contractor failing to complete the improvement within  
 41 the time or in the manner specified in ~~his~~ the contract, it  
 42 shall have full authority to extend the time or refuse the  
 43 extension and cancel the contract, and re-advertise and relet  
 44 the contract it may deem proper, or may require the ~~bondsmen~~  
 45 bonding agents for the contractor to complete the same or  
 46 proceed to have the contract otherwise completed at the expense  
 47 of the contractor and ~~his-bondsmen~~ the contractor's bonding  
 48 agents, and take any other action with reference thereto that  
 49 occasion may require in the interest of the district, and the  
 50 provisions of General Statutes 1923, Section 6694, shall apply  
 51 to and govern the relations between it and the contractor,  
 52 including the examination and report of the engineer and the  
 53 amount and time of payment, so far as applicable; and, in all  
 54 cases, it shall have full control of all agents and employees  
 55 engaged or appointed by it, and may fix their compensation and  
 56 remove them at pleasure. The board shall keep an accurate  
 57 account of all expenses incurred; and the time and expenses of  
 58 all employees, including the expenses of the members while  
 59 engaged in any improvement, which shall be charged to and be  
 60 treated as part of the costs of the improvement, and the  
 61 compensation of the members of the board of directors of any  
 62 district for such services shall not exceed the sum of \$5 per  
 63 day and their necessary expenses for the time actually employed  
 64 in performing such duties, of which accurate account shall be  
 65 kept by the secretary.

111\*#65S

66 111.65 OWNERS MAY INITIATE PROCEEDINGS.

67 A majority of the owners of property abutting upon any lake  
 68 or other body of water or the proper officials of any city  
 69 authorized by resolution of the council thereof liable to be  
 70 affected by or assessed for the cost of the proposed improvement  
 71 may initiate a proceeding for the establishing of a uniform  
 72 water level in any lake or other body of water by filing with  
 73 the commissioner a petition signed by a majority of such owners  
 74 of property, asking ~~him~~ the commissioner to take steps for the



1 establishment of such water level. The petition shall set forth  
 2 the desired levels and, where the costs of the improvement are  
 3 to be paid for by the state of Minnesota or by an owner or group  
 4 of owners, the petition shall so state, and shall further set  
 5 out the names of the owners and the description of the lands  
 6 owned by each of the parties, including the state of Minnesota.  
 7 Before the commissioner shall accept for filing any such  
 8 petition ~~he~~ the commissioner shall require the petitioners to  
 9 also file ~~with-him~~ a surety bond conditioned for the payment, in  
 10 case the court shall deny such petition, of all the costs of the  
 11 necessary surveys and of the court proceedings. Upon receipt of  
 12 the petition the commissioner shall file with the clerk of the  
 13 district court of the county containing such lake or other body  
 14 of water or portion of any such lake or other body of water  
 15 likely to be affected, in whole or in part, by such improvement,  
 16 a petition addressed to the court setting forth the following  
 17 information:

- 18 (1) The legal description of each tract of land bordering  
 19 on such lake or other body of water;
- 20 (2) The name of the owner of each such tract of land as  
 21 shown by the records in the office of the county recorder, and  
 22 the names of any persons in possession thereof;
- 23 (3) A declaration that the number of signers appearing on  
 24 the petition constitutes a majority of the owners of property  
 25 abutting on the lake or other bodies of waters to be improved;
- 26 (4) A map showing the lake or other body of water affected  
 27 and the tracts of land bordering on such lake or other body of  
 28 water and the area of each tract;
- 29 (5) An engineer's report fixing the high-water level of the  
 30 lake and recommending a permanent uniform level and also the  
 31 elevation of the original natural outlet to be maintained by  
 32 suitable dams or other structures;
- 33 (6) The various reasons why the project is believed to be  
 34 of public advantage; and
- 35 (7) Which of the following parties, in the opinion of the  
 36 commissioner, should share the expense of the project; riparian  
 37 owners, the state, the county or counties, other interested  
 38 municipalities.

39 When structures are to be built affecting waters located in  
 40 more than one county, the commissioner may file a petition with  
 41 the clerk of the district court in any one of the counties  
 42 affected and thereafter that court shall have jurisdiction of  
 43 all proceedings, subject to the statutes providing for a change  
 44 of venue.

45 When proposed improvements under sections 111.65 to 111.80  
 46 do not contemplate the raising of the elevations of the lake  
 47 above ordinary high water or where no part of the costs of the  
 48 improvements are to be assessed against property surrounding the  
 49 lake, the petition of the court authorized by this section may  
 50 be presented by the commissioner of natural resources on ~~his~~ the  
 51 commissioner's own initiative, without bond.

111\*#70S

52 111.70 HEARINGS.

53 Upon the filing of the engineer's and the appraisers'  
 54 reports with the clerk, it shall be the duty of the judge to fix  
 55 a time and place for hearing the petition and the engineer's and  
 56 the appraisers' reports, and such evidence as interested parties  
 57 may present, which hearing shall be set for a date not less than  
 58 30, nor more than 60, days from the date of the notice thereof  
 59 and shall be held in the county where the proceedings are  
 60 pending. The notice shall recite the filing of the petition,  
 61 the appointment of the appraisers and the filing of their  
 62 reports; shall give a description of all lands and properties  
 63 affected and the amount of benefits and damages assessed against  
 64 each parcel described in the appraisers' report. The notice  
 65 shall be published for three successive weeks in a legal  
 66 newspaper in each county containing property affected by such  
 67 proceedings and described in the appraisers' report, but it  
 68 shall be necessary to publish in each county only the  
 69 description of lands or property affected within such county. A  
 70 copy of the notice shall be mailed by the clerk of court to all  
 71 parties who are named in the proceedings and a certificate of  
 72 such mailing filed by ~~him~~ the clerk in ~~his~~ the clerk's office.

111\*#71S

73 111.71 CONFIRMATION OF ASSESSMENTS.

74 No change for subd 1



1 Subd. 2. AFFIRMANCE OF APPRAISERS' REPORT. When the  
 2 appraisers shall have determined the amount of the benefits to  
 3 the lake, lakes, or bodies of water from the construction of the  
 4 improvements and works authorized herein which will accrue to  
 5 the state of Minnesota through increased or improved facilities  
 6 for the propagation, preservation, and protection of fish and  
 7 other forms of wild life, as provided in section 111.67, clause  
 8 (6), and section 111.68, the judge, in ~~his~~ the order confirming \*  
 9 the appraisers' report, shall direct the commissioner to pay the  
 10 state's pro rata portion of the costs of the improvement  
 11 represented by such benefits, and the commissioner shall have  
 12 authority to pay such portion of the costs out of state funds  
 13 which are available therefor.

14 Upon the filing of the order by the court with the clerk,  
 15 it shall be ~~his~~ the clerk's duty to furnish to the auditor of \*  
 16 each county affected a complete certified list giving the  
 17 description of all the property affected in the proceedings \*  
 18 in ~~his~~ the auditor's county, the names of the owners, as shown \*  
 19 in the appraisers' report, the amounts of benefits or damages as  
 20 to each tract, and a copy of the order of the court confirming  
 21 the report of the engineer and appraisers, and directing the  
 22 construction of the improvement. When it appears from the  
 23 engineer's report that the total estimated cost of any  
 24 improvement contemplated under the provisions of sections 111.65  
 25 to 111.80 will exceed \$2,500, or when the funds to defray the  
 26 cost of such improvements are to be provided by the issuance of  
 27 warrants or other evidences of indebtedness by the counties  
 28 affected, the board of county commissioners in each county  
 29 affected thereby shall approve such project by resolution, and a  
 30 certified copy of the resolution shall be filed with the clerk  
 31 of the district court where the proceedings are pending, before  
 32 the clerk shall be authorized to give notice of a final hearing.  
 111\*#72S

33 111.72 JUDGE MAY MAKE ORDERS.  
 34 The judge before whom any petition may be filed, under the  
 35 provisions of sections 111.65 to 111.80, shall have power to  
 36 make such orders as may be necessary, from time to time, in any  
 37 proceeding hereunder and to modify the same as justice may  
 38 require at any time during the pendency thereof. ~~He~~ The judge \*  
 39 shall not lose jurisdiction of the proceedings by reason of  
 40 failure to give proper notice or failure to hold any hearing  
 41 noticed or ordered to be held for the consideration of any  
 42 matter connected with the proceedings or committed to them, and  
 43 may make such new and additional orders in the premises as  
 44 justice may require, to bring the parties interested before ~~him~~ \*  
 45 the court and to promote the final completion of the works \*  
 46 petitioned for under the provisions of sections 111.65 to 111.80.  
 111\*#73S

47 111.73 MAY DEMAND JURY TRIALS.  
 48 Any party interested in any proceedings brought under the  
 49 provisions of sections 111.65 to 111.80, whether a petitioner,  
 50 an owner of land affected, an interested municipality, or the  
 51 state, may, at any time prior to the commencement of the  
 52 hearing, demand a jury trial with respect to the following  
 53 questions:  
 54 (1) The amount of assessed benefits to any tract of land  
 55 owned by ~~him~~ that party; \*  
 56 (2) The amount of damages allowed to any tract of land \*  
 57 owned by ~~him~~ that party. \*

111\*#76S  
 58 111.76 AUDITORS TO PREPARE TABULAR STATEMENTS.  
 59 As soon as practicable after the filing by the clerk of the  
 60 certified copy of the court's order and findings with the  
 61 auditor or auditors, as the case may be, and as provided in  
 62 section 111.71, the auditor or auditors shall prepare a tabular  
 63 statement showing:  
 64 (1) The names of the owners of all lands and the names of  
 65 public or private corporations and municipalities, except the  
 66 state of Minnesota, benefited by the construction of the works  
 67 as appear from the court's order on file in the proceedings;  
 68 (2) The description of the lands as the same appears in the  
 69 order;  
 70 (3) The estimated number of acres benefited in each tract;  
 71 (4) The estimated amount of benefits and damages to each  
 72 tract of land; the estimated amount of benefits to each public  
 73 or private corporation and municipality, as the same appears in



1 the court's order; and

2 (5) The amount that each tract of land and each public and  
3 private corporation and municipality so benefited must pay into  
4 the treasury of each county for the establishment and  
5 construction of the structures as shown by the order of the  
6 court on file in the proceedings.

7 Such statement, signed by the auditor in the presence of  
8 two attesting witnesses and acknowledged by ~~him~~ the auditor,  
9 shall then be duly filed with and recorded by the county  
10 recorder of each county affected and of each county containing  
11 municipalities affected and of each county in which is located  
12 any land described in the statement.

111\*#77S

13 111.77 BENEFITS TO BE PARAMOUNT LIEN.

14 The amount of benefits assessed against each tract of land  
15 and the interest thereon as hereinafter provided shall be and  
16 remain a first and paramount lien on such land until fully paid  
17 and take precedence over all mortgages, charges, encumbrances,  
18 or other liens, except real estate taxes, and shall be on a  
19 parity with real estate taxes.

20 Payments may be made as hereinafter provided in accordance  
21 with the order of the court, as provided for in section 111.71,  
22 subdivision 1, clause (4).

23 Such filing shall be deemed notice to all parties of the  
24 existence of such lien.

25 The fees of the county recorder for such recording shall be  
26 paid by the county auditor and shall be included in such  
27 statement as a part of the costs of the improvement.

28 The recorded statement shall be returned to and preserved  
29 by the auditor and-preserved-by-him.

111\*#78S

30 111.78 LIENS TO BEAR INTEREST.

31 The amount that each tract of land, public or private,  
32 shall be liable for on account of the construction of works  
33 authorized in sections 111.65 to 111.80 shall bear interest from  
34 the date of the filing of the auditor's statement in the office  
35 of the county recorder at the legal rate until paid.

36 Such liens may be paid to the county treasurer at any time  
37 after the recording of the auditor's statement in the office of  
38 the county recorder.

39 When payment of the full amount of the liens with interest  
40 shall at any time be made the county auditor, upon presentation  
41 of a receipt from the county treasurer to that effect, shall  
42 issue ~~under-his-hand~~ a certificate of such payment and the same  
43 when recorded in the office of the county recorder shall release  
44 and discharge the lien of record.

45 On or before November 15 next following the filing by the  
46 auditor of such statement, ~~he~~ the auditor shall enter on the tax  
47 lists of the county the amount of the lien against each tract of  
48 land, all of which shall be payable as directed by the court on  
49 such tract, which shall be subject to and be collected with like  
50 penalties as all other taxes.

51 The auditor of the county wherein the proceedings are held  
52 is hereby authorized, upon order of the court, to issue warrants  
53 of the county to pay the official costs of such proceedings and  
54 when the costs are assessed against the lands in more than one  
55 county such costs are to be determined and apportioned between  
56 the counties affected in proportion to the benefits assessed  
57 against the lands and property in such county. The issued  
58 warrants are to draw interest at the legal rate, subject to  
59 their payment as provided under section 106A.655.

112\*#37S

60 112.37 PROCEDURE FOR ESTABLISHMENT.

61 No change for subd 1 to 1b

62 Subd. 2. Upon receipt of a copy of such nominating  
63 petition the county auditor or auditors, as the case may be,  
64 shall determine whether or not the petitioners are freeholders,  
65 which determination shall be made upon the tax records, which  
66 shall be prima facie evidence of ownership, and from which the  
67 auditor shall certify ~~his~~ a determination to the board.

68 Subd. 3. Upon receipt of a copy of the nominating petition  
69 ~~by-the-director-he,~~ the director shall

70 (1) Acknowledge receipt thereof to the board;

71 (2) Prepare a preliminary watershed map of the proposed  
72 district showing the natural boundaries and subdivisions thereof;

73 (3) Prepare a preliminary report based upon the nominating



1 petition and other available data, stating his an opinion as to \*  
 2 the desirability of organizing the district, and submit his the \*  
 3 report to the board with such recommendation as he the director \*  
 4 may deem proper, which report shall be submitted to the board  
 5 within 30 days from the date of the service of the petition upon  
 6 the director, unless such time is extended by the board.

7 Subd. 4. Repealed, 1967 c 634 s 17

8 No change for subd 5 to 7

112\*#39S

9 112.39 ACTION OF BOARD UPON PETITION.

10 No change for subd 1

11 Subd. 2. For the purpose of carrying out the provisions of  
 12 this chapter and to hold hearings, the chairman chair of the \*  
 13 board, or any member thereof, shall have the power to subpoena  
 14 witnesses, to administer oaths, and to compel the production of  
 15 books, records, and other evidence. Witnesses shall receive the  
 16 same fees and mileage as in civil actions. All persons shall be  
 17 sworn before testifying, and the right to examine and  
 18 cross-examine witnesses shall be the same as in civil actions.  
 19 The board shall cause a record of all proceedings before it to  
 20 be made and filed with the secretary of the board. Copies  
 21 thereof may be obtained upon such terms and conditions as the  
 22 board shall prescribe.

23 No change for subd 3 to 6

112\*#411S

24 112.411 PROCEDURE FOR TERMINATION.

25 No change for subd 1

26 Subd. 2. Upon receipt of a copy of such petition the  
 27 county auditor or auditors shall determine whether or not the  
 28 petitioners are resident freeholders within the district, which  
 29 determination shall be made, upon the tax records, which shall  
 30 be prima facie evidence of ownership, and from which the auditor  
 31 shall certify his the determination to the board. \*

32 No change for subd 3 to 5

112\*#42S

33 112.42 MANAGERS; ORGANIZATION, APPOINTMENT OF SUCCESSORS.

34 Subdivision 1. At the time of filing a certified copy of  
 35 the findings and order with the secretary of state, the board  
 36 shall cause personal service of a copy thereof to be made upon  
 37 the managers named therein. Within 10 days after such personal  
 38 service has been made the managers shall meet at the designated  
 39 principal place of business of the district and shall take and  
 40 subscribe the oath defined in Minnesota Constitution, Article 5,  
 41 Section 6, which oath as subscribed shall be forthwith filed  
 42 with the secretary of the board. Each manager shall thereupon  
 43 file with the board a bond in the sum of \$1,000, the premium to  
 44 be paid by the district for the faithful performance of his the  
 45 manager's duties. The amount of such bond may be increased by \*  
 46 the board if in the judgment of the board it becomes necessary. \*  
 47 The managers shall thereupon organize by electing one of their  
 48 number as president, another as secretary, and another as  
 49 treasurer, and provide the necessary books, records, furniture,  
 50 and equipment for the conduct and the transaction of their  
 51 official duties.

52 In lieu of the individual bonds required to be furnished by  
 53 managers in a watershed district, a schedule or position bond or  
 54 undertaking may be given by the managers of the watershed  
 55 district or a single corporate surety fidelity, schedule or  
 56 position bond or undertaking covering all managers and employees  
 57 of the watershed district, including officers and employees  
 58 required by law to furnish an individual bond or undertaking,  
 59 may be furnished in the respective amounts fixed by law or by  
 60 the person or board authorized to fix the amounts, conditioned  
 61 substantially as provided in section 574.13.

62 No change for subd 2

63 Subd. 3. At least 30 days prior to the expiration of the  
 64 term of office of the first managers named by the board, the  
 65 county commissioners of each county affected shall meet and  
 66 proceed to appoint successors to the first managers. If the  
 67 nominating petition that initiated the district originated from  
 68 a majority of the cities within the district or if the district  
 69 is wholly within the metropolitan area, the county commissioners  
 70 shall appoint the managers from a list of persons nominated  
 71 jointly or severally by the townships and municipalities within  
 72 the district. The list shall contain at least three nominees  
 73 for each position to be filled. Managers for a district wholly



1 within the metropolitan area shall be appointed to fairly  
 2 represent by residence the various hydrologic areas within the  
 3 district. It shall be submitted to the affected county board at  
 4 least 60 days prior to the expiration of the term of office. If  
 5 the list is not submitted within 60 days prior to the expiration  
 6 of the term of office the county commissioners shall select the  
 7 managers from eligible individuals within the district. The  
 8 county commissioners shall at least 30 days before the  
 9 expiration of the term of office of any managers meet and  
 10 appoint the successors. If the district affects more than one  
 11 county, distribution of the managers among the counties affected  
 12 shall be as directed by the board. Ten years after the order of  
 13 establishment, upon petition of the county board of  
 14 commissioners of any county affected by the district, the board  
 15 after public hearing thereon, may redistribute the managers  
 16 among the counties if redistribution is in accordance with the  
 17 policy and purposes of this chapter. No petition for the  
 18 redistribution of managers shall be filed with the board more  
 19 often than once in ten years. The term of office of each  
 20 manager, if the number does not exceed three, shall be one for a  
 21 term of one year, one for a term of two years, and one for a  
 22 term of three years. If the managers consist of five members,  
 23 one shall be for a term of one year, two for a term of two  
 24 years, and two for a term of three years. If the board of  
 25 managers consists of more than five members, the managers shall  
 26 be appointed so that as nearly as possible one-third serve terms  
 27 of one year, one-third serve terms of two years, and one-third  
 28 serve terms of three years. If the district affects more than  
 29 one county, the board shall direct the distribution of the one,  
 30 two and three year terms among the affected counties.  
 31 Thereafter, the term of office for each manager shall be for a  
 32 term of three years, and until ~~his~~ a successor is appointed and  
 33 qualified. If the district affects more than five counties, in  
 34 order to provide for the orderly distribution of the managers,  
 35 the board may determine and identify the manager areas within  
 36 the territory of the district and select the appointing county  
 37 board of commissioners for each manager's area. Any vacancy  
 38 occurring in an office of a manager shall be filled by the  
 39 appointing county board of commissioners. A record of all  
 40 appointments made under this subdivision shall be filed with the  
 41 county auditor of each county affected, with the secretary of  
 42 the board of managers, and with the secretary of the water  
 43 resources board. No person shall be appointed as a manager who  
 44 is not a voting resident of the district and none shall be a  
 45 public officer of the county, state, or federal government,  
 46 provided that a soil and water conservation supervisor may be a  
 47 manager.

48 No change for subd 3a to 7

112\*#44S

49 112.44 ADVISORY COMMITTEE.

50 The managers, upon qualifying, shall appoint an advisory  
 51 committee consisting of at least five members, who shall be  
 52 selected if practicable as follows: one shall be a supervisor  
 53 of a soil and water conservation district; one shall be a member  
 54 of a county board; one shall be a member of a ~~sportsmen's~~  
 55 sporting organization, and one shall be a member of a farm  
 56 organization and others may be appointed at the discretion of  
 57 the managers, which appointees shall be residents of the  
 58 district, and shall serve during the pleasure of the managers.  
 59 The committee shall advise and assist the managers upon all  
 60 matters affecting the interests of the district, and shall make  
 61 recommendations to the managers upon all contemplated projects  
 62 and works of improvement within the district. In addition the  
 63 managers may appoint other interested and technical persons who  
 64 may or may not reside within the district who shall serve during  
 65 the pleasure of the managers. Each member of the advisory  
 66 committee, in the discretion of the managers, shall be entitled  
 67 to reimbursement for actual traveling and other expenses  
 68 necessarily incurred in the performance of ~~his~~ duties as  
 69 provided for state employees.

112\*#45S

70 112.45 EMPLOYEES, DUTIES.

71 The managers may employ a chief engineer, professional  
 72 assistants, and such other employees as may be necessary, and  
 73 provide for their qualifications, duties and compensation. The  
 74 chief engineer shall be superintendent of all the works and



1 improvements; ~~he~~ the chief engineer shall make a full report to \*  
 2 the managers each year, or more often if necessary. A copy of  
 3 such report and all recommendations by the chief engineer shall  
 4 be transmitted to the managers and the director. The managers  
 5 may require any officer or employee of the district to give a  
 6 bond for the faithful performance of ~~his~~ duties, in an amount \*  
 7 prescribed by them, the cost thereof to be paid from the funds  
 8 of the district.

112\*#49S

9 112.49 SURVEYS, PLANS.

10 Subdivision 1. If it appears to the managers that the  
 11 petition is sufficient, that the proposed project promotes the  
 12 public interest and welfare and is practicable and in conformity  
 13 with the overall plan of the district, they shall properly  
 14 identify the proceeding by name and number and shall cause to be  
 15 made, at the earliest time possible, all necessary surveys and  
 16 maps for the proposed project as provided in this subdivision.  
 17 The engineer designated by the managers shall make a report to  
 18 the managers of ~~his~~ findings and recommendations relative to the \*  
 19 proposed project. If ~~he~~ the engineer finds the improvement \*  
 20 feasible ~~he~~ the engineer shall include in ~~his~~ the report a plan \*  
 21 of the proposed project including:

22 (1) A map of the area to be improved, drawn to scale,  
 23 showing the location of the proposed improvements; the location  
 24 and adequacy of the outlet; the watershed of the project area;  
 25 the location of existing highways, bridges and culverts; all  
 26 lands, highways and utilities affected, together with the names  
 27 of the owners, so far as known; the outlines of any public lands  
 28 and public bodies of water affected; and any other physical  
 29 characteristics of the watershed necessary for the understanding  
 30 of the area;

31 (2) The estimated total cost of the completion of the  
 32 project including costs of construction and all supervision and  
 33 administrative costs of the project;

34 (3) The acreage which will be required and taken as  
 35 right-of-way listed by each lot and 40 acre tract, or fraction  
 36 thereof, under separate ownership; and

37 (4) Other details and information to inform the managers of  
 38 the practicability and necessity of the proposed project  
 39 together with the engineer's recommendations on these matters.

40 Subd. 2. The engineer may adopt and approve and include as \*  
 41 a part of ~~his~~ the report, any project of the state of Minnesota \*  
 42 or the United States which is pertinent to the project and may \*  
 43 accept any data, plats, plans, details, or information \*  
 44 pertaining to such state or federal project furnished to ~~him~~ the \*  
 45 engineer by the state or federal agency and the engineer shall \*  
 46 omit from ~~his~~ the report those items called for in subdivision 1 \*  
 47 if the data furnished by the state or federal agency is  
 48 sufficient to meet the requirements of subdivision 1.

49 No change for subd 3 to 7

112\*#50S

50 112.50 APPRAISALS.

51 Subdivision 1. Upon the filing of the engineer's report  
 52 the managers shall, with the least possible delay, appoint three  
 53 disinterested resident freeholders of the state to act as  
 54 appraisers. These appraisers shall subscribe an oath to  
 55 faithfully and impartially perform their duties, and with or  
 56 without the engineer, shall determine the benefits or damages to  
 57 all lands and properties affected by the proposed project or  
 58 improvement, including lands owned by the state of Minnesota or  
 59 any department thereof, highways, and other property likely to  
 60 be affected by the proposed improvement or that may be used or  
 61 taken for the construction or maintenance thereof. Benefits and  
 62 damages to lands owned by the state of Minnesota or any  
 63 department thereof held and used for the purposes described in  
 64 sections 106A.025 and 106A.315, subdivision 1, shall be  
 65 determined subject to the provisions thereof, so far as  
 66 applicable. Each appraiser may be paid on a per diem basis for  
 67 every day necessarily engaged in the performance of ~~his~~ duties \*  
 68 and for ~~his~~ actual and necessary expenses. The compensation \*  
 69 shall be fixed by the managers, to be paid by the district and  
 70 included in the cost of improvement. The managers of the  
 71 watershed districts may in their discretion use the following  
 72 procedure for the purpose of determining benefits and damages.  
 73 Upon the filing of the engineer's report the managers with the  
 74 assistance of the engineer shall determine the benefits or



1 damages to all lands and properties affected by the proposed  
2 project or improvement, including lands owned by the state of  
3 Minnesota or any department thereof, highways, and other  
4 property likely to be affected by the proposed improvement or  
5 that may be used or taken from the construction or maintenance  
6 thereof. Benefits and damages to lands owned by the state of  
7 Minnesota or any department thereof held and used for the  
8 purposes described in sections 106A.025 and 106A.315,  
9 subdivision 1 shall be determined subject to the provisions  
10 thereof, so far as applicable. The managers shall also  
11 determine the amount to be paid and generally assessed by the  
12 watershed district for the basic water management portion of the  
13 improvement projects.

14 Subd. 2. Repealed, 1959 c 313 s 2

15 Subd. 3. Repealed, 1959 c 313 s 2

112\*#541S

16 112.541 PROCEDURE WHEN CONTRACT IS NOT LET.

17 If after the receipt of the bids, no bids are received  
18 except for a price more than 30 percent in excess of the  
19 engineers estimate as contained in ~~his~~ the engineer's report, or \*  
20 for a price in excess of the benefits, less damages and other  
21 costs, the managers shall follow the procedure described in  
22 section 106A.511.

112\*#59S

23 112.59 CONTROL OF CONTRACTS.

24 In all cases where contracts are let by the managers, they  
25 shall have full control of all matters pertaining thereto. If a  
26 contractor fails to complete the improvement within the time or  
27 in the manner specified in the contract, the managers may extend  
28 the time for completion or may refuse an extension of time or  
29 may cancel the contract and readvertise and relet the contract.  
30 They may require the surety for the contractor to complete the  
31 improvement or proceed to have the contract otherwise completed  
32 at the expense of the contractor and ~~his~~ the surety. They may \*  
33 take such other action with reference thereto that the occasion  
34 may require in the interest of the district. The provisions of  
35 sections 106A.005 to 106A.811, so far as pertinent, apply to and  
36 govern the relations between the engineer and the contractor,  
37 including the examination and report of the engineer and the  
38 amount and time of payment. The managers shall keep an accurate  
39 account of all expenses incurred, which shall include the  
40 compensation of the engineer and ~~his~~ the assistants, the \*  
41 compensation and expenses of the appraisers as provided in  
42 section 112.50, the compensation of petitioners' attorney, the  
43 cost of petitioners' bond, the fees of all county officials  
44 necessitated by the improvement which shall be in addition to  
45 all fees otherwise allowed by law, and the time and expenses of  
46 all employees of the district, including the expenses of the  
47 managers while engaged in any improvement. The fees and  
48 expenses provided for herein shall be audited, allowed and paid  
49 upon the order of the managers and shall be charged to and be  
50 treated as a part of the cost of the improvement.

112\*#60S

51 112.60 ASSESSMENTS, LEVIES.

52 Subdivision 1. Upon the filing by the managers with the  
53 auditor of any county of a statement listing the property and  
54 corporations benefited or damaged or otherwise affected by any  
55 improvement as found by the appraisers and approved by the  
56 managers, ~~he~~ the auditor shall assess the amount specified in \*  
57 such list against the lands and municipalities or other  
58 corporations as therein specified in accordance with the  
59 pertinent provisions of sections 106A.005 to 106A.811.

60 No change for subd 2

61 Subd. 3. The respective county auditors and county  
62 treasurers shall levy and collect the amount shown in the  
63 tabular statement and lien as provided in sections 106A.601 to  
64 106A.631. All money received by the treasurer of any county  
65 from the sale of bonds, assessments, or otherwise, for the  
66 benefit of the district shall be ~~by him~~ accounted for by the \*  
67 auditor and paid over to the treasurer of the district. \*

68 No change for subd , 4

112\*#62S

69 112.62 DISTRICT COURT TO CREATE PRELIMINARY FUND.

70 No change for subd 1

71 Subd. 2. The district court upon hearing may designate the  
72 amount of the fund and fix the proportionate amount that each



1 county affected by the improvement shall pay, in proportion to  
2 the area in the county affected by the proposed improvement.  
3 The court shall order the auditor of each county to draw ~~his~~ a \*  
4 warrant upon the treasurer of the county for the payment of the  
5 amount specified in the order, payable to the treasurer of the  
6 district. The sum so advanced by the county shall be charged to  
7 the district, and shall be repaid with interest as soon as the  
8 district has funds for that purpose. The funds so provided  
9 shall be used by the managers for preliminary work. When the  
10 managers incur expenses for surveys or other preliminary work on  
11 any proposed improvement, all expenses connected with such work  
12 shall be included in the cost of construction of the proposed  
13 improvement. When the construction of the improvement is  
14 authorized by the managers the funds advanced from the  
15 preliminary fund shall be repaid out of receipts from  
16 assessments.

17 Subd. 3. Repealed, 1963 c 834 s 26

18 No change for subd 4 to 5

112\*#64S

19 112.64 LEVY FOR REPAIR OF IMPROVEMENT.

20 No change for subd 1 to 2

21 Subd. 3. If the engineer certifies to the board of  
22 managers, in ~~his~~ the annual report or otherwise, that an \*  
23 improvement of the district is in such a state of disrepair that  
24 it cannot be restored by normal and routine maintenance to the  
25 same condition as when originally constructed or subsequently  
26 improved, or that a ditch or channel must be widened or  
27 deepened, or that any improvement of the district must be  
28 altered or improved, in order to attain the level of operating  
29 efficiency contemplated at the time of the original  
30 construction, the board of managers, before ordering any repairs  
31 other than normal and routine maintenance, shall order the  
32 engineer to prepare and submit to the board of managers  
33 technical and cost specifications on the work necessary to  
34 restore, or improve the improvement to the desired level of  
35 operating efficiency. Upon receiving the engineer's report, the  
36 board of managers shall set a date for hearing on the report and  
37 give notice of the hearing in the same manner as in the original  
38 proceeding on the construction of the improvement. If upon  
39 hearing the board of managers finds that the repair or  
40 improvement is in compliance with the provisions, is necessary  
41 to accomplish the purposes of this chapter, and that the cost of  
42 the repair or improvement will not exceed its benefits, they may  
43 order the repair or improvement and assess the cost against the  
44 benefited properties. The cost shall be apportioned and  
45 assessed pro rata upon all lands and property that were assessed  
46 for the construction of the improvement. No single levy for  
47 repair shall exceed the amount of benefits originally  
48 determined. The board of managers shall file a copy of the  
49 order for levy with the auditor of each county which contains  
50 affected properties. The auditor shall extend the levy against  
51 affected properties as in proceedings for the levy, assessment  
52 and collection of taxes levied in drainage proceedings conducted  
53 under sections 106A.005 to 106A.811.

54 No change for subd 4

112\*#801S

55 112.801 APPELLATE PROCEDURES AND REVIEW.

56 No change for subd 1 to 3

57 Subd. 4. Any person or public corporation appealing on the  
58 first or second grounds named in subdivision 1, may include and  
59 have considered and determined benefits or damages affecting  
60 property other than ~~his~~ that person's own. Notice of such \*  
61 appeal shall be served upon the owner or occupant of such other  
62 property or upon the attorney who represented such owner in the  
63 proceedings. Such notice of appeal shall be served upon the  
64 auditor of the county wherein the property is situated and upon  
65 the clerk of the district court of the county wherein the  
66 principal place of business of the district is located, or upon  
67 the secretary of the board.

68 Subd. 5. To render the appeal effectual, the appellant  
69 shall file with such clerk of the district court or the  
70 secretary of the board within 30 days of the date of such final  
71 order a notice of appeal which shall state the grounds upon  
72 which the appeal is taken. The notice of appeal shall be  
73 accompanied by an appeal bond to the district where the property  
74 is situate of not less than \$250 to be approved by the clerk of



1 the district court or the secretary of the board, as the case  
 2 may be, conditioned that the appellant will duly prosecute the  
 3 appeal and pay all costs and disbursements which may be adjudged  
 4 against ~~him~~ the appellant and abide the order of the court or of  
 5 the board, as the case may be. \*

6 Subd. 6. The issues raised by the appeal shall stand for  
 7 trial by the board at a time and place fixed by it or by a jury,  
 8 and if by a jury, shall be tried and determined at the next term  
 9 of the district court held within the county in which the notice  
 10 of appeal was filed, or in such other counties in which the  
 11 appeal shall be heard, beginning after the filing of the appeal;  
 12 and shall take precedence over all other court matters of a  
 13 civil nature. If there is more than one appeal to the board  
 14 involving the same project for improvement, or if there is more  
 15 than one appeal triable in one county, the court or the board  
 16 may, on its own motion or upon the motion of a party in  
 17 interest, consolidate two or more appeals and try them together,  
 18 but the rights of the appellants shall be separately  
 19 determined. In case of appeal as to damages or benefits to  
 20 property situate in the county other than the county where the  
 21 principal place of business of the district is located, and if  
 22 the appellant so requests, the trial shall be held at the next  
 23 term of the district court of the county wherein the lands are  
 24 situated. In such case, the clerk of the district court where  
 25 the appeal is filed, shall make, certify and file in the office  
 26 of the clerk of district court of the county where the trial is  
 27 to be had, a transcript of the papers and documents on file in  
 28 ~~his~~ the clerk's office in the proceeding so far as they pertain  
 29 to the matter on account of which the appeal is taken. After the  
 30 final determination of such appeal, the clerk of the district  
 31 court where the action is tried shall certify and return the  
 32 verdict to the district court of the county where the  
 33 proceedings were instituted. If the appeal is to the board, the  
 34 board shall file its decision with the secretary thereof. If  
 35 the appeal is taken to the board from the order of the managers,  
 36 the decision of such board may be reviewed by certiorari  
 37 proceedings in the district court of a county in which the  
 38 proposed project lies in whole or in part. If the appeal from  
 39 the order of the managers is to the district court, and it  
 40 appears to the court that there are involved facts,  
 41 circumstances, or matters peculiarly or especially within the  
 42 knowledge, functions, or duties of the Minnesota water resources  
 43 board, the court may refer to such board as referee questions of  
 44 fact within the scope of such knowledge, functions, and duties.  
 45 Thereupon such board shall make its findings of fact upon the  
 46 questions of fact so submitted to it and report the same back to  
 47 the court.

48 No change for subd 7 to 8

112\*#88S

49 112.88 FEE FOR PERMIT; BOND.

50 Subdivision 1. A person applying for any kind of a permit  
 51 required by the managers of a watershed district in a rule made  
 52 pursuant to section 112.43, subdivision 1 (17), shall accompany  
 53 ~~his~~ the application with a permit application fee in an amount  
 54 set by the managers not in excess of \$10 to defray the cost of  
 55 recording and processing the application. \*

56 No change for subd 2 to 4

114B#02S

57 114B.02 MISSISSIPPI HEADWATERS BOARD.

58 No change for subd 1 to 3

59 Subd. 4. OFFICERS. The board shall annually appoint  
 60 from among its members a chairman chair, vice-chairman  
 61 vice-chair and secretary-treasurer who shall serve for  
 62 concurrent one year terms. \*

63 The chairman chair shall preside over all meetings of the  
 64 board and may call special meetings at reasonable times and upon  
 65 adequate notice when necessary. The vice-chairman vice-chair  
 66 shall preside over the meetings of the board in the absence of  
 67 the chairman chair. The secretary-treasurer or ~~his~~ the designee  
 68 thereof shall keep a record of all proceedings of the board. \*  
 69 The secretary-treasurer shall provide for the proper receipt and  
 70 disbursement of funds. \*

71 No change for subd 5