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State of Minnesota
HOUSE OF REPRESENTATIVES

EIGHTY-SIXTH
SESSION

HOUSE FILE No. **811**

February 16, 2009

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The bill was read for the first time and referred to the Committee on Commerce and Labor

February 26, 2009

Committee Recommendation and Adoption of Report:

To Pass as Amended and re-referred to the Committee on Civil Justice

1.1 A bill for an act
1.2 relating to insurance; increasing certain maximum dollar amounts on protection
1.3 for policyholders of insolvent life and health insurance companies to provide
1.4 greater comparability with limits of federal deposit insurance of bank accounts;
1.5 updating certain other dollar amounts to reflect inflation adjustments already
1.6 made by law; removing a certain prohibited sales practice; amending Minnesota
1.7 Statutes 2008, sections 61B.19, subdivisions 4, 6; 61B.28, subdivision 8;
1.8 repealing Minnesota Statutes 2008, section 61B.28, subdivision 4.

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

1.10 Section 1. Minnesota Statutes 2008, section 61B.19, subdivision 4, is amended to read:

1.11 Subd. 4. **Limitation of benefits.** The benefits for which the association may become
1.12 liable shall in no event exceed the lesser of:

1.13 (1) the contractual obligations for which the insurer is liable or would have been
1.14 liable if it were not an impaired or insolvent insurer; or

1.15 (2) subject to the limitation in clause (5), with respect to any one life, regardless of
1.16 the number of policies or contracts:

1.17 (i) ~~\$300,000~~ \$410,000 in life insurance death benefits, but not more than ~~\$100,000~~
1.18 \$130,000 in net cash surrender and net cash withdrawal values for life insurance;

1.19 (ii) ~~\$300,000~~ \$410,000 in health insurance benefits, including any net cash surrender
1.20 and net cash withdrawal values;

1.21 (iii) ~~\$100,000~~ \$250,000 in annuity net cash surrender and net cash withdrawal values;

1.22 (iv) ~~\$300,000~~ \$410,000 in present value of annuity benefits for structured settlement
1.23 annuities or for annuities in regard to which periodic annuity benefits, for a period of not
1.24 less than the annuitant's lifetime or for a period certain of not less than ten years, have
1.25 begun to be paid, on or before the date of impairment or insolvency; or

2.1 (3) subject to the limitations in clauses (5) and (6), with respect to each individual
2.2 resident participating in a retirement plan, except a defined benefit plan, established under
2.3 section 401, 403(b), or 457 of the Internal Revenue Code of 1986, as amended through
2.4 December 31, 1992, covered by an unallocated annuity contract, or the beneficiaries
2.5 of each such individual if deceased, in the aggregate, ~~\$100,000~~ \$250,000 in net cash
2.6 surrender and net cash withdrawal values;

2.7 (4) where no coverage limit has been specified for a covered policy or benefit, the
2.8 coverage limit shall be ~~\$300,000~~ \$410,000 in present value;

2.9 (5) in no event shall the association be liable to expend more than ~~\$300,000~~
2.10 \$410,000 in the aggregate with respect to any one life under clause (2), items (i), (ii), (iii),
2.11 (iv), and clause (4), and any one individual under clause (3);

2.12 (6) in no event shall the association be liable to expend more than ~~\$7,500,000~~
2.13 \$10,250,000 with respect to all unallocated annuities of a retirement plan, except a defined
2.14 benefit plan, established under section 401, 403(b), or 457 of the Internal Revenue Code
2.15 of 1986, as amended through December 31, 1992. If total claims from a plan exceed
2.16 ~~\$7,500,000~~ \$10,250,000, the ~~\$7,500,000~~ \$10,250,000 shall be prorated among the
2.17 claimants;

2.18 (7) for purposes of applying clause (2)(ii) and clause (5), with respect only to
2.19 health insurance benefits, the term "any one life" applies to each individual covered by a
2.20 health insurance policy;

2.21 (8) where covered contractual obligations are equal to or less than the limits stated in
2.22 this subdivision, the association will pay the difference between the covered contractual
2.23 obligations and the amount credited by the estate of the insolvent or impaired insurer, if
2.24 that amount has been determined or, if it has not, the covered contractual limit, subject
2.25 to the association's right of subrogation;

2.26 (9) where covered contractual obligations exceed the limits stated in this subdivision,
2.27 the amount payable by the association will be determined as though the covered
2.28 contractual obligations were equal to those limits. In making the determination, the estate
2.29 shall be deemed to have credited the covered person the same amount as the estate would
2.30 credit a covered person with contractual obligations equal to those limits; or

2.31 (10) the following illustrates how the principles stated in clauses (8) and (9) apply.
2.32 The example illustrated concerns hypothetical claims subject to the limit stated in clause
2.33 (2)(iii). The principles stated in clauses (8) and (9), and illustrated in this clause, apply
2.34 to claims subject to any limits stated in this subdivision.

2.35 CONTRACTUAL OBLIGATIONS OF:

3.1		\$50,000	
3.2			Guaranty
3.3	Estate		Association
3.4	0% recovery	\$ 0	\$ 50,000
3.5	from estate		
3.6	25% recovery	\$ 12,500	\$ 37,500
3.7	from estate		
3.8	50% recovery	\$ 25,000	\$ 25,000
3.9	from estate		
3.10	75% recovery	\$ 37,500	\$ 12,500
3.11	from estate		
3.12		\$100,000	
3.13			Guaranty
3.14	Estate		Association
3.15	0% recovery	\$ 0	\$ 100,000
3.16	from estate		
3.17	25% recovery	\$ 25,000	\$ 75,000
3.18	from estate		
3.19	50% recovery	\$ 50,000	\$ 50,000
3.20	from estate		
3.21	75% recovery	\$ 75,000	\$ 25,000
3.22	from estate		
3.23		\$200,000	
3.24			Guaranty
3.25	Estate		Association
3.26	0% recovery	\$ 0	\$ 100,000
3.27	from estate		
3.28	25% recovery	\$ 50,000	\$ 75,000
3.29	from estate		
3.30	50% recovery	\$ 100,000	\$ 50,000
3.31	from estate		
3.32	75% recovery	\$ 150,000	\$ 25,000
3.33	from estate		

3.34 For purposes of this subdivision, the commissioner shall determine the discount rate
 3.35 to be used in determining the present value of annuity benefits.

3.36 **EFFECTIVE DATE.** This section is effective the day following final enactment
 3.37 and applies to member insurers who are first determined to be impaired or insolvent on or
 3.38 after this effective date. Member insurers who are subject to an order of impairment in
 3.39 effect on the effective date but are not declared insolvent until after the effective date shall
 3.40 continue to be governed by the law in effect prior to the effective date.

3.41 Sec. 2. Minnesota Statutes 2008, section 61B.19, subdivision 6, is amended to read:

3.42 Subd. 6. **Adjustment of liability limits.** The dollar amounts stated in subdivision 4
 3.43 shall be adjusted for inflation based upon the implicit price deflator for the gross domestic

4.1 product compiled by the United States Department of Commerce and hereafter referred to
 4.2 as the index. The dollar amounts stated in subdivision 4 are based upon the value of the
 4.3 index for the fourth quarter of ~~1992~~ 2008, which is the reference base index for purposes
 4.4 of this subdivision. The dollar amounts in subdivision 4 shall change on October 1 of each
 4.5 year after ~~1993~~ 2008 based upon the percentage difference between the index for the
 4.6 fourth quarter of the preceding year and the reference base index, calculated to the nearest
 4.7 whole percentage point. The commissioner shall announce and publish, on or before
 4.8 April 30 of each year, the changes in the dollar amounts required by this subdivision
 4.9 to take effect on October 1 of that year. The commissioner shall use the most recent
 4.10 revision of the relevant gross domestic product implicit price deflators available as of
 4.11 April 1. If the United States Department of Commerce changes the base year for the gross
 4.12 domestic product implicit price deflator, the commissioner shall make the calculations
 4.13 necessary to convert from the old to the new base year. Changes must be in increments
 4.14 of \$10,000. No adjustment may be made until the change in the index results in at least
 4.15 a \$10,000 increase. The commissioner shall promptly notify the revisor of statutes in
 4.16 writing of the changes announced and published. The revisor shall publish the changes
 4.17 in the next edition of Minnesota Statutes.

4.18 **EFFECTIVE DATE.** This section is effective the day following final enactment
 4.19 and applies to member insurers who are first determined to be impaired or insolvent on or
 4.20 after this effective date. Member insurers who are subject to an order of impairment in
 4.21 effect on the effective date but are not declared insolvent until after the effective date shall
 4.22 continue to be governed by the law in effect prior to the effective date.

4.23 Sec. 3. Minnesota Statutes 2008, section 61B.28, subdivision 8, is amended to read:

4.24 Subd. 8. **Form.** The form of notice referred to in subdivision 7, paragraph (a),
 4.25 is as follows:

4.26 ".....
 4.27
 4.28

(insert name, current address, and
 telephone number of insurer)

NOTICE CONCERNING POLICYHOLDER RIGHTS IN AN
 INSOLVENCY UNDER THE MINNESOTA LIFE AND HEALTH
 INSURANCE GUARANTY ASSOCIATION LAW

4.34 If the insurer that issued your life, annuity, or health insurance policy becomes
 4.35 impaired or insolvent, you are entitled to compensation for your policy from the assets of
 4.36 that insurer. The amount you recover will depend on the financial condition of the insurer.

5.1 In addition, residents of Minnesota who purchase life insurance, annuities, or health
5.2 insurance from insurance companies authorized to do business in Minnesota are protected,
5.3 SUBJECT TO LIMITS AND EXCLUSIONS, in the event the insurer becomes financially
5.4 impaired or insolvent. This protection is provided by the Minnesota Life and Health
5.5 Insurance Guaranty Association.

5.6 Minnesota Life and Health Insurance Guaranty Association
5.7 (insert current
5.8 address and telephone number)

5.9 The maximum amount the guaranty association will pay for all policies issued on
5.10 one life by the same insurer is limited to ~~\$300,000~~ \$410,000. Subject to this ~~\$300,000~~
5.11 \$410,000 limit, the guaranty association will pay up to ~~\$300,000~~ \$410,000 in life
5.12 insurance death benefits, ~~\$100,000~~ \$130,000 in net cash surrender and net cash withdrawal
5.13 values for life insurance, ~~\$300,000~~ \$410,000 in health insurance benefits, including any
5.14 net cash surrender and net cash withdrawal values, ~~\$100,000~~ \$250,000 in annuity net
5.15 cash surrender and net cash withdrawal values, ~~\$300,000~~ \$410,000 in present value of
5.16 annuity benefits for annuities which are part of a structured settlement or for annuities
5.17 in regard to which periodic annuity benefits, for a period of not less than the annuitant's
5.18 lifetime or for a period certain of not less than ten years, have begun to be paid on or
5.19 before the date of impairment or insolvency, or if no coverage limit has been specified
5.20 for a covered policy or benefit, the coverage limit shall be ~~\$300,000~~ \$410,000 in present
5.21 value. Unallocated annuity contracts issued to retirement plans, other than defined benefit
5.22 plans, established under section 401, 403(b), or 457 of the Internal Revenue Code of
5.23 1986, as amended through December 31, 1992, are covered up to ~~\$100,000~~ \$250,000 in
5.24 net cash surrender and net cash withdrawal values, for Minnesota residents covered by
5.25 the plan provided, however, that the association shall not be responsible for more than
5.26 ~~\$7,500,000~~ \$10,250,000 in claims from all Minnesota residents covered by the plan. If
5.27 total claims exceed ~~\$7,500,000~~ \$10,250,000, the ~~\$7,500,000~~ \$10,250,000 shall be prorated
5.28 among all claimants. These are the maximum claim amounts. Coverage by the guaranty
5.29 association is also subject to other substantial limitations and exclusions and requires
5.30 continued residency in Minnesota. If your claim exceeds the guaranty association's limits,
5.31 you may still recover a part or all of that amount from the proceeds of the liquidation of
5.32 the insolvent insurer, if any exist. Funds to pay claims may not be immediately available.
5.33 The guaranty association assesses insurers licensed to sell life and health insurance in
5.34 Minnesota after the insolvency occurs. Claims are paid from this assessment.

5.35 THE COVERAGE PROVIDED BY THE GUARANTY ASSOCIATION IS NOT
5.36 A SUBSTITUTE FOR USING CARE IN SELECTING INSURANCE COMPANIES
5.37 THAT ARE WELL MANAGED AND FINANCIALLY STABLE. IN SELECTING AN

6.1 INSURANCE COMPANY OR POLICY, YOU SHOULD NOT RELY ON COVERAGE
6.2 BY THE GUARANTY ASSOCIATION.

6.3 THIS NOTICE IS REQUIRED BY MINNESOTA STATE LAW TO ADVISE
6.4 POLICYHOLDERS OF LIFE, ANNUITY, OR HEALTH INSURANCE POLICIES
6.5 OF THEIR RIGHTS IN THE EVENT THEIR INSURANCE CARRIER BECOMES
6.6 FINANCIALLY INSOLVENT. THIS NOTICE IN NO WAY IMPLIES THAT THE
6.7 COMPANY CURRENTLY HAS ANY TYPE OF FINANCIAL PROBLEMS. ALL LIFE,
6.8 ANNUITY, AND HEALTH INSURANCE POLICIES ARE REQUIRED TO PROVIDE
6.9 THIS NOTICE."

6.10 Additional language may be added to the notice if approved by the commissioner
6.11 prior to its use in the form. Insurers shall update this notice if necessary as of October
6.12 1 of each year to account for adjustments in dollar values made under section 61B.19,
6.13 subdivision 6. This section does not apply to fraternal benefit societies regulated under
6.14 chapter 64B.

6.15 **EFFECTIVE DATE.** This section is effective 30 days following final enactment.

6.16 Sec. 4. **REPEALER; PROHIBITED SALES PRACTICE.**

6.17 Minnesota Statutes 2008, section 61B.28, subdivision 4, is repealed.

6.18 **EFFECTIVE DATE.** This section is effective the day following final enactment.

APPENDIX

Repealed Minnesota Statutes: H0811-1

61B.28 MISCELLANEOUS PROVISIONS.

Subd. 4. **Prohibited sales practice.** No person, including an insurer, agent, or affiliate of an insurer, shall make, publish, disseminate, circulate, or place before the public, or cause directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in any newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio station or television station, or in any other way, an advertisement, announcement, or statement, written or oral, which uses the existence of the Minnesota Life and Health Insurance Guaranty Association for the purpose of sales, solicitation, or inducement to purchase any form of insurance covered by sections 61B.18 to 61B.32. The notice required by subdivision 8 is not a violation of this subdivision. This subdivision does not apply to the Minnesota Life and Health Insurance Guaranty Association or an entity that does not sell or solicit insurance. A person violating this section is guilty of a misdemeanor.