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 CHAPTER 54—S.F.No.122

*An act relating to life insurance; providing for advance payment of certain benefits under policies insuring persons who are absent and presumed dead; amending Minnesota Statutes 1978, Chapter 576, by adding sections.*

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

Section 1. Minnesota Statutes 1978, Chapter 576, is amended by adding a section to read:

**[576.121] ADVANCE LIFE INSURANCE PAYMENTS TO ABSENTEE'S BENEFICIARY.** If the beneficiary under an insurance policy on the life of an absentee is the absentee's spouse, child, or other person dependent upon the absentee for support and advance payments under the policy are necessary to support and maintain the beneficiary, the beneficiary shall be entitled to advance payments as the court determines under section 2. "Beneficiary" under this section includes an heir at law of the person whose life is insured if the policy is payable to his estate.

Sec. 2. Minnesota Statutes 1978, Chapter 576, is amended by adding a section to read:

**[576.122] HEARING BY COURT; DETERMINATION OF RIGHT TO ADVANCE LIFE INSURANCE PAYMENTS.** Subdivision 1. A petition may be filed requesting a hearing to determine entitlement to advance payment under an insurance policy on the life of an absentee. The petition shall contain the beneficiary's name, address, relationship to absentee, and the grounds justifying advance payment.

Subd. 2. Upon the filing of the petition, the court by certified mail shall notify the insurer who issued the policy of the date, time and place of the hearing. The insurer may appear at the hearing as a party in interest.

Subd. 3. The petitioner has the burden to show by a fair preponderance of the evidence that:

(a) The absentee is missing and there is reason to believe he is dead;

(b) The beneficiary is a spouse, child, or other person dependent upon the absentee for support and maintenance; and

(c) The beneficiary has no source of income sufficient for support and maintenance at an adequate level.

Subd. 4. The court shall order periodic advance payments in appropriate amounts taking into consideration the needs of the beneficiary, the likelihood of the absentee's death, the amount payable under the policy, the possibility of the beneficiary providing

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the insurer with security for any reimbursement that may be required under section 3, subdivision 2 and any other relevant factors.

Payment made by the insurer under a court order shall discharge it from any liability to any party for the amounts paid.

Sec. 3. Minnesota Statutes 1978, Chapter 576, is amended by adding a section to read:

[576.123] REAPPEARANCE OF ABSENTEE. Subdivision 1. If an absentee is declared dead after advance insurance payments have been made pursuant to section 2, the amount payable under the policy shall be reduced by the total amount of payments made under section 2.

Subd. 2. If an absentee is found to be living after advance insurance payments have been made to a beneficiary pursuant to section 2, the absentee and beneficiary shall reimburse the insurer the amount of the payments made.

If the insurer is unable to obtain full reimbursement, the amount payable under the policy shall be reduced to the extent necessary to allow full reimbursement. Failure of the absentee and beneficiary to reimburse the insurer upon demand for payment sent by the insurer by certified mail to the last known address of the absentee and beneficiary shall be sufficient to show the insurer's inability to obtain reimbursement.

Approved April 30, 1979.

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#### CHAPTER 55—S.F.No.346

*An act relating to Hennepin county; authorizing the county board to self insure against claims and losses; allowing conditions of commercial insurance; repealing Laws 1971, Chapter 330.*

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

Section 1. **COUNTY BOARD; SELF INSURANCE.** Notwithstanding any contrary provision of other law, the board of commissioners of Hennepin county may insure the county against any claim of liability or loss using funds of the county, without procuring insurance from any private insurance company when the county board considers it to be in the best interests of the county. This provision shall not be construed as an increase of the liability limitations or as a waiver of defenses allowable in any action pursuant to Minnesota Statutes, Chapter 466. The board may transfer amounts of money from funds of the county to the funds the county may establish for the above purposes in accord with generally accepted accounting principles. The term "liability" shall extend to all liability or loss that may be covered by any form of insurance, including but not limited to malpractice, general liability, or workers' compensation. This act shall not authorize self insurance against risks as defined in Minnesota Statutes, Section 60A.06, Subdivision 1.

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