

(a) If there be no surviving child or issue of any deceased child, to the spouse;

(b) If there be children or issue of deceased children surviving, then to the spouse for the term of the spouse's natural life and the remainder in equal shares to the children and the issue of deceased children by right of representation.

(2) Where there is no surviving spouse and the homestead has not been disposed of by will it shall descend as other real estate.

(3) Where the homestead passes by descent or will to the spouse or children or issue of deceased children, it shall be exempt from all debts which were not valid charges thereon at the time of decedent's death; ~~in all other cases except that the homestead shall be subject to a claim filed pursuant to section 256B.15 for medical assistance benefits.~~ If the homestead passes to a person other than a spouse or child or issue of a deceased child, it shall be subject to the payment of the items mentioned in section 525.16. No lien or other charge against any homestead which is so exempted shall be enforced in the probate court, but the claimant may enforce the lien or charge by an appropriate action in the district court.

Sec. 4. EFFECTIVE DATE.

Sections 1 to 3 are effective for the estates of decedents dying after August 1, 1982.

Approved March 23, 1982

CHAPTER 622 — H.F.No. 1867

An act relating to insurance; exempting captive insurers from certain investment limitations; eliminating certain mandatory filings with the commissioner of insurance; authorizing the commissioner to enjoin violations of chapter 60A; providing certain exceptions to variable contract license requirements; amending Minnesota Statutes 1981 Supplement, Sections 60A.11, Subdivision 17; 60A.17, Subdivisions 6c and 13; repealing Minnesota Statutes 1980, Section 72A.062.

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

Section 1. Minnesota Statutes 1981 Supplement, Section 60A.11, Subdivision 17, is amended to read:

Subd. 17. **CORPORATE AND BUSINESS TRUST OBLIGATIONS.** Obligations issued, assumed or guaranteed by a corporation or business trust organized under the laws of the United States or any state of the United States, or the laws of Canada or any province of Canada, or obligations traded on a national securities exchange on the following conditions:

Changes or additions are indicated by underline, deletions by ~~strikeout~~.

(a) A company may invest in any obligations traded on a national securities exchange;

(b) A company may also invest in any obligations which are secured by adequate security located in the United States or Canada;

(c) A company may also invest in previously outstanding or newly issued obligations not qualifying for investment under paragraphs (a) or (b) if the corporation or business trust has qualified net earnings. If the obligations are not newly issued, neither principal nor interest payments on the obligations shall have been in arrears (1) for an aggregate of 90 days during the three year period preceding the date of investment, or (2) where the obligations have been outstanding for less than 90 days, during the period the obligations have been outstanding;

(d) A company may invest in federal farm loan bonds and may invest up to 20 percent of its total admitted assets in the obligations of farm mortgage debenture companies; and

(e) A company may not invest more than five percent of its admitted assets in the obligations of any one corporation or business trust; provided, however, that a company may invest in the obligations of a corporation without regard to this paragraph if: (1) the company is wholly owned by the issuer and affiliates of the issuer of the obligations; (2) the company insures solely the issuer of the obligations and its affiliates; (3) the issuer has a net worth, determined on a consolidated basis, which equals or exceeds \$100,000,000; and (4) the issuer and its affiliates forego any and all claims they may have against the Minnesota Insurance Guaranty Association pursuant to chapter 60C in the event of the insolvency of the company. This does not affect the rights of any unaffiliated third party claimant under section 60C.09, subdivision 1.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 60A.17, Subdivision 6c, is amended to read:

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

(1) Any materially untrue statement in the license application;

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

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

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(4) Obtaining or attempting to obtain any license through misrepresentation or fraud;

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

(6) Misrepresentation of the terms of any actual or proposed insurance contract;

(7) Conviction of a felony or of a gross misdemeanor or misdemeanor involving moral turpitude;

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

(9) That in the conduct of the agent's affairs under the license, the licensee has used fraudulent, coercive, or dishonest practices, or the licensee has been shown to be incompetent, untrustworthy, or financially irresponsible;

(10) That the agent's license has been suspended or revoked in any other state, province, district, territory, or foreign country;

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

(12) That the licensee has violated subdivision 6b.

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

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

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

(1) The commissioner may issue and cause to be served upon the person an order requiring the person to cease and desist from the violation. The order shall give reasonable notice of the time and place of hearing and shall state the

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reasons for the entry of the order. A hearing shall be held not later than seven days after the issuance of the order unless the person requests a delay. After the hearing and within 30 days of filing of any exceptions to the hearing examiner's report, the commissioner shall issue an order vacating the cease and desist order or making it permanent as the facts require. All hearings shall be conducted in accordance with the provisions of chapter 15. If the person to whom a cease and desist order is issued fails to appear at the hearing after being duly notified, the person shall be deemed in default, and the proceeding may be determined against the person upon consideration of the cease and desist order, the allegations of which may be deemed to be true;

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

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

Sec. 3. Minnesota Statutes 1981 Supplement, Section 60A.17, Subdivision 13, is amended to read:

Subd. 13. **AGENTS; VARIABLE CONTRACTS.** (a) **LICENSE REQUIRED.** No person shall sell or offer for sale a contract on a variable basis unless prior to making any solicitation or sale the person has obtained from the commissioner a license therefor. The license shall only be granted, upon the written requisition of an insurer, to a qualified person who holds a current license authorizing the person to solicit and sell life insurance and annuity contracts in this state. To become qualified, a person shall complete a written application on a form prescribed by the commissioner and shall take and pass an examination prescribed by the commissioner. Prior to the taking of the examination, or upon re-examination, the applicant shall transmit to the commissioner, by money order or cashier's check payable to the state treasurer, an examination fee of \$10.

(b) **EXCEPTIONS.** (1) Any regularly salaried officer or employee of a licensed insurer may, without license or other qualification, act in its on behalf of that licensed insurer in the negotiation and ~~consummation of contracts~~ a contract on a variable basis, provided that a licensed agent must participate in the sale of any contract.

(2) Any person who, on July 1, 1969, holds a valid license authorizing the person to solicit and sell life insurance and annuity contracts and who also holds

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a valid license issued by the securities and real estate division of the department of commerce authorizing the person to sell or offer for sale contracts on a variable basis shall be issued a license by the commissioner of insurance upon application therefor and payment of a \$2 fee, which license shall expire on May 31, 1970, unless renewed by an insurer as provided in paragraph (a).

sell life insurance and annuity contracts may solicit and sell contracts on a variable basis without acquiring a license under this subdivision if the contract is based on an account which is excluded from the definition of investment company under the Investment Company Act of 1940, 15 U.S.C. 80a-3(11).

(c) **RULES.** The commissioner may by rules waive or modify any of the foregoing requirements or prescribe additional requirements deemed necessary for the proper sale and solicitation of contracts on a variable basis.*

Sec. 4. **APPLICABILITY.**

Section 3 applies to contracts on a variable basis delivered, issued for delivery, renewed, or amended on or after August 1, 1982.

Sec. 5. **REPEALER.**

Minnesota Statutes 1980, Section 72A.062, is repealed.

Approved March 23, 1982

CHAPTER 623 — H.F.No. 1885

An act relating to public welfare; providing for approval of mental health clinics and centers pending promulgation of permanent rules; allowing payment for day treatment services provided by certain mental health centers through general assistance; amending Minnesota Statutes 1981 Supplement, Section 256D.03, Subdivision 4.

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

Section 1. **TEMPORARY APPROVAL.**

Notwithstanding the provisions of section 15.0412, subdivision 5, until December 31, 1982, or until a permanent rule is in effect, whichever comes first, the commissioner of public welfare shall continue to approve all mental health centers and mental health clinics that apply for approval and meet the requirements of the temporary rule adopted March 31, 1981, governing approval of mental health centers and mental health clinics for purposes of insurance reimbursement for purposes of meeting section 62A.152.

Sec. 2. Minnesota Statutes 1981 Supplement, Section 256D.03, Subdivision 4, is amended to read:

* The text of chapter 622, section 3 conforms to the text of the enrolled act.

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