

House Research Act Summary

CHAPTER: 108 (S.F. 1045/H.F. 1394)

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Overview

This act makes a variety of mostly "housekeeping changes" in laws administered by the Department of Commerce, including professional licensing, continuing education, health insurance, and worker's compensation self-insurance.

Sections 10 to 30 conform Minnesota law to recent federal law changes regarding access to specialized types of property-casualty insurance through "nonadmitted insurance companies" and "surplus lines brokers." Nonadmitted insurance companies are not licensed in Minnesota, but are allowed to provide to Minnesota customers (usually businesses) specialized types of insurance (called "surplus lines") that are not available from a licensed ("admitted") insurer. This type of coverage is sold through a "surplus lines" insurance broker, who specializes in providing surplus lines insurance. The changes make it simpler to buy and sell this type of insurance.

Section

- 1** **Scope.** Eliminates chapter 80D from the list of chapters over which current law gives the Department of Commerce enforcement authority. That chapter deals with "continuing care facilities," which are not regulated by the Department of Commerce.
- 2** **Classroom course.** Defines this term to distinguish it from "distance learning" for purposes of professions regulated by the Department of Commerce
- 3** **Distance learning course.** Defines this term to distinguish it from classroom learning for purposes of professions regulated by the Department of Commerce.
- 4** **Self-study course.** Defines this term for purposes of distinguishing it from other types of distance learning.

- 5 Professional designation coursework.** Provides that approved courses taken to achieve a professional insurance agent designation count toward continuing education requirements.
- 6 Courses open to all.** Permits sponsors of courses approved for credit toward a professional designation for insurance agents to limit enrollment to agents who are seeking that designation or who meet other requirements set by the sponsor of the course.
- 7 Verification requirements.** Specifies that, to be approved for credit by the Department of Commerce, a self-study course must include a closed-book, end-of-course exam, for which successful completion can be "objectively documented."
- 8 Facilities.** Permits credit for courses offered by "bona fide trade associations" on the premises of a company that does business in the industry for which the course is relevant, under specified circumstances. Adds a special provision relating to courses taught on the premises of an insurance company or agency.
- 9 Limitation on combination policies.** Permits combining life insurance with limited benefit health insurance coverage such as specific disease or fixed indemnity health coverage.
- 10 Insurance from unlicensed companies.** Sections 10 to 30 involve "nonadmitted insurance" changes. Requires purchasers of insurance, whose home state is Minnesota and who purchase insurance directly from a nonadmitted insurer, to agree to file with the Minnesota revenue department all tax returns for the two percent premium tax owed on the purchase of that insurance. Under current law, this same requirement is imposed on purchasers of insurance who are located in Minnesota (maybe one of several multi-state locations), regardless of whether Minnesota is the purchaser's home state.
- 11 Definitions.** Replaces all current definitions relating to nonadmitted and surplus lines insurance, insurers, and brokers.
- 12 Transaction of nonadmitted insurance.**
- Subd. 1. License required.** Makes technical changes. Permits nonadmitted insurance to be purchased to provide coverage in Minnesota from a surplus lines broker not licensed in Minnesota, if the purchaser's home state is not Minnesota (for instance, for a branch office, factory, or outlet store located in Minnesota). (The purchaser could buy it from a surplus lines broker licensed in the purchaser's home state.)
- Subd. 2. Compliance with statutory provisions.** Permits insurance brokers to sell coverage provided by a nonadmitted insurer in the situation described in subdivision 1.
- Subd. 3.** No changes.
- Subd. 4. Broker's powers.** Technical changes only.
- Subd. 5. Disclosures.** Technical change only.
- Subd. 6.** Was repealed in 2000.
- Subd. 7. Participation in national producer database for surplus lines brokers.** Authorizes the Minnesota Commissioner of Commerce to use national databases of

insurance agents for licensing and renewal of licenses for surplus lines brokers.

- 13 **Examination of books and records.** Makes technical changes only.
- 14 **Placement of insurance by broker.**
- Subds. 1-3.** Technical changes only.
- Subd. 4.** Repealed in 2009
- Subd. 5. Streamlined application for exempt commercial purchasers.** Permits a surplus lines broker to place nonadmitted insurance for an "exempt commercial purchaser" (as defined in section 11) without making a diligent search to see whether the desired insurance can be obtained from admitted insurers if (1) the broker discloses to the customer that the insurance may or may not be available from a licensed insurer that might provide greater protection with more regulatory oversight; and (2) the exempt commercial purchaser has after that warning requested the surplus lines broker to provide the insurance from a nonadmitted insurer.
- 15 **Evidence of placement of insurance by broker.** Makes only technical language changes.
- 16 **Retention of records.** Makes only technical language changes.
- 17 **Regulation of fees and commissions.** Makes only technical language changes.
- 18 **Authorization.** Makes only technical changes.
- 19 **Consequences of receipts.** Makes only technical language changes.
- 20 **Insurers to be recognized by commissioner.** Makes only technical language changes.
- 21 **Standards to be met by insurers.** (b) Provides new criteria for the commissioner to authorize a "foreign" (in the world of insurance, "foreign" refers to an insurer incorporated in another state or country) insurer as an eligible surplus lines insurer in Minnesota. The new criteria are that the insurer be incorporated in the U.S. or one of its territories, be permitted to write the relevant type of insurance in that jurisdiction, and meet minimum capital and surplus requirements which involve some flexibility and some deference to the company's home state. (d) Requires the commissioner to permit a surplus lines broker to place nonadmitted insurance with, or procure nonadmitted insurance from, an "alien" insurer (in the world of insurance, "alien" means non-U.S., not from outer space), if it is included in a list of alien insurers maintained by the National Association of Insurance Commissioners.
- 22 **Policies to include notice.** Makes only a technical language change.
- 23 **Broker association.** Makes only technical language changes.
- 24 **Association created; duties.** Makes only technical language changes.
- 25 **Plan of operation.** Makes only a technical language change.
- 26 **Stamping fee.** Makes only technical language changes.
- 27 **Data classification.** Makes only a technical language change.

- 28 **Submission of documents to Surplus Lines Association of Minnesota; certification.** Makes only technical language changes.
- 29 **Stamping requirement; penalty.** Makes only technical language changes.
- 30 **Authorization; regulation.** Makes only technical language changes.
- 31 **Minimum education requirements.** Requires that courses for insurance agents not sponsored by an insurance company must be open to all except as provided in section 6 of this act.
- 32 **Applicability.** Expands the list of types of health insurance that are subject to an existing law regulating subrogation by health insurers. Subrogation refers here to a situation in which a health insurer seeks to recover its costs of providing care from a third-party that may be liable for the injury or illness, such as the negligent driver of a vehicle that injured the insured person. The basic principle is that the subrogation claim cannot result in the insured victim getting less than a full recovery of the cost, taking into account all sources of recovery from insurers or other sources. The types of health insurance added to this law are stand-alone hearing, dental, and vision insurance; accident-only insurance; and long-term care insurance.
- 33 **Types of plans.** Updates language relating to Medicare Select coverage to be consistent with changes in related laws in recent years.
- 34 **Preexisting conditions.** Technical change to amend a list of statutes under which a person is eligible for coverage in the Minnesota Comprehensive Health Association (the state's high-risk pool, abbreviated "MCHA" and pronounced "em-cha") without a six-month preexisting condition limitation. The list has become incomplete over the years, and this brings the list up to date. This does not change substantive law, but just updates a list that gathers all of the existing laws together in one place
- 35 **Waiver of preexisting conditions; persons covered by a community-based health care coverage program.** Adds a new waiver of the preexisting condition limitation dealt with in the preceding section. This one would apply to people covered by a community-based health care coverage program, who are Minnesota residents and apply for MCHA coverage within 90 days of termination of the community-based coverage. (A reference to this new law should be added to the list in the preceding section.)
- 36 **Required disclosure of estimated payment.** Clarifies that a health plan company's obligation to disclose to an enrollee the estimated cost to an enrollee for specified services from an in-network provider applies only to enrollees who are considering receiving those services from the provider. (This protects the health plan company from being required to provide extensive data to an enrollee who is paid to request it for use by a private firm for sale to third parties that may use it to the detriment of the health plan company.)
- 37 **Minimum participation and contribution.** This section involves the requirement that small employers who want guaranteed-issue employee health coverage in the small employer market must cover at least 75 percent of their eligible employees who have not waived coverage. This section eliminates one of the permitted waivers of coverage for purposes of the 75 percent ratio, namely an employee having coverage under the Minnesota Comprehensive Health Association (high-risk pool) due to an unexpired preexisting

condition limitation under the employer's health plan.

- 38 Cancellations and nonrenewals.** Clarifies to whom an insurer should send an advance notice of cancellation or nonrenewal of a life or an individual (non-group) health insurance policy. Provides that the notice regarding a life insurance policy should be sent to the policy owner, and that the notice regarding an individual health insurance policy should be sent to the policy owner but also to the named insured if the named insured is not the owner. In regard to health insurance, this section applies to both for-profit insurance companies and to nonprofit health services corporations such as Blue Cross, and does not apply to HMOs.
- 39 Exceptions.** Eliminates a law entitling an insurance adjuster whose license expired no longer than three years ago to get a renewal license without taking an examination. Also permits a person applying for a crop adjuster license who has taken certain national training programs to be licensed without taking an examination.
- 40 Multiple peril crop insurance adjustments.** Permits a licensed (apparently in another state) crop hail adjuster who has completed specified training to act as an insurance adjuster in this state in regard to crop insurance issued by the FCIC.
- 41 Private employers who have ceased to be self-insured.** Requires that the insurance company that issues an insurance policy to cover possible past worker's compensation liability of a private employer that is no longer self-insured for worker's compensation be approved by the commissioner of commerce. Current law requires commissioner approval of the form and substance of the policy, but not of the insurance company that issues the policy.
- 42 Purchase of insurance policy from authorized insurer.** Permits a commercial worker's compensation self-insurance group to buy an insurance policy to cover all or part of its future liability to the self-insurers security fund. Requires that the insurer, form, and substance of the policy be approved by the commissioner of commerce.
- 43 Insolvency of a commercial self-insurance group insurer.** Specifies the effect of a future insolvency of the insurance company that issued a policy under the preceding section.
- 44 License required.** Technical clarification that a license is required to be a real estate closing agent.
- 45 Temporary practice.** For a temporary real estate appraiser license, permits it to be in effect for a 12-month extension, rather than one six-month extension followed by another six-month extension. This applies only to appraisers licensed in another state who are temporarily appraising property in Minnesota involving a federally related transaction.
- 46 Appraiser prelicense education.** Specifies when a college or university real estate course may be retroactively approved for real estate appraiser prelicense education credit. This simply moves existing language from the following section of this act.
- 47 Experience requirement.** Removes from this statute language moved into the immediately preceding section of this act. This section of law deals with experience requirements, so prelicense education did not belong here.
- 48 Amounts.** This section involves licensing of real estate appraisal management companies. Eliminates an erroneous reference to two-year licenses. The license period is one year.

- 49** **Revisor's instruction.** Instructs the revisor of statutes to move the existing subdivision shown as section 10 of this act into the appropriate section of statutes.