

# MASON'S MINNESOTA STATUTES

1927

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PUBLISHED UNDER THE TERMS OF THE CONTRACT MADE BY THE  
STATUTE COMPILATION COMMISSION FOR THE PUBLICATION OF  
THE GENERAL STATUTES OF 1923

EMBRACING THE ORGANIC LAWS, THE CONSTITUTION, AND THE STAT-  
UTES CONTAINED IN THE GENERAL STATUTES OF 1923, EXCEPT  
THOSE WHICH HAVE BEEN REPEALED OR SUPERSEDED  
BY THE SUBSEQUENT LEGISLATION OF 1925  
AND 1927

AND ALSO EMBRACING LAWS OMITTED FROM THE GENERAL STATUTES  
1923, AND THE LAWS OF THE 1925 AND 1927 SESSIONS OF THE  
LEGISLATURE UNDER APPROPRIATE CLASSIFICATION.

COMPILED AND EDITED BY THE EDITORIAL STAFF OF THE  
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Citer-Digest Company  
St. Paul  
1927

giving abstract of the statistics and condition of the various offices, institutions, municipalities, and corporations to which his duties relate, and making such recommendations as he may deem proper, which report shall be printed and included in the volume of executive documents. ('13 c. 555 § 12) [3238]

3286. Assistants and employes and bonds to be given—For the exercise of the powers and performance of the duties imposed and conferred upon him by this act, the public examiner may appoint, and at pleasure remove, a deputy examiner, fifteen assistant public examiners, an executive clerk, and such other employes as may be necessary for whom provision is made by law. Such deputy and assistant examiners shall each give bond to the state in the sum of five thousand dollars. During the absence or disability of the public examiner, the deputy examiner shall perform the duties of the office. The duties of the assistants and

other employes shall be such as the examiner may prescribe, and any of them may be assigned to perform any special duty imposed by this chapter upon the examiner or his deputy. In such cases the assistants may exercise all the powers of his principal necessary to the proper discharge of such duty. The salaries of the public examiner and his appointees as above enumerated shall be such as are fixed by law. The salaries of the several other employes subject to appointment by the public examiner shall be such sums as the examiner may prescribe and, together with the expenses of the examiner and his deputy and assistants and other employes, necessarily incurred in the discharge of their duties and in the administration of the office, shall be paid out of the contingent fund provided for such office; and such salaries and expenses shall not exceed the aggregate sums appropriated and allowed therefor by law. ('13 c. 555 § 13, amended '19 c. 425 § 2) [3239]

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3287. Department of insurance—There is hereby established and continued a department of insurance in the State of Minnesota. Its chief officer shall be styled the Commissioner of Insurance, and shall be appointed by the governor, by and with the advice and consent of the Senate, for the term of two years, beginning on the first Tuesday after the second Monday of January of each odd numbered calendar year, and who shall hold office until his duly appointed successor shall have qualified. He shall give bond, with sureties to be approved by the state treasurer, in the sum of fifty thousand dollars (\$50,000.00) for the faithful discharge of

his duties and shall receive in full compensation for all his services as commissioner of insurance the sum of four thousand five hundred dollars (\$4,500.00) per annum. ('11 c. 386 § 1, amended '21 c. 346 § 1; '23 c. 399 § 1) [3240]

Department of Commerce with insurance division and commissioner of insurance; office of commissioner of insurance abolished. See §§ 53-28 to 53-32, herein.

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3288. To enforce laws—The commissioner of insurance shall have and exercise the power to enforce all the laws of this state relating to insurance, and it shall be his duty to enforce all the provisions of the laws of this state relating to insurance. ('11 c. 386 § 2) [3241]

3289. Official staff and salaries—The commissioner of insurance may appoint a deputy commissioner of insurance to assist him in his duties, an actuary, a chief examiner, a statistician, and such assistants to the employees hereinbefore named and such stenographic and clerical help as may be required for the proper conduct of the department of insurance, at such salaries as the commissioner of insurance may determine; provided, that no person except the actuary and rate supervisor shall be paid a salary in excess of three thousand dollars (\$3,000.00) per annum, that no examiner shall be paid more than twenty-four hundred dollars (\$2,400.00) per annum, and that no clerk or stenographer shall be paid more than twelve hundred dollars (\$1,200.00) per annum. Provided further, that the salary of the actuary shall not exceed forty-five hundred dollars (\$4,500.00) per annum, and the salary of the rate supervisor shall not exceed thirty-three hundred dollars (\$3,300.00) per annum.

All salaries authorized by this act shall be payable in semi-monthly installments and shall be in full compensation for all services rendered in discharge of their respective duties; provided, that the actual and necessary expenses incurred by the commissioner or any salaried employee of the department of insurance in connection with any examination of an insurance company shall be repaid by the state treasurer upon proper vouchers on condition that the same shall have previously been charged to such insurance company so examined and by such company paid into the state treasury. ('11 c. 386 § 3, amended '19 c. 336 § 1; '21 c. 346, § 2; '23, c. 399, § 2) [3242]

3290. Contingent fund—The contingent fund appropriated for the use of the department of insurance may be expended by the commissioner of insurance as he may deem for the best interest of said department. ('11 c. 386 § 4, amended '15 c. 208 § 1) [3243]

3291. Deputy—In the absence or disability of the commissioner of insurance his duties shall be performed by the deputy commissioner of insurance. The actuary of the department shall, under the direction of the commissioner, make such valuations of life insurance policies as shall be necessary from time to time to the proper supervision of life insurance companies transacting business in this state, and shall perform such other actuarial duties, including the visitation and examination of insurance companies, as the commissioner of insurance may prescribe. The chief and assistant examiners shall, under the direction of the insurance commissioner, devote their principal time to necessary or required examinations of insurance companies, and shall perform such other duties as the commissioner of insurance may prescribe. Other salaried employees of the department of insurance shall be under the direction of the commissioner of insurance, and shall perform such duties in connec-

tion with the department of insurance as the commissioner may prescribe. ('11 c. 386 § 5) [3244]

3292. Examinations—At least once in every three years, the commissioner of insurance shall personally, or by his deputy, actuary, examiners or other salaried employe of his office, visit each domestic insurance company, other than township mutual fire insurance companies, and carefully examine its affairs for the purpose of ascertaining its financial condition and ability to fulfill its obligations, and if it be complying with all the provisions of law. He may also make such examination at any other time that he shall have reason to believe that such company is in an unsound condition, or that it is not conducting its business according to the provisions of law. He may also personally or by his deputy, actuary, examiners or other salaried employe of his office whenever he shall deem it necessary, make an appraisal of any or all of the company's assets. The commissioner, or person making the examination by his direction shall have free access to all books and papers of any company, and of the books and papers of any of its agents, that may relate to its business and may summon and examine under oath of its directors, officers, agents, trustees, or other persons, in relation to its affairs and conditions. The commissioner of insurance may in like manner, whenever he deems it necessary, make an examination of the affairs or an appraisal of any or all of the assets of any insurance company admitted, or applying for admission to do business under the laws of this state.

In the case of foreign insurance companies admitted or applying for admission to do business in this state, the insurance commissioner may, in his discretion, accept the report of examination made by the commissioner of insurance or corresponding officer of the state in which such company has its home office, in lieu of making the examination of such company authorized by the laws of this state. ('11, c. 386, § 6; amended '15, c. 208, § 2; '25, c. 27, § 1) [3245]

3293. Fees for examination—When any such visitation, examination or appraisal is made by the insurance commissioner, his deputy, actuary or chief examiner, the company so examined, except township mutual fire insurance companies, and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them, upon the mutual plan, shall pay a fee to the said department of insurance of \$15.00 per day for each and every day necessarily occupied by such a person, and each one thereof in making said examination, or in making an appraisal of any of the assets of said company. When such visitation, examination or appraisal is made, or engaged in, by any other person regularly employed in the said department of insurance and receiving a salary from the state of Minnesota, the company so examined, except township mutual fire insurance companies and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them, upon the mutual plan, shall pay as fees to the said department of insurance the sum of \$10.00 per day, for each and every day necessarily occupied by such other person, and each one thereof, in making or assisting to make, the examination, or in making an appraisal of any of the assets of said company. In addition to the fees mentioned herein, the company so examined shall also pay to the department of insurance the necessary expenses of any such person or persons so engaged in connection with any such examination or appraisal. All of which fees and ex-

penses shall be accounted for and turned into the treasury of the state of Minnesota. In case of the examination of township mutual fire insurance companies, and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them upon the mutual plan, the actual expenses only thereof shall be charged. The necessary expenses of any such person or persons so engaged in connection with any such examination or appraisal shall be repaid by the state treasurer to any such person or persons so engaged in connection with said examination or appraisal upon vouchers of the same, on condition that such expenses shall have been previously charged to such company so examined and the full amount thereof by it paid into the state treasury. ('11 c. 386 § 7, amended '15 c. 208, § 3) [3246]

**3294. Commissioner may appoint examiner**—The commissioner of insurance may, when he shall deem it necessary, appoint any experienced and competent professional insurance actuary to personally make or conduct or assist in making or conducting an examination of any insurance company admitted, or applying for admission, to do business in this state, on condition that he, the commissioner of insurance, shall have previously filed with the secretary of state during the last immediately preceding month of January or July, as the case may be, or within thirty days from the passage of this act, a written declaration designating such person, by name and address, as a consulting actuary of the Minnesota department of insurance. And in such case, the commissioner of insurance shall fix a reasonable compensation for such examiner on a per diem basis for the actual time employed in making or conducting or assisting to make or conduct such examination, and which, including expenses of any necessary appraisal or clerical assistance, shall be charged to the company so examined. And the compensation for such examiner, appraisal or clerical assistance, together with the amount of his necessary expenses actually incurred in connection with such examination, shall, upon proper vouchers therefor, be paid to him by the state on condition that same shall have previously been charged to such company and by it paid into the state treasury.

The commissioner of insurance, when he shall deem it necessary, may appoint any competent person to make an appraisal of any or all of the assets of any such company, at a compensation of not exceeding ten dollars (\$10.00) per day and necessary expenses incurred in connection therewith, which compensation and expenses shall be paid to the department of insurance by such company and by it accounted for and turned into the treasury of the state of Minnesota; and which compensation and expenses shall be repaid by the state treasurer to any person so appointed upon proper vouchers of the same on condition that such fees and expenses shall have previously been charged to such company and the full amount thereof by it paid into the state treasury. ('11 c. 386 § 8, amended '15 c. 208 § 4) [3247]

**3295. Fees**—In addition to the fees and charges hereinbefore provided for, there shall be paid to the commissioner of insurance, and by him accounted for and paid into the treasury of the state of Minnesota, the following fees:

1. By township mutual fire insurance companies:  
For filing certificate of incorporation, two dollars (\$2.00).  
For filing annual statements, one dollar (\$1.00).

For each annual certificate of authority, one dollar (\$1.00).

2. By other domestic companies:

For filing certified copy of certificates of incorporation and accompanying documents, for obtaining license, thirty dollars (\$30.00).

Each company's certificate of authority, one dollar (\$1.00).

3. By foreign companies:

For filing certified copy of charter of certificate of incorporation and by-laws, thirty dollars (\$30.00).

For filing statement of financial condition, twenty dollars (\$20.00).

Each company's or agent's certificate of authority, two dollars (\$2.00).

4. By all companies (except township mutuals):

For filing certified copy of amendment to articles of incorporation, ten dollars (\$10.00).

For filing annual statement, twenty dollars (\$20.00).

For abstract or summary of annual statement for publication, when prepared by commissioner, ten dollars (\$10.00).

5. General fees:

For each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, one dollar (\$1.00).

For each copy of paper on file in his office, twenty cents (20 cents) per folio, and one dollar (\$1.00) for certifying same.

For license to procure fire insurance in unadmitted foreign companies, ten dollars (\$10.00).

For each broker's license, ten dollars (\$10.00).

For receiving and forwarding copy of summons or process served upon commissioner of insurance, as attorney for any insurance company, two dollars (\$2.00); which amount shall be paid by the party serving same and may be taxed as other costs in the action.

For valuing the policies of life insurance companies, one cent per one thousand of insurance so valued.

And further provided that the commissioner of insurance may in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission to this state, accept a certificate of valuation from such company's own actuary or from the commissioner of insurance of the state, or territory, in which such company shall be domiciled.

For receiving and filing certificates of valuation of policies by company's actuary, or by the commissioner of any other state or territory, fifty dollars (\$50.00).

All fees received by the commissioner of insurance pursuant to the provisions of this act shall be paid by him into the state treasury.

It is further provided that when by the laws of any other state or nation any fines, penalties, licenses or fees additional to, or in excess of, those imposed by this section upon foreign insurance companies and their agents are imposed upon insurance companies of this state or their agents doing business in such state, the same fines, penalties, licenses and fees shall be imposed upon all insurance companies of such state and their agents doing business in this state, so long as such laws of such other state remain in force. ('11 c. 386 § 9) [3248]

**3296. Inconsistent acts repealed**—Sections 1592, 1593 and 1598, Revised Laws of the State of Minnesota for the year 1905, and sections 1, 2, 3, 4, 5 and 6, chapter 229, General Laws of the State of Minnesota for the year 1905, and chapter 472 of the General Laws of Minnesota for the year 1907, and all other acts and parts of acts inconsistent with this act, are hereby repealed. ('11 c. 386 § 10.) [3249]

**3297. Suspension of authority—Agent**—If the commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, or if a life insurance company, that its actual funds are less than its liabilities, or that it is insolvent; or if a foreign insurance company has failed to comply with the law, or if it, its officers or agents, refuse to submit to examination, or to perform any legal obligation in relation thereto, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notification thereof to be published in a newspaper authorized by this chapter to publish annual statements of insurance companies, and no new business shall thereafter be done by it or its agents in this state while such default or disability continues, nor until its authority to do business is restored by the commissioner: Provided, however, that unless the ground for revocation or suspension relates only to the financial condition or soundness of the company or to a deficiency in its assets, he shall notify the company not less than ten days before revoking its authority to do business in this state; and he shall specify in the notice the particulars of the supposed violation. The district court of any county, upon petition of said company, brought within the ten days aforesaid, shall summarily hear and determine the question whether such violation has been committed, and shall make any proper order or decree therein, and enforce the same by any appropriate process. If the order or decree is adverse to the petitioning company, an appeal therefrom may be taken to the supreme court; and in the case of such appeal the commissioner may issue his order revoking the right of said petitioning company to do business in this state until the final determination of the question by the supreme court aforesaid. Neither this act nor any proceedings thereunder shall affect any criminal prosecution or proceeding for the enforcement of any fine, penalty or forfeiture. If upon examination, he is of the opinion that any domestic insurance company is insolvent, or has exceeded its powers or has failed to comply with any provisions of law, or that its condition is such as to render its further proceedings hazardous to the public or to its policy-holders, he shall apply to a judge of any district court to issue an injunction restraining it in whole or in part from further proceeding with its business. Such judge may, in his discretion, issue the injunction forthwith or upon notice and hearing thereon, and after a full hearing of the matter may dissolve or modify such injunction or make it perpetual, and make all orders and decrees needful in the premises, and may appoint agents or receivers to take possession of the property and effects of the company, and to settle its affairs, subject to such rules and orders as the court may from time to time prescribe, according to the course of proceedings in equity. Service of process in such proceedings shall be sufficient if made upon any person authorized by such company to write policies or accept premiums. In case any agent shall directly or indirectly make any contract of or for insurance, for or in behalf of any company not authorized to do business in this state, save as herein otherwise expressly provided, such agent shall be personally liable thereon. (1599) [3260]

**3298. Impaired capital**—Whenever it appears that the capital of any company is impaired to the extent of one-fourth or more, on the basis in this chapter provided, the commissioner shall notify it to repair the same by assessment, and if, within three months after such notice, it shall not satisfy him that it has done so, or reduced it as hereinafter provided, he shall pro-

ceed against it as required in section 3260. (1600) [3261]

**3299. Notice to cease business**—If the actual funds of a domestic life company are not of a net cash value equal to its liabilities, including the net value of its policies computed by the rule of valuation hereinafter established, the commissioner shall notify it thereof, and thereafter neither such company nor any of its agents shall issue any new policies until he is satisfied that its funds equal its liabilities, and shall have so notified it. (1601) [3262]

**3300. To report violations**—Whenever, upon examination or other evidence or information, it appears to him that any company, or any officer or agent thereof, has violated any provision of this subdivision, he shall report the facts to the governor, who shall cause proper proceedings to be taken in the premises. (1602) [3263]

**3301. Unsatisfied judgment**—Whenever a judgment has been rendered by any court in this state against any company holding the commissioner's certificate, and an execution issued thereon has been returned unsatisfied in whole or in part, and a certified transcript of the docket entry and the clerk's certificate of those facts is filed with the commissioner, he shall forthwith revoke its certificate and give one week's published notice thereof. No new certificate shall issue until such judgment has been fully satisfied and proof thereof filed with him, and the expenses and fees incurred are paid. During such revocation neither such company, nor any of its officers or agents, shall issue any new policy, take any risk, or transact any business, except such as is absolutely necessary in closing up its affairs in this state. (1603) [3264]

(126-528, 147+1135.)

**3302. Computation of net value**—The commissioner shall compute, yearly, the net value on the last day of the preceding year of all outstanding policies in every company authorized to insure lives in this state, calculated upon the basis of the American experience table of mortality, with interest at not exceeding four per cent per annum. Such net value shall be deemed its liability on account of its unaccrued policy obligations, to provide for which it shall hold funds in authorized investments, approved by the commissioner, to an amount equal to such net value above and free from all other liabilities. In computing such net value, assessment policies, or certificates of any assessment company reincorporated to transact life insurance business, shall be valued as one-year term policies. In every case in which the actual premium charged is less than the net premium computed as aforesaid, the company shall also be charged with the value of an annuity, the amount of which shall equal the difference and the term of which in years shall equal the number of future annual payments due on the insurance at the date of the valuation. (1604) [3265]

**3303. Valuation in other states**—The commissioner may accept the valuation made by the insurance commissioner of the state under whose authority a life company was organized, whenever such valuation has been made on sound and recognized principles and on the legal basis provided in § 3265, or its equivalent, when furnished with a certificate of such commissioner setting forth such value on the last day of the preceding year. Every such life company which fails to promptly furnish such certificate shall on demand furnish such commissioner detailed lists of all its policies and securities, and shall be liable for all charges and expenses resulting therefrom. (1605) [3266]

§ 3265 is § 3302, herein.

3304. Reserves—To determine the policy liability of any company other than life or title insurance, and the amount such company shall hold as reserve, the commissioner shall take 50 per cent of the aggregate premiums, on policies running one year or less from date of policy, and a pro rata amount on policies running more than one year from date of policy, except upon inland and marine risks, which he shall compute by charging 50 per cent of the amount of premium written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other inland and marine risks not terminated. In case of any fire and marine company with less than \$200,000 capital admitted to transact in this state fire business only, the full amount of premiums written in its marine and inland navigation and transportation policies shall be charged as liability.

In case of a mutual fire insurance company with a policy holders' contingent liability fixed by its by-laws and in its policies as provided by law, to determine the amount of such reinsurance reserve the commissioner shall take twenty-five (25) per cent of the aggregate premiums running one year or less from date of policy, and fifty (50) per cent of the pro rata amount on policies running more than one year from date of policy. A policy for a term of years on which the premium is payable annually shall be considered a policy for one year.

In case of a casualty insurance company writing insurance against loss or damage resulting from accident to or injuries suffered by an employe or other persons and for which the insured is liable, and under insurance against loss from liability on account of the death of or injury to an employe not caused by the negligence of an employer, he shall charge as a liability, in addition to the capital stock and all other outstanding indebtedness of the corporation:

a. The premium reserve on policies in force, equal to fifty per centum of the gross premiums charged for covering the risks, provided that the commissioner may, in his discretion, charge a premium reserve equal to the unearned portions of the gross premiums charged, computed on each respective risk from the date of the issuance of the policy.

b. The reserve for outstanding losses, other than compensation and liability, at least equal to the aggregate estimated amounts due or to become due on account of all losses and claims of which the corporation has received notice, provided that such loss reserve shall also include the estimated liability on any notices received by the corporation of the occurrence of any event which may result in a loss, and the estimated liability for all losses which have occurred but on which no notice has been received. For the purpose of such reserves, the corporation shall keep a complete and itemized record showing all losses and claims on which it has received notice, including all notices received by it of the occurrence of any event which may result in a loss.

Whenever, in the judgment of the commissioner, the loss reserves, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such corporation to maintain additional reserves.

c. The reserve for outstanding losses under insurance against loss or damage from accident to or injuries suffered by an employe or other person and for which the insured is liable computed as follows:

1. For all liability suits being defended under policies written more than

(a) Ten years prior to the date as of which the statement is made, one thousand five hundred dollars for each suit.

(b) Five and less than ten years prior to the date as of which the statement is made, one thousand dollars for each suit.

(c) Three and less than five years prior to the date as of which the statement is made, eight hundred and fifty dollars for each suit.

2. For all liability policies written during the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty per centum of the earned liability premium of each of such three years less all loss and loss expense payments made under liability policies written in the corresponding years; but in any event, such reserve shall, for the first of such three years, be not less than seven hundred and fifty dollars for each outstanding liability suit on said year's policies.

3. For all compensation claims under policies written more than three years prior to the date as of which the statement is made, the present values at four per centum interest of the determined and the estimated future payments.

4. For all compensation claims under policies written in the three years immediately preceding the date as of which the statement is made, such reserve shall be sixty-five per centum of the earned compensation premiums of each of such three years, less all loss and loss expense payments made in connection with such claims under policies written in the corresponding years; but in any event in the case of the first year of any such three-year period such reserve shall be not less than the present value at four per centum interest of the determined and the estimated unpaid compensation claims under policies written during such year.

The term "earned premiums" as used herein shall include gross premiums charged on all policies written, including all determined excess and additional premiums, less return premiums, other than premiums returned to policy holders as dividends, and less reinsurance premiums and premiums on policies cancelled, and less unearned premiums on policies in force. But any participating company which has charged in its premiums a loading solely for dividends shall not be required to include such loading in its earned premiums, provided a statement of the amount of such loading has been filed and approved by the commissioner of insurance.

The term "compensation" as used in this act shall relate to all insurances effected by virtue of statutes providing compensation to employes for personal injuries irrespective of fault of the employer. The term "liability" shall relate to all insurance, except compensation insurance, against loss or damage from accident to or injuries suffered by an employe or other person and for which the insured is liable.

The term "loss payments" and "loss expense payments" as used herein shall include all payments to claimants, including payments for medical and surgical attendance, legal expense, salaries and expenses of investigators, adjustors and field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employes, home office expenses, and all other payments made on account of claims, whether such payments shall be allocated to specific claims or unallocated.

All unallocated liability loss expense payments made in a given calendar year subsequent to the first four years in which an insurer has been issuing liability policies shall be distributed as follows: Thirty-five

per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding, ten per centum to the policies written in the third year preceding and five per centum to the policies written in the fourth year preceding, and such payments made in each of the first four calendar years in which an insurer issues liability policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year, in the third calendar year forty per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, and twenty per centum to the policies written in the second year preceding, and in the fourth calendar year thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, fifteen per centum to the policies written in the second year preceding, and ten per centum to the policies written in the third year preceding, and a schedule showing such distribution shall be included in the annual statement.

All unallocated compensation loss expense payments made in a given calendar year subsequent to the first three years in which an insurer has been issuing compensation policies shall be distributed as follows: Forty per centum shall be charged to the policies written in that year, forty-five per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding and five per centum to the policies written in the third year preceding, and such payments made in each of the first three calendar years in which an insurer issues compensation policies shall be distributed as follows: In the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year, in the third calendar year forty-five per centum shall be charged to the policies written in the preceding year and ten per centum to the policies written in the second year preceding, and a schedule showing such distribution shall be included in the annual statement.

Whenever, in the judgment of the commissioner of insurance the liability or compensation loss reserves of any insurer under his supervision, calculated in accordance with the foregoing provisions, are inadequate, he may, in his discretion, require such insurer to maintain additional reserves based upon estimated individual claims or otherwise.

Each insurer that writes liability or compensation policies shall include in the annual statement required by law a schedule of its experience thereunder in such form as the commissioner of insurance may prescribe. Provided that this act shall not apply to farmers mutual insurance companies. ('21 c. 406 § 1)

**Explanatory note**—Laws '21, c. 406, § 2, repeals G. S. '13, § 3268.

**3305. What assets admissible**—In valuing the assets which compose the legal reserve of a life company, its real estate, stocks, and bonds shall be so rated that the average annual income thereof shall not be less than three per cent, and if any asset produces less it shall be rated at its value upon a three per cent basis. Loans and credits shall not be allowed for

more than their face value, nor shall any asset be appraised for more than its market value. Only such assets shall be allowed as are available for payment of losses in this state; but any deposit or fund set apart as security for a particular liability may be set off to an amount not exceeding such liability. The amount of any interest bearing lien against any policy or loan thereon, not exceeding the net value or premium reserve of such policy, computed under the provisions of this chapter, may likewise be allowed against liability thereunder. Stockholders' obligations of any description shall not be rated as part of the assets of any company, unless secured by sufficient approved collateral. (1608) [3269]

**3306. Valuation of bonds, etc.**—All bonds or other evidences of debt having a fixed term and rate held by an insurance company or fraternal beneficiary association authorized to do business in this state may, if amply secured and not in default as to principal and interest, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made, provided that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and, provided further, that the commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule. ('19 c. 54)

**3307. Increase or decrease of capital**—Upon application, the commissioner shall examine the proceedings of any domestic company to increase or reduce its capital stock, and when found conformable to law shall revoke the old and issue a new certificate of authority to such company to transact business upon such increased or reduced capital. (1609) [3270]

**3308. Accounts of assignees, etc.**—The commissioner or his deputy, annually, or oftener when deemed necessary shall examine the transactions and accounts of all assignees and receivers of insolvent companies, and also the accounts of such assignees or receivers referred to him under the provisions of this chapter, and in each case shall make report thereof to the court. For this purpose, he or his deputy shall have free access to the official papers of such assignees or receiver relative to their transactions, and may examine them under oath as to all matters connected therewith. Whenever in his opinion any assignee or receiver has violated his official duty, or further proceedings to collect an assessment will not afford substantial relief to creditors, he shall report the facts to the court. (1610) [3271]

**3309. Annual report**—The annual report of the commissioner shall include a statement of the receipts and expenditures of his department, a statement of the financial condition and business transactions of the several insurance companies doing business in the state, as disclosed by official examinations and by their annual statements, the condition of the receiverships of insolvent companies, and such other information as he thinks proper. (R. L. '05 § 1612; G. S. '13 § 3273, amended '15 c. 81)

**3310. Deposits of securities**—He shall receive and hold in official trust deposits made by any domestic company in compliance with the laws of any other state, to enable it to do business in such state, and in like manner hold deposits made by a foreign company under any law of this state. The company mak-

ing such deposit shall be entitled to the income thereof, and from time to time, with his consent, when not inconsistent with the law under which it was made, may exchange, in whole or in part, the securities composing such deposit for other approved securities of equal value. Upon application by any such domestic company, he may return the whole or any portion of the securities so deposited by it, if satisfied that they are subject to no liability. Upon like application, he may return to a foreign company any deposit made by it whenever it appears that such company has ceased to do business in this state or the United States, and he is satisfied that it is not subject to any liability in this state, or upon the order of any court of competent jurisdiction. A foreign company which has made such deposit, its trustees, receiver, resident manager, or any creditor or policyholder thereof, may at any time institute in the district court of Ramsey county an action against the state and other proper parties to enforce or terminate the trust created by such deposit. The commissioner shall immediately notify the governor of such action, and furnish the necessary information to answer in behalf of the state, and shall carry out such order and decree as the court shall make therein. (1613) [3274]

**3311. Securities to be deposited in State Treasurer's vault**—The state department of banking and the state department of insurance shall use, for the safe keeping of securities except such securities as may for the convenience of the department of banking be kept in places designated by the superintendent of banks, such space in the safety deposit vault in the office of the state treasurer as may be agreed upon and assigned to such departments respectively, by the state treasurer. ('21 c. 466)

#### GENERAL PROVISIONS.

**3312. Definitions**—In this chapter, unless the context otherwise requires, "company" or "insurance company" shall include every corporation or association engaged in insurance as principal. "Domestic" shall designate those incorporated in this state, and "foreign" when used without limitations, those in any other state or country. "Beneficiary associations" shall mean a corporation, society or voluntary association organized and carried on for the sole benefit of its members and their families, relatives or dependents, but not for profit, and insure the lives of its members only upon the whole life assessment plan, so called, and in which organization admission to membership by a vote of the members or some governing body thereof, is a prerequisite to being entitled to such relief or policy of insurance and which association sells neither endowments nor annuities. "Fraternal beneficiary association" shall mean a corporation, society or voluntary association organized and carried on for the sole benefit of the members and their beneficiaries, but not for profit, and having a lodge system and ritualistic form of work and representative form of government. "Net assets" shall mean that portion of the excess of the entire assets of an insurance company over its entire liabilities exclusive of capital and inclusive of policy liability, available for the payment of its obligations, including capital stock in this state, and including as assets deferred premiums on policies written within three months and actually in force, and in case of a mutual marine or fire and marine company, its subscription funds and premium notes not more than thirty (30) days past due and uncollected.

In case of a mutual fire insurance company there shall be included as assets premium notes absolutely payable within six months from date and given for policies actually in force, when such notes are not more than thirty days overdue. Unpaid guaranty fund subscriptions shall not be included as assets, and guaranty fund certificates upon which there is no liability of the company until all of its other obligations and liabilities are paid shall not be included as a liability.

"Unearned premiums," insurance reserve, net value policies, and "premium reserve" shall severally refer to the liability of an insurance company upon its insurance contracts other than accrued claims computed by rules on valuation hereinafter established.

"Profits" of a mutual insurance company shall mean that portion of its net earnings not required for payment of losses and expenses, nor set apart for any lawful purposes; and "commissioner" shall mean insurance commissioner. (R. L. § 1594, amended '07 c. 321) [3255]

Beneficiary association—Sale of endowments (102-15, 112+1050).  
(88-20, '92+472.)  
167-198, 208+659.

**3313. Acceptance of Laws**—Every company, domestic or foreign shall file with the commissioner its acceptance of the provisions hereof, and by such changes, if any, as may be necessary, conform its charter or certificate of incorporation thereto, so far as same relate to such a company; and it and every company hereafter organized shall obtain from the commissioner his certificate that such charter or certificate of incorporation, and all proceedings thereunder, comply with law, which he shall indorse thereon when approved, and thereupon each shall be governed by such provisions and those relative to corporations in general, so far as applicable and not otherwise specially provided. (1595) [3256]  
167-198, 208+659.

**3314. Insurance defined — Unlawful contracts — Contracts deemed made in this state**—Insurance is any agreement whereby one party, for a consideration, undertakes to indemnify another to a specified amount against loss or damage from specified causes, or to do some act of value to the assured in case of such loss or damage. It shall be unlawful for any person, firm or corporation to solicit or make or aid in the soliciting or making of any contract of insurance not authorized by the laws of this state. All contracts of insurance on property, lives, or interests in this state, shall be deemed to be made in this state. (R. L. '05 § 1596; G. S. '13 § 3257, amended '17 c. 308)

Insurance defined (48-110, 111, 50+1028; 88-20, 21, 92+472). Unlawful contract. Conflict of laws (66-205, 68+1065). See 67-245, 250, 69+916. An agreement on receipt of a premium, to conduct the defense of a physician sued for malpractice, is a contract of insurance (100-490, 111+396) (107-12 119+425).  
166-285, 207+724.

"Insurance" is defined as "indemnity for loss in respect of a specified subject." 166-167, 207+317.

**3315. Capital stock required and business which may be transacted**—(a) Insurance corporations shall be authorized to transact in any state or territory in the United States, in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, either as originally granted or as thereafter amended, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law.

1. To insure against loss or damage to property on land and against loss of rents and rental values,

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leaseholds of buildings, use and occupancy and direct or consequential loss or damage caused by change of temperature resulting from the destruction of refrigerating or cooling apparatus, or and of its connections, by fire, lightning, windstorm, tornado, cyclone, earthquake, hail, frost or snow, bombardment invasion, insurrection, riot, civil war or commotion, military or usurped power and loss or damage to property by explosion, whether fire ensues or not, except explosions on risks specified in sub-division 3 of this section, also against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and of water pipes, and against accidental injury to such sprinklers, pumps, or other apparatus.

2. To insure vessels, freight, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with marine risks of transportation and navigation, including the risks of lake, river, canal and inland transportation and navigation.

3. To insure steam boilers and pipes, flywheels, engines and machinery connected therewith or operated thereby, against explosion and accident, and against loss or damage to persons or property resulting therefrom, and against loss of use and occupancy caused thereby; and to make inspection of and to issue certificates of inspection upon such boilers, pipes, flywheels, engines and machinery.

4. To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities of endowments of any kind, and to insure against accidents to or sickness of the assured.

5. To insure against loss or damage by the sickness, bodily injury or death by accident of the assured, or of any other person employed by or for whose injury or death the assured is responsible.

6. To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations.

7. To insure owners and others interested in real estate against loss or damage, by reason of defective titles, incumbrances, or otherwise.

8. To insure against loss or damage by breakage of glass, located or in transit.

9. To insure against loss by burglary, theft, or forgery.

10. To insure against loss from death of domestic animals and to furnish veterinary service.

11. To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with him; this shall be known as credit insurance.

12. To insure against loss or damage to automobiles or other vehicles and their contents, by collision, fire, burglary or theft, and other perils of operation, and against liability for damage to persons, or property of others by collision with such vehicles, and to insure against any loss or hazard incident to the ownership, operation or use of motor or other vehicles.

13. To insure against liability for loss or damage to the property of another caused by the insured or by those for whom the insured is responsible.

14. To insure against any loss or damage resulting from accident or injury suffered by any person, occurring in the practice of medicine, or surgery or in the

dispensing of drugs or medicine, for which loss or damage the insured may be legally liable.

15. To make contracts providing that upon the death of the assured a funeral benefit will be paid or a funeral service furnished, the aggregate amount or value of which shall not exceed \$150.00 upon any one life. Provided, however, that any corporation that has been licensed to do business for three successive years may make contracts not to exceed \$300.00 upon any one life; provided further that any corporation licensed under this act which now or hereafter has a paid up capital of \$15,000.00, and maintains with the commissioner of insurance a deposit of \$15,000.00, may make life insurance contracts not to exceed \$600.00 on any one life and with or without indemnity for total and permanent disability such as are usually contained in life insurance contracts.

(b) The paid-up capital stock of every such corporation authorized to transact the kinds of business enumerated in sub-divisions 1 to 15 of this section shall not be less than specified below:

Sub-division 1,	\$100,000.
Sub-division 2,	\$100,000.
Sub-division 3,	\$100,000.
Sub-division 4,	\$100,000.
Sub-division 5,	\$100,000.
Sub-division 6,	\$250,000, and a surplus constantly maintained of at least \$50,000.
Sub-division 7,	\$200,000.
Sub-division 8,	\$100,000.
Sub-division 9,	\$100,000.
Sub-division 10,	\$100,000.
Sub-division 11,	\$100,000.
Sub-division 12,	\$100,000.
Sub-division 13,	\$100,000.
Sub-division 14,	\$100,000.
Sub-division 15,	\$10,000.

Companies organized to transact business specified in Sub-division 15 shall be subject to all the provisions of law relating to legal reserve life insurance companies, except that the deposit with the commissioner of insurance shall be \$10,000 and that such company shall have secured at least one hundred applications, upon one hundred separate lives, for insurance aggregating at least \$10,000. Such companies shall issue only non-participating policies, which shall be construed as industrial policies.

Any such corporation having a paid-up capital stock of not less than \$200,000 and a surplus of not less than \$50,000 constantly maintained may, when authorized by its articles of incorporation, transact any or all of the kinds of business specified in Sub-divisions 1 to 15 inclusive, excepting those specified in Sub-divisions 1, 2, 4, 6 and 15.

Any such corporation having paid-up capital stock of not less than \$200,000, may transact the kinds of business specified in Sub-divisions 1, 2 and 12 of this section.

Any such corporation having a paid-up capital stock of not less than \$200,000 and authorized to transact the kinds of business specified in Sub-division 4 of this section may also transact the kinds of business specified in Sub-division 5.

Any such corporation having a paid-up capital stock of not less than \$250,000 and a surplus of not less than \$50,000 constantly maintained, when authorized to transact the kinds of business specified in Sub-division 6, may also transact the kinds of business specified in Sub-division 7, 8, 9, 10, 11, 12, 13 and 14. ('15, c. 138,

§ 1; amended '17, c. 29, § 1; '19, c. 413, § 1; '23, c. 51; '27, c. 240)

(138-245, 164+919.)

G. S. 1923, § 3710, applies to mutual insurance companies which desire to write surety bonds covered by subdivision 6, § 3315, G. S. 1923. 167-198, 208+659.

**3316. Insurance not specifically authorized by law may be transacted by licensed companies upon authorization by commissioner**—Any insurance corporation or association heretofore or hereafter licensed to transact within the state of Minnesota any of the kinds or classes of insurance specifically authorized under the laws of this state may, when so authorized, transact within and without the state of Minnesota any lines of insurance not specifically provided for under the laws of this state when such lines or combination of lines of insurance are not in violation of the constitution or laws of the State of Minnesota, and, in the opinion of the Commissioner of Insurance not contrary to public policy, provided such company or association shall first obtain authority of the Commissioner of Insurance and shall meet such requirements as to capital or surplus, or both, as the Commissioner of Insurance shall prescribe.

This act shall apply to companies operating upon the stock or mutual plan, reciprocal or interinsurance exchanges.

All acts or parts of acts inconsistent herewith are hereby repealed. ('19, c. 240, § 8; amended '27, c. 265)

**3317. Insurance companies to report to chief boiler inspector**—Every insurance company insuring boilers and pressure vessels in this state shall within fifteen days after inspecting any such boiler or pressure vessel make, in duplicate, a report in writing, showing the date of such inspection, the name of the person making the inspection, the condition of such boiler or pressure vessel as disclosed by such inspection, whether the same is operated by a licensed engineer and whether a policy of insurance has been issued by said company with reference to said boiler or pressure vessel. Such insurance company shall within said period of fifteen days mail one of such reports to the chief boiler inspector and shall deliver one of such reports to the person, firm or corporation owning or operating such boiler or pressure vessel.

Every boiler or pressure vessel as to which any insurance company authorized to do business in this state has issued a policy of insurance, after the inspection thereof, shall be exempt from other inspection under the provisions of this act, while the same continues to be insured, provided the person, firm or corporation owning or operating the same shall have an unexpired certificate of exemption from inspection, which certificate shall be issued by the chief boiler inspector upon application by the holder of a report of inspection made by the insurance company as hereinbefore set forth and showing that a policy of insurance has been issued by such insurance company with reference to such boiler or pressure vessel and the payment to the chief boiler inspector of a fee of fifty cents therefor. Such certificate of exemption shall expire one year from the date of the report of inspection of the boiler or pressure vessel to which it relates. Such certificate shall be posted in a conspicuous place near the boiler or pressure vessel described therein and to which it relates. Every insurance company shall notify the chief boiler inspector, in writing, of the cancellation or expiration of every policy of insurance issued by it with reference to policies in this state, and the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date

of the policy and the date when the cancellation has or will become effective.

Any insurance company which shall fail to comply with the requirements of this section shall be deemed guilty of a misdemeanor and fined not more than fifty dollars. ('19 c. 240 § 8)

**3318. Retaliatory provision**—Whenever the laws of any other state, territory or country prohibit the organization of or do not provide for the organization of or the licensing in such state, territory or country of a class or kind of insurance companies or associations organized under the laws of this state and authorized to transact the business of insurance in this state, then companies or associations of the same kind or class of such other state, territory or country shall not be licensed to do business in this state.

This provision shall not apply to companies or associations organized under the laws of another state now licensed to do business in this state.

No insurance company or association nor fraternal beneficiary association, not specifically exempted therefrom by law, shall transact the business of insurance in this state unless it shall hold a license therefor from the commissioner of insurance. ('15 c. 138 § 2)

**3319. Deposits with commissioner**—No company in this state other than fire, marine or fire and marine, hail, farmers' mutual or real estate title insurance companies shall do business in this state unless it has on deposit with the insurance commissioner of this state as security for all its policyholders, stocks or bonds, of this state, or of the United States or bonds of any the municipalities of this state, or personal obligations secured by first mortgage on real estate within this state, worth, exclusive of buildings, the amount of the lien, and bearing interest of not less than three per cent per annum, to an amount, the actual market value of which exclusive of interest, shall never be less than one hundred thousand dollars, except in case of companies organized to insure bicycles against loss from theft, the amount of such deposits for such companies shall never be less than ten thousand dollars (\$10,000), which stocks, bonds or mortgages shall be retained by the insurance commissioner and be disposed of as directed by law.

Provided, however, that the deposit of mortgages on real estate shall not exceed the amount of fifty thousand dollars. As long as any policies of the depositing company remain in force, the insurance commissioner shall hold the said deposit as security for all holders of its policies. Provided, any insurance company of any other state of the United States may file with the insurance commissioner of this state a certificate of the insurance commissioner of such other state, that, as such officer, he holds in trust and on deposit for the benefit of all the policyholders of such company a deposit of not less than one hundred thousand dollars par value of such securities as are required or permitted to be deposited with him by the laws of such state, such securities to be of the character in which insurance companies are authorized to invest under the laws of this state, stating the items of the securities so held, and that he is satisfied that such securities are worth one hundred thousand dollars. No deposit shall be required in this state while the said deposit, so certified, remains. (R. L. '05 § 1632, amended '05 c. 181) [3309]

Interest of policyholders and creditors in securities (78-214, 80+966; 79-486, 82+976; 65-283, 68+28). Transfer of securities held unauthorized (67-245, 69+916). Action by commissioner for receiver to administer trust fund of insolvent company. Intervention by stockholders denied (72-364, 75+596).

166-285, 207+724.

Requires all such companies as engage in writing

surety bonds to deposit securities as provided. 167-198, 208+659.

**3320. Bonds of secretaries and treasurers of companies—Investment of funds—Loans, etc., to officers—Signatures to policies—Designation of principal place of business—**The secretary and the treasurer of every such company shall give bond, which shall be approved by resolution of the directors. All of its funds shall be invested in its corporate name, and no officer, director, or member of any committee passing on investments shall borrow any of such funds, or become directly or indirectly liable as a surety or indorser for or on account of loans thereof to others, or receive to his own use any fee, brokerage, commission, gift, or other consideration for, or on account of, any loan made by or on behalf of such company. All its policies shall be signed by the secretary or an assistant secretary, and by its president or vice president, or in their absence, by two directors, provided that one of such signatures may be a fac-simile signature if the other is an original signature and both thereof may be fac-simile signatures if the policy is countersigned by a registrar or other officer or employee duly authorized by the board of directors or executive committee of such company. Whenever it establishes any agency in a place other than that of its principal place of business all signs, cards, pamphlets, or other printed matter issued shall designate such principal place. (1633) [3310] (Amended '27, c. 354)

**3321. Agents and persons authorized to act—**Every such domestic company shall secure a license from the commissioner of insurance for each person employed as its agent in this state. Such license, if otherwise warranted, shall be granted upon written application by such company upon forms prescribed by the commissioner of insurance and the payment of a fee of twenty-five cents. Any officer of such company may, without license or other qualification, act in its behalf in the negotiation of insurance. (R. L. '05 § 1634, amended '13 c. 113) [3311]

Where the contract between an insurance company and its agent provides that the termination of the contract shall terminate all rights of the agent to compensation on account of future premiums, and the contract is terminated by the company in the manner provided for therein, the agent cannot maintain a claim for compensation based upon such future premiums. 165-327, 206+452.

**3322. Capital stock to be paid in full—Investment of funds of domestic companies—**The capital of every stock company shall be paid in full in cash within six months from the date of its certificate of incorporation, and thereupon a majority of the directors shall certify under oath to the commissioner that such payment in cash has been made by the stockholders for their respective shares, and is held as the capital of the company, and until then no policy shall be issued. Except as otherwise provided by law, the funds of every domestic company shall be invested in, or loaned upon, one or more of the following kinds of securities or property, and under the restrictions and conditions herein specified, viz:

1. Bonds or treasury notes of the United States, national or state bank stock, interest-bearing bonds or certificates of indebtedness at market value of this or any other state, or of any city, town, or county in this or any other state, or of the Dominion of Canada or any province thereof, having legal authority to issue the same, at market value, subject in every case to the same limitations and restrictions, according to the last assessment for taxation, which exists in this state upon issue of securities by such or like municipalities at the date of the investment.

2. Notes or bonds, approved by the commissioner, secured by first mortgage on improved real estate in this or any other state, worth at least twice the amount loaned thereon, not including buildings unless insured by policies in an amount approved by the commissioner payable to and held by the security holder, or by a trustee for the security holder.

3. Stock or bonds at market value, approved by the commissioner, upon which stock interest or dividends of not less than three per cent have been regularly paid for three years immediately preceding the investment, of any public service corporation incorporated by or under the laws of the United States, or any state, or the Dominion of Canada, or any province thereof; or in the stock of any insurance company; or in the stock or bonds of any real estate holding company whose real estate is used in whole or in part in the transacting of the insurance business of such insurance company, either directly or by reinsurance, or in the fee to real estate used in whole or in part in such business; or in the stocks or bonds of any corporation owning investments in foreign countries used for purposes of legal deposit, when the insurance company transacts business therein direct or as reinsurance. The making of investments under this subdivision shall be subject to the approval of the Commissioner of Insurance.

4. Insurance policies, issued by itself, to an amount not exceeding the net or reserve value thereof.

5. Promissory notes maturing within six months secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses as defined in Section 4435, Revised Laws of Minnesota for 1913. At the time of investing in such notes the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security. The insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes. The amount invested in the securities mentioned in this subdivision shall not at any time exceed twenty-five per cent of the capital stock of the company.

6. Loans on pledge of any such securities, but not exceeding eighty per cent of the market value of stocks and ninety-five per cent of the market value of bonds specified in Subdivisions 1 and 3; and in all loans reserving the right at any time to declare the indebtedness due and payable when in excess of such proportion or upon depreciation of security. (R. L. '05, § 1635; G. S. '13, § 3313; amended '15, c. 82, § 1; '25, c. 245, § 1)

**Explanatory note—**Section 4435, R. L. 1913 was repealed by Laws 1923, c. 201, § 15. See § 5030, herein. And see § 5016, herein.

**3323. Debentures lawful investments when—**The debentures of such corporation (Farm Mortgage Debenture Companies) shall be lawful investments for any trust company, life or fire insurance company organized under the laws of this state and for trust funds in charge of any trustee unless expressly restricted by the person or persons creating such trust, provided, that not more than twenty per centum of the capital of any such company or of any such trust funds may be so invested. ('05 c. 93 § 14) [6467]

3324. Funds may be invested in bonds or obligations of foreign countries—Any domestic insurance company authorized to transact the business of fire insurance or fire and marine insurance, and lawfully transacting business in any foreign state or country, may invest its funds in the bonds of other equivalent obligations issued by the national government of such foreign state or country, and for the payment of which the faith and credit of such foreign state or country is pledged. ('09 c. 345) [3312]

3325. Investments—The funds of any insurance company or fraternal beneficiary association, organized under the laws of the state of Minnesota or licensed to do business therein; in addition to the investments already authorized by law, may be invested in federal farm loan bonds, or, if approved by the commissioner of insurance, in loans upon leasehold estates in improved real property for a term of ninety-nine years or more where forty years or more of the term is unexpired and where unencumbered except by rentals accruing therefrom to the owner of the fee, and where the mortgagee is entitled to be subrogated to all the rights under the leasehold, provided that no loan on such real property or such leasehold estate shall exceed 50 per cent of the fair market value thereof at the time of such loan, and a certificate of the value of such property shall be executed before making such loan by the person or persons making or authorizing such loan on behalf of the corporation, which certificate shall be recorded on the books of the company. ('19 c. 28 § 1, amended '21 c. 231 § 1)

3326. Deposit with insurance company — Whenever the laws of the state require that an insurance company shall maintain a deposit with the insurance commissioner, such deposit, in addition to the securities heretofore authorized by law, may consist in whole or in part of federal farm loan bonds, or, if approved by the commissioner of insurance, of loans upon leasehold estates in improved real property for a term of ninety-nine years or more where forty years or more of the term is unexpired and where unencumbered except by rentals accruing therefrom to the owner of the fee, and where the mortgagee is entitled to be subrogated to all the rights under the leasehold, provided that no loan on such real property or such leasehold estate shall exceed 50 per cent of the fair market value thereof at the time of such loan, and a certificate of the value of such property shall be executed before making such loan by the person or persons making or authorizing such loan on behalf of the corporation, which certificate shall be recorded on the books of the company. ('19 c. 28 § 2, amended '21 c. 231 § 2.)

3327. Reduction, how made—Whenever the capital of any such company is impaired, it may, upon a vote of the majority of the stock, reduce the same to not less than the legal minimum. In such case no part of its assets shall be distributed to the stockholders. Any such company whose capital is not impaired may, by a two-thirds vote of its stock and with the consent of the commissioner, reduce the same to not less than one hundred thousand dollars. In either case, within ten days after the meeting at which such reduction was made, the company shall submit to the commissioner a certified statement of the proceedings thereof, including the amount of such reduction and its assets and liabilities, verified by its president, secretary and a majority of its directors. The commissioner shall examine the facts, and if they conform to law, and he is of opinion that injury to the public will not result, he shall indorse his approval upon the statement. Upon filing the same with the secretary of state, and

paying a filing fee of five dollars, and duly amending its certificate of incorporation in conformity therewith, it may transact business upon such reduced capital as though the same were its original capital, and the commissioner shall issue a license to that effect. Such company may thereafter, by a majority vote of its directors, require the return of every original stock certificate in exchange for a new certificate for such number of shares as each stockholder is entitled to, in the proportion that the reduced capital bears to the original. (1636) [3314]

3328. Temporary capital stock of mutual life companies—A mutual life insurance company may be organized with, and an existing mutual life insurance company may establish a temporary capital of not less than \$100,000, which shall be invested in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend of not more than 8 per cent per annum, which may be cumulative. Such capital stock shall not be a liability of the company except that it shall be retired as soon as, but not before, the surplus of the company remaining after its retirement shall be not less than the temporary capital so established. At the time for the retirement of such capital stock the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and cancelled, and the right to vote thereon shall cease ('07 c. 162 § 1) [3499]

3329. Liability of directors and officers—If a company be at any time under liability for losses exceeding its net assets, and the president and directors, or any of them, knowing it, directly or indirectly issue or consent to the issue of further insurance, each shall be personally liable for any loss under such insurance; and if any of them insures or allows to be insured on a single risk a larger sum than is authorized by law, he shall be personally liable for any loss thereon above the amount which might lawfully be insured. (1637) [3315]

3330. Assessments to restore capital—Whenever the net assets of a company, other than life, do not exceed three-fourths of its original capital, it may restore such capital by assessment. Shares on which such assessment is not paid within sixty days after demand shall be forfeited and may be cancelled by the directors and new shares issued in place thereof. If it shall not, within three months after notice from the commissioner to that effect, so restore its capital or reduce it as provided by law, its authority to transact new business shall cease. (1638) [3316]

3331. Dividends—No domestic company shall declare a dividend either in cash or stock, except from its actual net surplus computed as required by law in its annual statement; nor shall any such company which has ceased to do new business divide any portion of its assets, except surplus, until it shall have performed or cancelled its policy obligations. It may declare and pay, annually or semi-annually, from its surplus, cash dividends of not more than ten per cent of its capital stock in any year, and if the dividends in any one year are less than ten per cent the difference may be made up in any subsequent year or years from surplus accumulations. But it may pay such dividend as the directors deem prudent out of any surplus remaining after charging in addition to all liabilities except unearned premiums, an amount equal to the whole amount of premiums on unexpired risks and deducting from the assets all securities and accounts

receivable on which no part of the principal or interest has been paid within the preceding year, or for which foreclosure or suit has been commenced, or upon which judgment obtained has remained more than two years unsatisfied and on which interest has not been paid and also deducting all liens due and unpaid on any of its property. (1639) [3317]

**3332. Corporate name—Advertisements—** Every company, domestic or foreign, shall conduct its business, display all signs and advertisements, and issue all policies, circulars, and other documents and publications in this state in its own corporate name, and every foreign company shall state conspicuously upon a sign at each agency the state or country of its organization. Whenever a company publishes its assets, it shall in the same connection, and with equal conspicuousness, publish its liabilities, computed on the basis allowed for its annual statements; and any publication purporting to show its capital shall state only the amount thereof which has been actually paid in cash. (1614) [3290]

**3333. Real estate—**The real estate acquired or held by any domestic company for the convenience and accommodation of its business shall not exceed in value twenty-five per cent of its cash assets; nor shall any foreign company acquire or hold for like purposes real property in this state in greater proportion. All other real estate shall be disposed of within five years after title thereto is acquired, unless the company obtains a certificate from the commissioner that its interests will be materially prejudiced by such sale, and extending the time to a date named, and then within the time so specified. (1615) [3291]

**3334. Policy to embrace conditions—**A statement in full of the conditions of insurance shall be incorporated in or attached to every policy, and neither the application of the insured nor the by-laws of the company shall be considered as a warranty or a part of the contract, except in so far as they are so incorporated or attached. (1616) [3292]

(77-31, 79+588; 92-234, 99+892). (164+921, 164+919, 138-240.)

Not applicable to policies of fraternal beneficiary associations (107-12, 119+425); (99-190, 108+871); 105-479, 117+785).

163-134, 203+600, notes under § 3420.

**3335. Reinsurance—Reports of—Maximum of insurance or reinsurance by fire companies—Misdemeanor—**If any company other than life shall, directly or indirectly, effect the reinsurance of any risk taken by it, or any part thereof, it shall make a sworn report thereof to the commissioner, at the time of filing its annual statement, or at such other time as he may request.

No fire company shall insure or reinsure in a single risk a larger sum than one-tenth of its net assets; provided, however, that a mutual fire insurance company organized under the provisions of General Statutes 1923, Section 3536, Subd. 1, may insure in a single risk, consisting of a creamery or a cheese factory, a sum equal to one per cent of its insurance in force.

Every company effecting any reinsurance in violation of the foregoing provision, and every agent effecting or negotiating the same, shall severally be guilty of a misdemeanor. (R. L. '05, § 1617; amended '07, c. 321, § 1; '27, c. 229) [3293]

**3336. Consolidation or reinsurance—**No company organized under the laws of this state to do the business of life, accident or health insurance, either on the stock, mutual, stipulated premium, assessment or fraternal plan, shall consolidate with any other company,

or reinsure its risks, or any part thereof with any other company, or reinsure its risks, or the whole of, or any portion of the risks of any other company except as hereinafter provided; but nothing herein contained shall prevent any such company, organized on the stock or mutual plan, from reinsuring a fractional part of any single risk. ('05 c. 303 § 1) [3516]

(139-263, 166+221.)

**3337. Conditions for reinsurance—**Every insurer authorized to issue policies in this state may reinsure in any other insurer any part or all of any risk or risks, other than life, assumed by it; but such reinsurance, unless effected (a) with an insurer authorized to issue policies in this state, or (b) with an insurer similarly authorized in another state, territory or district of the United States and showing the same standards of solvency and meeting the same statutory and departmental regulations which would be required of or prescribed for such insurer were it at the time of such reinsurance authorized in this state to issue policies covering risks of the same kind or kinds as those reinsured, shall not reduce the reserve or other liability to be charged to the ceding insurer; provided, that nothing in this section shall be construed to permit to a ceding insurer any reduction of reserve or liability through reinsurance effected with an unauthorized insurer. In case such reinsurance effected with an insurer so authorized or so recognized for reinsurance in this state, the ceding insurer shall thereafter be charged on the gross premium basis with an unearned premium liability representing the proportion of such obligation retained by it, and the insurer to which the business is ceded shall be charged with an unearned premium liability representing the proportion of such obligation ceded to it calculated in the same way. The two parties to the transaction shall together carry the same reserve as the ceding insurer would have carried had it retained the risk.

Any contract of reinsurance whereby an insurer cedes more than seventy-five per cent of the total of its outstanding insurance liabilities shall, if such insurer is incorporated by or, if an insurer of a foreign country, has its principal office in this state, be subject to approval in writing by the commissioner of insurance of this state.

Nothing in this section shall be deemed to permit the ceding insurer to receive through the cession of the whole of any risk or risks any advantage in respect to its unearned premium reserve that would reduce the same below the actual amount thereof.

For the purposes of this section, the word "insurer" shall be deemed to include the word "reinsurer," and the words "issue policies of insurance" shall be deemed to include the words "make contracts of reinsurance." ('19 c. 141 § 1)

**3338. Petition for consolidation or reinsurance—**When any such company shall propose to consolidate with any other company, or to enter into any contract of reinsurance, it shall present its petition to the insurance commissioner of this state, setting forth the terms and conditions of such proposed consolidation or reinsurance, and praying for the approval or of any modification thereof, which the commissioner hereinafter provided for may approve. ('05 c. 303 § 2) [3517]

**3339. Notice of hearing—**The insurance commissioner shall thereupon issue an order requiring notice to be given by mail to each policyholder of such company of such petition, and the time and place at which hearing thereon will be held, and shall publish the said notice in five daily newspapers, once in each week

3334  
236nw, 207  
See 3370  
See 3396  
See 3412

3330  
29 — 62

for at least two weeks before the time appointed for the hearing upon said petition.

In lieu of proceeding under the foregoing paragraph of this section and section 2 of chapter 303, Laws of 1905, any accident or health company, may consolidate and enter into a contract of reinsurance with any other company by filing with the commissioner of insurance a copy of such contract and all papers relating thereto, which consolidation and reinsurance shall take effect upon such filing and the mailing to each person holding a policy so reinsured a notice thereof. Provided, that if the holders of not less than five per cent of such policies so reinsured shall within thirty days thereafter file a petition with the commissioner of insurance for a hearing on the question of such reinsurance, the commissioner shall, and without such petition may, order a hearing as provided in section 4, chapter 303, Laws of 1905, notice of which shall be given by the company by mail to each holder of such policy, so reinsured, at least ten days before such hearing, and thereupon proceedings shall be had as provided in sections 4 and 5, chapter 303, Laws of 1905. ('05 c. 303 § 3, amended '15 c. 333 § 1) [3518]

**3340. Commission to hear petition—Hearing—Disposition of surplus assets—**The governor, or in event of his inability to act, some competent person resident of the state to be appointed by him, the attorney general, and the insurance commissioner of the state shall constitute a commission to hear and determine upon said petition. At the time and place fixed in said notice, or at such time and place as shall be fixed by adjournment, the commission shall proceed with the hearing, and may make or order such examination into the affairs and condition of said company as it may deem proper. The insurance commissioner shall have the power to summon and compel the attendance and testimony of witnesses and the production of books and papers before said commission. Any policyholder or stockholder of the company or companies so petitioning may appear before said commission and be heard in reference to said consolidation or reinsurance. Said commission, if satisfied that the interests of the policyholders of such company or companies are properly protected, and that no reasonable objection exists thereto, may approve and authorize the proposed consolidation or reinsurance, or may modify or change the terms and conditions thereof as may seem best for the interests of the policyholders, and said commission may make such order with reference to the distribution and disposition of the surplus assets of any such company thereafter remaining as shall be just and equitable to the policyholders. Such consolidation or reinsurance shall only be approved by the consent of all the members of said commission, and it shall be the duty of said commission to guard the interests of the policyholders of any such company or companies proposing to consolidate or reinsure. ('05 c. 303 § 4) [3519]  
(125-390, 147+281.)

**3341. Expenses, how paid—**All actual expenses and costs incident to proceedings under the provisions of this act shall be paid by the company or companies bringing said petition, and an itemized statement of the expenses and costs shall be filed with the insurance commissioner with a certified copy of the decision of the commission. No officer of any such company or companies, nor member of said commission, or employe of the state insurance department, shall receive any compensation, gratuity or otherwise, directly or indirectly, for in any manner aiding, promoting or

assisting in such consolidation or reinsurance. ('05 c. 303 § 5, amended '15 c. 333 § 2) [3520]

**3342. Penalty—**Any officer, director or stockholder of any such company or companies, or any member of such commission or employe of the state, violating or consenting to the violation of the provisions of this act, shall be punished by a fine of not less than ten thousand dollars and by imprisonment for not less than one year. ('05 c. 303 § 6) [3521]

**3343. Annual statements—**Every insurance company, including fraternal beneficiary associations doing business in this state, shall transmit to the commissioner annually, on or before March 1, upon blanks furnished by him a verified statement of its entire business and condition, during the preceding calendar year, including, in case of a fire company, the amount of premiums received in each municipality, having an organized, or partly paid, or a voluntary fire department, but limited in case of a foreign company, except one engaged in life insurance, to its business and condition in the United States. Such statements shall also contain in a separate verified schedule, all details required by law for assessment, for taxation. If approved by the commissioner, a summary of such statement, prepared by the commissioner, together with his certificate of approval, shall be published, and proof of publication filed with him before August 1 following, in default whereof he shall have such publication and proof made at the expense of the company. Upon the approval of such statement the commissioner shall issue a renewal license for the succeeding year beginning June 1. Any license to a company or its agent, issued after the approval of said statement, shall expire May 31 of the year following. No company or agent thereof shall transact any new business in this state after May 31 in any year unless it shall have previously transmitted such statement to the commissioner; but no fraternal beneficiary association, nor any social corporation paying only "sick benefits" not exceeding two hundred and fifty dollars in any one year, or "funeral benefits," or aiding those dependent on a member not more than three hundred and fifty dollars, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body shall be required to make such statements. The commissioner shall not be required to prepare abstracts of the annual statement of fraternal beneficiary associations and reciprocal or inter-insurance exchanges, nor shall such associations or exchanges be required to publish an abstract or summary of said statement. (R. L. '05, § 1618; amended '07, c. 11, § 1; '25, c. 31, § 1; '27, c. 186) [3294]

**Explanatory note—**Laws 1925, c. 31, § 2 repeats all inconsistent acts and parts of acts.  
Indictment for perjury in verifying statement. (78-311, 81+3.)

**3344. Place and manner of publication—**The publication required by § 3343 shall be made in the place of the company's home office, if within the state, otherwise in each of the three most populous counties of the state, and in all cases at least three times, and in a legal newspaper, conforming to the requirements of chapter 484, Laws 1921, which will accept and publish such advertisement, at the rates prescribed by law for legal publications. Such newspaper shall be entitled to charge and receive for such publication not to exceed the rate prescribed by law for legal publications. Provided, that resident mutual insurance companies shall publish said statement in the legal newspaper in the county of the company's home office where there is

no legal newspaper published in the place where the home office is situated.

This act shall in no wise repeal, modify, amend or affect chapter 204, Laws 1919. (R. L. § 1619, amended '07 c. 61 § 1; '23 c. 190 § 1) [3295]

**Explanatory note**—For Laws 1921, c. 484, see §§ 10935 to 10940, herein.

For Laws 1919, c. 204, see §§ 3345, 3346, herein.

**3345. Publication of statements of insurance companies**—The publication of the summaries of the annual statements of insurance companies as required by the provisions of section 1618, Revised Laws of 1905, as amended by chapter 11, Laws of 1907, may be made in any insurance trade journal as defined in section 2 hereof, if the owner, or proprietor, or publisher will accept and publish the same at the rates prescribed by law for legal publications, with the same force and effect and in lieu of the publication thereof in a newspaper as defined in and required by the provisions of section 1619, Revised Laws of 1905, as amended by chapter 61, Laws of 1907. ('19 c. 204 § 1)

**Explanatory note**—For R. L. '05, §§ 1618, 1619, as amended by Laws 1907, cc. 11, 61, see §§ 3343, 3344, herein.

Section 2 is § 3346, herein.

**3346. May be made in insurance trade journal**—Any publication authorized by the provisions of section 1, may be made in any insurance trade journal for the county in which it has its permanent office of publication if it comply with the following requirements; such journal must have been published continuously for ten years prior to any such publication, it must be circulated to a bona fide list of paid subscribers, it must be published to disseminate solely unbiased information relative to all phases of the business of insurance underwriting and shall not in any way or degree be owned or controlled by any insurance company or organization, and the owner of the same shall have filed with the commissioner of insurance an affidavit setting forth the existence of the conditions hereinbefore specified. ('19 c. 204 § 2)

**3347. Tax on gross premiums**—Every domestic and foreign company, except town and farmers' mutual insurance companies and domestic mutual insurance companies other than life shall pay to the State Treasurer on or before April 30, annually, a sum equal to 2 per cent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, and if unpaid by said date a penalty of 10 per cent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of 1 per cent per month until paid. Return premiums' as used in this section shall mean any dividend and any unused or unabsorbed portion of premium deposit or assessment that shall be applied toward the payment of any premium, premium deposit or assessment due from the policyholder or member upon a continuance or renewal of the insurance on account of which such dividend was earned or premiums deposit or assessment paid, and also any portion of premium returned by the company upon cancellation of a policy or membership, except surrender values paid upon the cancellation and surrender of policies or certificates of life insurance.

In the case of every domestic company such sums shall be in lieu of all other taxes, except those upon real property, owned by it in this state, which shall be taxed the same as like property of individuals, and in the case of every foreign company such sum shall be in lieu of all other taxes, except those upon real and

personal property owned by it in this state, which shall be taxed the same as like property of individuals. (R. L. '05, § 1625; amended '07, c. 321, § 1; '15, c. 184, § 1; '19, c. 515, § 2; '21, c. 341, § 1; '27, c. 421) [3302]

Farmers' mutual insurance companies and domestic mutual insurance companies relieved of tax payments from 1915 to 1920 accruing by reason of invalidity of '15 c. 184. See '21 c. 341 § 2.

#### PROVISIONS COMMON TO ALL COMPANIES

**3348. Definitions**—An insurance agent is hereby defined as a person acting under express authority from an insurer and on its behalf to solicit insurance, or to appoint other agents to solicit insurance, or to write and countersign policies of insurance, or to collect premiums therefor within this state, or to exercise any or all said powers when so authorized by the insurer.

An insurance solicitor is hereby defined as a person acting under express authority from an insurance agent to solicit insurance for such agent, but without the power or authority to issue or countersign policies for the insurer of which such agent is the duly authorized representative.

No person shall act or assume to act as an insurance agent or solicitor in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent or solicitor in the negotiation of insurance by or with insurer, including resident agents or reciprocal or interinsurance exchanges, except fraternal beneficiary associations and township mutual companies, until such person shall obtain from the commissioner of insurance a license therefor, which license shall specifically set forth the name of the person so authorized to act as agent or solicitor and the class or classes of insurance for which he is authorized to solicit or countersign policies. ('15 c. 195 § 1, amended '21 c. 380 § 1)

166-285, 207-724.

Direct authority from an insurer to solicit application for insurance is not essential to support a conviction. 166-167, 207-317.

**3349. Licenses**—A license to any person to act as insurance agent for any insurer shall only be granted by the commissioner of insurance upon the written requisition of such insurer, upon forms prescribed by the commissioner of insurance and a payment of a fee of two dollars (\$2.00) in the case of a foreign insurer, and fifty cents in the case of a domestic insurer, and the filing of the application hereinafter provided for. Such license shall be issued for the term ending on the first day of March thereafter. ('15 c. 195 § 2, amended '21 c. 380 § 2)

**3350. Agents to be licensed**—Every insurance agent duly licensed to transact business in this state shall have the right to procure the insurance of risks or parts of risks in the class or classes of insurance for which he is licensed in other insurers duly authorized to transact business in this state, but such insurance shall only be consummated through a duly licensed resident agent of the insurer taking the risk.

A non-resident insurance agent or solicitor placing insurance through a resident insurance agent of this state shall be permitted to do so only when he shall have first made written application for and procured from the commissioner of insurance a license therefor upon a form prescribed by said commissioner of insurance upon the payment of a fee of ten dollars (\$10.00). Such license shall expire one year from its date and shall in no case be granted to a resident of any state which does not permit the licensing of an

agent of this state under like circumstances. ('15 c. 195 § 3, amended '21 c. 380 § 3)

**3351. Agent may employ solicitors**—An insurance agent duly authorized as such and representing one or more insurers within this state may employ such solicitors as he may desire to represent him, but such solicitors shall not represent themselves by advertisement or otherwise, as agents of the insurer or insurers represented by their employer, and they shall in all instances represent themselves only as solicitors for said insurance agent.

No person shall act or assume to act as an insurance solicitor until he shall have obtained from the commissioner of insurance a license therefor, and paid a fee of ten dollars (\$10.00) which license shall be issued to him only on the requisition of an insurance agent duly licensed in this state and the filing of the application hereinafter provided for. ('15 c. 195 § 4, amended '21 c. 380 § 4)

**3352. Qualifications, applications, revocation**—No person shall be licensed by the commissioner of insurance as an insurance agent or solicitor if the commissioner of insurance shall be satisfied that such person is incompetent or unqualified to act as such insurance agent or solicitor; or that such person does not in good faith intend to carry on the business of insurance agent or solicitor, or intends to secure a license for the sole purpose of writing insurance upon his own life or property; or that such person is untrustworthy or of bad moral character; or that such person has unreasonably failed to pay over to any insurer, agent or solicitor, or policyholder or member of any insurance company or association entitled thereto the whole or any part of any premium or return premium, or moneys or other thing of value in his hands, arising out of any insurance transaction, and due or payable to or belonging to any policyholder or other person, firm or corporation; or that such person has wilfully misrepresented to any person, firm or corporation the terms or condition of any policy or contract of insurance or the financial standing or condition or manner of doing business of any insurer, agent or solicitor; or that such person has deceived or defrauded, or attempted to deceive or defraud any person, firm or corporation in connection with any insurance transaction or that such person has been dishonest in connection with any insurance transaction, or that such person has urged or procured any person, firm or corporation, to lapse any policy or contract of insurance in any company or association which is now or has been licensed to do business in the state to the damage of such person, firm or corporation, or that such person has violated any of the provisions of the laws of this state in any way relating to insurance or the transaction or negotiation of insurance, or insurance agents, or solicitors, or any lawful ruling of the commissioner of insurance. No license shall be granted under this act to any agent or solicitor until he shall have filed with the commissioner of insurance an application duly signed and verified by him, which application shall be in such form as may be prescribed by the commissioner of insurance and shall set forth such facts as may enable him to form a conclusion as to the qualifications of such agent or solicitor, but where such agent or solicitor has previously filed with the commissioner of insurance such an application, said commissioner may renew his license without requiring further application. ('15 c. 195 § 5, amended '21 c. 380 § 5)

**3353. Manner of revocation**—The commissioner of insurance may at any time revoke the license of any

insurance agent or solicitor or suspend the same for not less than thirty (30) days if he shall be satisfied that any such licensee is not qualified under the provisions of the foregoing section, and he shall give such notice thereof as he deems will best protect the public. ('15 c. 195 § 6, amended '21 c. 380 § 6)

**3354. Application by company**—The license of any person as agent for any insurer shall likewise be revoked by the commissioner of insurance when written request therefor is made by such insurer. The license of any solicitor shall likewise be revoked when written request therefor is made by the agent employing him or by the company whose agent appointed him. ('15 c. 195 § 7, amended '21 c. 380 § 7)

**3355. Notice of revocation**—Notice of such revocation or suspension shall be given to such person by mail and shall be deemed complete if such notice is deposited in the mails postage prepaid, directed to such person at his last known place of residence as disclosed by the application for license on behalf of such person. Notice of such revocation or suspension or the refusal of an agent's license shall in like manner be given to the insurer which applied therefor. Notice of the refusal of a solicitor's license shall in like manner be given to the applicant therefor. ('15 c. 195 § 8, amended '21 c. 380 § 8)

**3356. Complaint — Reinstatement — Hearing**—The commissioner of insurance, when he deems it advisable, may require any complaint made against an insurance agent or solicitor to be in writing and sworn to by the person or persons making the same. When the commissioner of insurance shall deem it advisable, and in all cases where such complaint or such agent or solicitor requests the same in writing, the commissioner of insurance shall grant a summary hearing in his office to determine whether or not such license shall be refused, revoked or suspended, and if an appearance shall not be made at such hearing, the license of the person applying for the same, or on whose behalf application for the same is made, or who is complained against shall be forthwith refused, revoked or suspended, as the case may be. Whenever the license of any agent or solicitor has been refused or revoked for cause no new application for such license shall be entertained by the commissioner of insurance for one year thereafter, and then only upon condition that such person shall file with the commissioner of insurance a good and sufficient bond in the sum of \$5,000.00 for the protection of the citizens of the state. ('15 c. 195 § 9, amended '21 c. 380 § 9)

**3357. Commissioner to determine unfitness**—Upon proper complaint the commissioner of insurance may, in like manner, determine the unfitness of any person whose license as agent or solicitor has expired, or has been revoked upon the request of the insurer for which he was licensed, to be thereafter licensed as insurance agent or solicitor and record thereof shall be made as in the case of revocation, refusal or suspension of an agent's or solicitor's license. ('15 c. 195 § 10, amended '21 c. 380 § 10)

**3358. Record of suspensions**—The commissioner of insurance shall keep a record of the name and address of every person whose license as agent or solicitor has been refused, revoked or suspended, together with a brief statement of the reasons therefor and the facts connected therewith, which record shall be open to public inspection. ('15 c. 195 § 11, amended '21 c. 380 § 11)

**3359. Insurer not to employ unfit or disqualified**—No insurer, its officers, agents or managers, shall knowingly make application to the commissioner of

insurance for a license as agent on behalf of any person who is known to such insurer, its officers, agents or managers, making such application, to be unfit or disqualified to be licensed as an insurance agent as defined by the provisions of this act, and immediately upon the discovery by such insurer, its officers, agents or managers, having supervision of such agent, of such unfitness or disqualification such insurer or such officers, agents or managers shall forthwith request the commissioner of insurance in writing to revoke the license of such agent; nor shall any insurer retain in its employ any such agent known by it to be disqualified or unfit to be licensed as an insurance agent as defined by this act, nor shall any agent retain in his employ as solicitor any person disqualified or unfit to be licensed as such. ('15 c. 195 § 12, amended '21 c. 380 § 12)

**3360. Redress of aggrieved—Powers of commissioner—**Any person aggrieved by any ruling or order of the commissioner of insurance made under the provisions of this act, may appeal therefrom to any district court of the state by serving written notice of such intention upon the commissioner of insurance, specifying such court, within ten (10) days after the same is made. The commissioner of insurance shall thereupon file with the clerk of such court a certified copy of his order or ruling and findings of fact upon which the same are based, which shall be prima facie evidence of the facts therein stated. Thereupon the court shall summarily hear and determine the questions involved on said appeal. ('15 c. 195 § 13, amended '21 c. 380 § 13)

**3361. Commissioner may compel attendance of witnesses—**The commissioner of insurance shall have full power to summon and compel the attendance of witnesses before him to testify in relation to any matter which is, by the provisions of this act, or other provisions of the laws of this state relating to insurance, a subject of inquiry or investigation, and may require the production of any book, paper or document deemed pertinent thereto. Such summons shall be served in the same manner and have the same effect as subpoenas from district courts of this state. All witnesses summoned shall receive the same compensation as is paid to witnesses in the district court, which shall be paid out of the contingent fund of the department of insurance upon proper vouchers for the same signed by the commissioner of insurance, and the commissioner of insurance shall, at the close of the hearing wherein such witness was subpoenaed, certify to the attendance and mileage of such witnesses, which certificate shall be filed with such vouchers. All investigations held by or under the direction of the commissioner of insurance may, in his discretion, be private, and persons other than those required to be present by the provisions of this act may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined. ('15 c. 195 § 14, amended '21 c. 380 § 14)

**3362. Oaths administered—**The commissioner of insurance and his deputy are each hereby authorized and empowered to administer oaths and affirmations to any person appearing as witness before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. ('15 c. 195 § 15, amended '21 c. 380 § 15)

**3363. Contempt—Penalty—**Any witness who refuses to be sworn or who refuses to testify, or who

disobeys any lawful order of said commissioner of insurance or his deputy, in relation to said investigation, or who fails or refuses to produce any paper, book or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be summarily punished by the said commissioner of insurance or his deputy, as for contempt by a fine in a sum not exceeding one hundred dollars. ('15 c. 195 § 16, amended '21 c. 380 § 16)

**3364. Punishment—**Disobedience of any subpoenas in such proceeding, or contumacy of a witness, may upon application of the commissioner of insurance, be punished by any district court in the same manner as if the proceedings were pending in such court. ('15 c. 195 § 17, amended '21 c. 380 § 17)

**3365. License mandatory—**No commission or other compensation shall be paid or allowed by any person, firm or corporation to any other person, firm or corporation acting or assuming to act as an insurance agent or solicitor without a license therefor. ('15 c. 195 § 18, amended '21 c. 380 § 18)

**3366. Violation of law—Misdemeanor—Penalty—**Any person, firm or corporation violating or failing to comply with any of the provisions of this act, and any person who acts in any manner in the negotiation or transaction of unlawful insurance with an insurance company not licensed to do business in the state, or who as principal or agent violates any provision of law relating to the negotiation or effecting of contracts of insurance, shall be guilty of a misdemeanor, and upon the conviction of any agent or solicitor of any violation of the provisions of this act, the commissioner of insurance shall suspend the authority of such agent or solicitor to transact any insurance business within the state of Minnesota for a period of not less than three (3) months. Any insurer employing an agent and failing to procure a license as required by this act, or permitting such agent to transact business for it within the state before such license has been procured, shall pay the commissioner of insurance, for the use of the state, a penalty of twenty-five dollars (\$25.00) for each offense, and in the event of failure to pay such penalty within ten (10) days after notice from the commissioner of insurance, the authority of such insurer to do business in this state shall be revoked by the commissioner of insurance until such penalty is paid, and no such insurer shall be readmitted until it shall have complied with all the terms and conditions imposed for admission in the first instance; provided, that any action taken by the commissioner of insurance under the provisions of this section shall be subject to review by the district court of the county in which the office of such commissioner is located. ('15 c. 195 § 19, amended '21 c. 380 § 19)

**3367. Refusal to appear or testify—**The commissioner of insurance shall revoke the license of any agent or solicitor or insurer, refusing or neglecting to appear or testify at any hearing held before the commissioner of insurance, or failing or refusing to produce any books, papers or documents demanded by the commissioner of insurance, when such persons have been notified by the commissioner of insurance in writing to so appear and testify or produce books, papers or documents at such hearing. ('15 c. 195 § 20, amended '21 c. 380 § 20)

**Explanatory note—**Laws '15, c. 195, § 21 repeals Laws '13, cc. 107, 223 and 514 (G. S. '13, §§ 3601, 3605 and 3297).

3366  
211nw 178  
237nw 598  
See 3313

**3368. Liability of officers**—No director or other officer of any company shall either officially or privately guarantee a policyholder thereof against an assessment to which he would otherwise be liable. Whenever the directors of any company fail for thirty days after entry of any judgment, or for six months after the accruing of any other indebtedness against it, to levy and deliver for collection any assessment required by law for payment thereof, or to apply the proceeds thereof in either case, each shall be personally liable for the amount thereof, and for all debts and claims then outstanding or which may accrue until such assessment shall be levied and put in process of collection. Whenever the treasurer unreasonably fails to collect and properly apply the proceeds of any such assessment he shall be personally liable, not exceeding the total assessment, to any person entitled thereto, and shall be repaid only out of funds thereafter collected thereon. (1621) [3298]

**3369. Compensation**—No officer or other person employed to determine the character of a risk, and decide the question of its acceptance by any mutual fire company other than a town or farmers' company, shall receive a commission or other payment therefrom, but his compensation shall be by fixed salary and such share, if any, of the net profits as the directors may determine; and such officer or person shall not be an employe of any other officer or agent of the company, nor interested in his business. (1622) [3299]

**3370. Misrepresentation by applicant**—No oral or written misrepresentation made by the assured, or in his behalf, in the negotiation of insurance, shall be deemed material, or defeat or avoid the policy, or prevent its attaching, unless made with intent to deceive and defraud, or unless the matter misrepresented increases the risk of loss. (1623) [3300]

#### In General.

A breach of warranty will not avoid the policy unless made with intent to deceive and defraud or unless the matter misrepresented increases the risk of loss. 156-1, 194+6.

Held under the circumstances stated in the opinion to warrant the findings that the misrepresentations were not made with intent to deceive or defraud, and that they did not increase the risk. 165-468, 206+940.

Misrepresentation will avoid the policy if the matter misrepresented increases the risk of loss, even though it was not made with intent to defraud. 167-53, 208+410, (90-264, 95+1118; 77-474, 480, 80+630; 71-338, 73+849; 94-293, 102+715) (123-456, 144+218) (134-195, 164+921, 165+272) (138-246, 138-444, 164+919, 165+271) (153+968).

#### Fraternal Associations.

Does not apply to fraternal associations. 159-14, 198+128.

#### Acts of Agent.

Where the agent of the insurance company incorrectly wrote an answer in the application, and insured was innocent thereof, the misstatement is not that of the insured, who had orally disclosed the truth, and the policy cannot be avoided on the claim that such statement is a material misrepresentation of the insured. 167-53, 208+410.

Where an agent, authorized to take applications for insurance, knows that the applicant's answers to questions in the application are made to the best of his knowledge and belief, and proved to be incorrect, they will not, in the absence of bad faith, avoid the policy. 212+5.

Insured not chargeable with notice of misrepresentation in application merely because he retained the policy to which the application was attached. 212+5.

The applications were procured by defendant's agent who had authority to transact its business of insurance

in the state of Minnesota. They were signed in blank. The agent filled in the answers to the questions. The answers were inaccurate and incomplete, but, under the evidence, the jury might find that plaintiff had honestly stated the facts to the agent and requested him to fill in the answers in conformity with the statement. Following the rule announced in *Kausal v. Minn., etc., Ins. Ass'n.*, 31 Minn. 17, 16 N. W. 430, 47 Am. Rep. 776, it is held that plaintiff cannot be charged with the misstatements in the applications. 210+846.

#### Notice of Misrepresentation.

The insured is not charged with notice of a misrepresentation in the application merely because he accepted and retained the policy to which the application was attached. 210+846.

#### Pleading.

The facts alleged in the answer and admitted in the reply precluded plaintiffs from asserting that the declaration made to the company's medical examiner, which was signed by the insured, was not part of his application for the policy. 155-186, 206+162.

#### Evidence.

Admission of evidence as to fraud. 167-362, 209+27.

#### Questions for Jury.

The facts, stated in the opinion, presented a jury question as to whether there was a misrepresentation increasing the risk of loss. 163-280, 203+985.

Usually it is for a jury to decide whether a misrepresentation has in fact been made, whether it is material, whether it was made with intent to deceive and defraud, or whether the matter misrepresented increases the risk of loss. 167-53, 208+410.

**3371. Receivers—Accounts—Deposits of records**—All accounts of receivers or assignees of insolvent companies rendered to the district court shall be referred to the commissioner, before allowance for examination and report thereon, and at the completion of their duties they shall deposit with him all books, records and papers relating to such insolvency. (1624) [3301]

**3371-1. Insurance commissioner as receiver**—Whenever for any reason a receiver of any domestic insurance corporation, company or association is appointed, including fraternal beneficiary associations and reciprocal or inter-insurance exchanges, the district court may name the insurance commissioner of this state as such receiver and if so appointed he shall act with all the powers, rights and privileges now given by law to receivers of such companies. (25, c. 235)

See also notes under § 3420.

### LIFE INSURANCE COMPANIES

**3372. Defined**—Every corporation or association, domestic or foreign, operating upon any plan involving payment of money or other thing of value to policy or certificate holders, or members, or families, or representatives of either, conditioned upon the continuance or cessation of human life, or for the payment of endowments or annuities (except benevolent, fraternal, co-operative or secret societies or orders for the sole purpose of mutual welfare, protection and relief of their members and the payment of stipulated amounts, or the proceeds of assessments, to the families of deceased members), shall be deemed a life insurance company, and shall make no such insurance, guaranty, contract, or pledge in this state, or to or with any citizen or resident thereof, which does not distinctly specify the amount and manner of payment of benefits and the consideration therefor. (1687) [3459]

(88-20, 92+472; 102-15, 112+1050; 107-15, 119+425.)

**3373. Prerequisites of all life companies**—No life company shall be qualified to issue any policy until application for at least two hundred thousand dollars of insurance, upon lives of at least two hundred separate residents, have been actually and in good faith made, accepted and entered upon its books and at least one full annual premium thereunder, based upon the authorized table of mortality, received in cash or in absolutely payable and collectible notes. A duplicate receipt for each premium, conditioned for the return thereof unless the policy be issued within one year thereafter, shall be issued, and one copy delivered to the applicant and the other filed with the commissioner, together with the certificate of a solvent authorized bank in the state, of the deposit therein of such cash and notes, aggregating the amount aforesaid, specifying the maker, payee, date maturity and amount of each. Such cash and notes shall be held by it not longer than one year, and at or before the expiration thereof to be by it paid or delivered, upon the written order of the commissioner, to such company or applicants respectively. (1688) [3460]

**3374. Foreign companies may become domestic, when**—Any company organized under the laws of any other state or country, which might have been originally incorporated under the laws of this state, and which has been admitted to do business therein for either or both the purpose of life or accident insurance, upon complying with all the requirements of law relative to the execution, filing, recording and publishing of original certificates and payment of incorporation fees by like domestic corporations, therein designating its principal place of business at a place in this state may become a domestic corporation, and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof. (1696) [3486]

**3375. Rights of members of domestic mutual companies—Voting**—Every person insured by a domestic mutual life insurance company shall be a member, entitled to one vote and one vote additional for each one thousand dollars of insurance in excess of the first one thousand dollars, provided that no member shall be entitled to more than one hundred votes, and provided, further, that in the case of group insurance on employees such group shall be deemed to be a single member and the employer shall be deemed to be such member for the purpose of voting, having not to exceed one hundred votes, provided, that in cases where the employees pay all or any part of the premium, either directly or by payroll deductions, the employees shall be allowed to choose their representative, who shall exercise a voting power in proportion to the percentage of premium paid by such employees. Every member shall be notified of its annual meetings by a written notice mailed to his address, or by an imprint on the back of his policy, receipt or certificate of renewal, as follows, to-wit:

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

The blanks shall be duly filled in print. Any member of a domestic life insurance company may vote by proxy, provided that the written proxy appointment shall be filed with the company at least five days be-

fore the meeting at which it is to be used. (1697) [3487] (Amended '25, c. 53, § 1)

**Explanatory note**—Laws 1925, c. 53, § 2. reads as follows: “This act shall not be construed to affect or impair any contract heretofore made entitling any member to vote at meetings of the policyholders of domestic mutual life insurance companies.”

Policy without notice of meeting not void (90-9, 95+ 579).

**3376. Discrimination in accepting risks, etc.**—No company or agent, all other conditions being equal, shall make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebates, between persons of the same class, nor on account of race; and upon request of any person whose application has been rejected, the company shall furnish him in writing the reasons therefor, including a certificate of the examining physician that such rejection was not for any racial cause. Every company violating either of the foregoing provisions shall forfeit not less than five hundred dollars nor more than one thousand dollars, and every officer, agent, or solicitor violating the same shall be guilty of a gross misdemeanor; and the commissioner shall revoke the license of such company and its agents, and grant no new license within one year thereafter. (1689) [3461]

161-446, 201+920, note under § 3377.

**3377. Discrimination, rebates, etc.**—No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between the insureds (the insured) of the same class and equal expectation of life in the amount or payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued (thereon) thereof; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special favor or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance. ('07 c. 277 § 1) [3462]

A provision in a premium promissory note for the forfeiture of a policy of life insurance, because of nonpayment of the note, when the policy does not contain language declaring it forfeited for nonpayment of notes given for a premium, is nugatory. 161-446, 201+920.

**3378. Penalty for violation of previous section**—Any violation of the provisions of section 1 of this act shall be a misdemeanor and punishable as such. ('07 c. 277 § 2) [3463]

161-446, 201+920, note under § 3399.

**3379. Disbursements of life insurance companies, how to be evidenced**—No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditures be in connection with any matter pending before any legislature or public body, or before any department

or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher. ('07 c. 40) [3500]

**3380. Solicitors agents of company**—Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such application, be regarded as the agent of the company and not the agent of the assured. ('07 c. 41) [3485]

(1544-747, 131-151, 1544-745, 136-36, 161+217.)

**3381. Political contributions prohibited—Penalties—Evidence, immunity**—No insurance company or association, including fraternal beneficiary associations, doing business in this state, shall directly, or indirectly, pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall be guilty of a gross misdemeanor, and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this act, upon the ground or for the reason, that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding. ('07 c. 42) [3501]

**3382. Misrepresentation**—No life insurance company doing business in this state, and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. ('07 c. 43 § 1) [3488]

**3383. Penalties**—Any person violating the provisions of this act shall be guilty of a misdemeanor and the license of any company which shall authorize or permit a violation of this act shall be revoked. ('07 c. 43 § 2) [3489]

**3384. Investments**—No domestic life insurance company, whether incorporated by special act or under

a general law shall, after the first day of January, 1908, invest in or loan upon any shares of stock of any corporation, other than a municipal corporation; nor, excepting government, state or municipal securities, shall it invest in, or loan upon, any bonds or obligations not secured by adequate collateral security, and when more than one-third of the total value of the collateral security shall consist of shares of stock, it shall be deemed inadequate. Every such company possessed of stocks or securities prohibited by this act shall dispose of the same within five years, unless such time is extended by the commissioner of insurance. No investment or loan, except policy loans, shall be made by any such life insurance company, unless the same shall first have been authorized by the board of directors, or by a committee thereof charged with the duty of supervising such investment or loan. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities of (or) property, or enter into any transaction for such purchase or sale on account of said company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Any such company, in addition to other investments allowed by law, may invest any of its funds and accumulations in the bonds of the United States or of this state or of any county, city, town or village, or duly organized school district therein, or of any municipality or civil division of any state and may loan upon improved unincumbered real property in any state 50 per centum of the value of such property, or invest in the mortgage bonds of any dividend paying railway or street railway company duly incorporated and organized under the authority of this state or any other state, and it may also make loans on the security of promissory notes amply secured by pledge of any bonds in which such insurance companies are hereby authorized to invest their funds, and may also make loans upon the security of its own policies, but no loan on any policy shall exceed the reserve value thereof. ('07 c. 163 § 1) [3490]

**3385. Real estate holdings of domestic life companies**—Every such life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

First—Such as shall be requisite for convenient accommodation in the transaction of its business.

Second—Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due.

Third—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth—Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts.

All such real property specified in subdivision 2, 3 and 4 of this section, which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold such property for a longer period unless it shall procure a certificate from the commissioner of insurance that its interests will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such

time as the commissioner shall direct in such certificate. ('07 c. 163 § 2) [3491]

**3386. Reinsurance**—No domestic life company, without permission of the commissioner, shall reinsure any portion of any individual risk in a company or companies not authorized to do business in this state. (1690) [3464] (Amended '27, c. 52)

**3387. Who entitled to proceeds of life policy**—

Whenever any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof in writing before payment. (1691) [3465]

A bankrupt, holding a policy payable to his wife, cannot be required to pay the surrender value to the trustee, though it reserves to him the right to change the beneficiary ([D. C.] 176 Fed. 591). See 108-31, 121+230.

Life policy payable to wife of bankrupt with right to change beneficiary was exempt. 283 Fed. 779; 1 F. (2d) 435.

**3388. Exemption in favor of family**—Change of beneficiary—Every policy made payable to, or for the benefit of, the wife of the insured, or after its issue assigned to or in trust for her, shall inure to her separate use and that of her children, subject to the provisions of § 3387. But the person applying for and procuring such policy may change the beneficiary or beneficiaries, if the consent of the beneficiary or beneficiaries named in the policy is obtained, or if a power so to do is reserved in the contract of insurance, or in case of the death or divorcement of a married woman named as beneficiary. (1692) [3466]

283 Fed. 779; 1 F. (2d) 435, note under § 3387.

**3389. Annual apportionment and accounting of surplus on policies**—Every life insurance company doing business in this state conducted on the mutual plan or in which policyholders are entitled to share in the profits or surplus, shall make an annual apportionment and accounting of divisible surplus to each policyholder beginning not later than the end of the third policy year on all participating policies hereafter issued; and each such policyholder shall be entitled to and be credited with or paid, in the manner herein-after provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy. ('07 c. 198 § 1) [3492]

**3390. Contingency reserve**—Any life insurance company doing business in this state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders, and in addition to an amount equal to the net values of its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of said net values, to-wit: When said net values are less than one hundred thousand dollars, twenty per centum thereof or the sum of ten thousand dollars, whichever is the greater; when said net values are greater than one hundred thousand dollars, the percentage thereof measuring the contingency reserve shall decrease one-half on one per centum for each one hundred thousand dollars of said net values up to one million dollars; when said net values are greater than one million dollars, but do not exceed twenty-five million dollars, the contingency reserve shall not exceed fifteen per centum thereof; when said net values are greater than twenty-five million dollars but do not exceed one hundred and fifty million dollars, the contingency reserve shall not

exceed twelve and one-half per centum thereof; when said net values are greater than one hundred and fifty million dollars the contingency reserve shall not exceed ten per centum thereof; provided that as the net values of said policies increase and the maximum percentage measuring the contingency reserve decreases such corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage. Provided further, that for cause shown the commissioner of insurance may at any time and from time to time permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a nonparticipating business. ('07, c. 198, § 2; amended '25, c. 37) [3493]

**3391. Policyholder permitted to choose method of application of surplus**—Every policyholder shall on all participating policies hereafter issued, be permitted after his policy has been in force five years annually to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy. All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid-up insurance of pure endowment additions, shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy. ('07 c. 198 § 3) [3494]

**3392. Automatic paid-up or extended insurance in certain cases**—In event of default in payment of any premium due on any policy, provided not less than three full years' premiums shall have been paid, and provided further, such policy shall not be continued in force by virtue of an automatic loan provision therein, there shall be secured to the insured without action on his part, either paid or extended insurance as specified in the policy, the net values of which shall be at least equal to the entire net reserve held by the company on such policy, less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for the cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid. Such cash payment to be made within six months after demand therefor. ('07 c. 198 § 4) [3495]

The evidence sustains the jury's finding that the defendant assurance society, which accepted overdue premiums, with the knowledge that the assured was critically ill, and retained them, waived the forfeiture or lapse of a life policy for nonpayment of premiums though the receipt which it gave was conditional. 163-203, 203+619.

**3393. No waiver of provisions of preceding sections**—No agreement between the company and the policyholder or applicant for insurance shall be held to waive any of the provisions of this act. ('07 c. 198 § 5) [3496]

**3393-1. Extension of time for payment of premiums**—That parties to any policy of life insurance now or hereafter issued shall have the right at any time to mutually agree in writing for an extension of time

3392-93  
246nw 354  
246nw 358

in which to pay a second or subsequent premium on said policy, upon condition that the failure to pay said amount agreed upon at the time agreed, shall lapse the policy as of the date mutually agreed upon in said writing, provided, that no such agreement shall impair any right to extended or paid up insurance which the insured may have under said policy nor any right to have the premiums, any part thereof or the amount payable for such extension charged against the policy under the terms of the policy. No such agreement need be attached to or made a part of the insurance policy so affected. ('25, c. 343, § 1)

**3394. Annual apportionment of surplus on existing policies**—Every life insurance company doing business in this state conducted on the mutual plan or in which policyholders are entitled to share in the profits or surplus shall, on all policies of life insurance heretofore issued, under the conditions of which the distribution of surplus is deferred to a fixed or specified time, and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall annually apportion to such policies as a class the amount of surplus so ascertained, and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose whatsoever other than the express purpose for which the same was accumulated. ('07 c. 201 § 1) [3497]

**3395. Exceptions from provisions of previous section**—This act shall not apply to industrial policies, or to any policy until the same has been in force three years. ('07 c. 201 § 2) [3498]

**3396. Mis-statement, when not to invalidate policy**—In any claim upon a policy issued in this state without previous medical examination, or without the knowledge or consent of the insured, or, in case of a minor, without the consent of his parent, guardian, or other person having his legal custody, the statements made in the application as to the age, physical condition, and family history of the insured shall be valid and binding upon the company, unless wilfully false or intentionally misleading. Every policy which contains a reference to the application, either as a part of the policy or as having any bearing thereon, shall have a copy of such application attached thereto or set out therein. (1693) [3467]

(88-423, 93+608); (94-293, 102+715 and sec. 1623; 106-112, 118+355).  
(134-195, (158+967.)

**3397. Description of policy on its face**—No company shall issue any policy to a resident of this state which does not bear in bold letters upon its face a brief description thereof, so specifying its general character, dividend periods, and other particulars that the holder will not be liable to mistake the nature and scope of the contract. (1694) [3468]

**3398. Policies**—No policy of life insurance shall be issued or delivered in this state and no policy of life insurance of a life insurance company organized under the laws of this state shall be issued unless authorized by the provisions of this act. ('07 c. 220 § 1) [3470]

**3399. Forms**—The following are established as standard forms in which policies of life insurance may be issued and delivered in this state, and in which

policies of life insurance of life insurance companies organized under the laws of this state may be issued: (Name of State.)

.....Standard Life Insurance Policy. (Insert "Ordinary" or "Limited Payment.")..... Life  
..... Age.....  
Amount \$..... Premiums \$.....

Of (Name of State.)

In consideration of.....dollars, receipt of which is hereby acknowledged, and of the payment of (insert amounts and times of payments of premiums) until (insert "the death of the insured" in ordinary life, and ".....full years' premiums shall have been paid or until the prior death of the insured" in limited payment life).

Promises to pay upon receipt at the home office of the company in.....of due proof of the death of..... of ..... of ..... County of ..... State of..... hereinafter called the insured, to.....beneficiary .....with (insert "out" if so desired) right of revocation.....dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

**CHANGE OF BENEFICIARY**—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns.

**PAYMENT OF PREMIUMS**—The company will accept payment of premiums at other times than as stated above, as follows:

Except as herein provided, the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of.....per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where

3396  
236nw 207  
Sec 3334  
Sec 3412

3396  
244nw 817  
247nw 676

3396  
188m 481  
251nw 183  
3370

3398-3399  
236nw 207  
Sec 3396

3399-3402  
246nw 354  
246nw 358

3399  
251nw 1  
3406

the act of the insured provided against occurs within two years after the issuance of the policy.)

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties and shall be incontestable from its date except for nonpayment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company, beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner of this policy shall, on the.....day of..... of each year (here may be inserted "after the first policy year" or "after the second policy") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company for calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company a written notice requiring such election, the dividends shall be paid in cash.

**LOANS**—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than.....per centum per annum, which interest if not paid annually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto.

The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the

assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

**ASSIGNMENT**—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

**OPTION ON SURRENDER OR LAPSE**—After this policy shall have been in force three full years the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non-participating paid-up insurance, payable at the same time and on the same conditions as this policy.) The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance, as provided in options (a) and (c) the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$..... the loan, cash, or paid-up insurance available in any year will be.....the amount stated in the table for that year.")

At End of Years.	Cash or Loan Value.	Paid-up Life Insurance.	Continued Insurance		
			Years.	Months.	Days.
3	\$.....	\$.....	.....	.....	.....
4	\$.....	\$.....	.....	.....	.....
5	\$.....	\$.....	.....	.....	.....
6	\$.....	\$.....	.....	.....	.....
7	\$.....	\$.....	.....	.....	.....
8	\$.....	\$.....	.....	.....	.....
9	\$.....	\$.....	.....	.....	.....
10	\$.....	\$.....	.....	.....	.....
11	\$.....	\$.....	.....	.....	.....
12	\$.....	\$.....	.....	.....	.....
13	\$.....	\$.....	.....	.....	.....



All premiums are payable in advance at said home office, or to an agent of the company, upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of.....per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties, and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner of this policy shall on the.....day of .....of each year (here may be inserted "after the first policy year" or "after second policy year"), be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum, and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

**LOANS**—After three full years' premiums have been paid the company, at any time when this policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a rate of interest not greater than....per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the (designate

mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves), per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on this policy and any unpaid balance of the premium for the current policy year and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

**ASSIGNMENT**—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

**OPTIONS ON SURRENDER OR LAPSE**—After this policy shall have been in force three full years, the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date or default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non-participating paid-up insurance, payable at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made.

The term for which the insurance will be continued or the amount of paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured, according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating paid-up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash

surrender value or for paid-up insurance, as provided in option (a) and (c), the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$..... the loan, cash, paid-up insurance or pure endowment available in any year will be..... the amount stated in the table for that year.")

Table with 5 columns: At Cash or Paid-up Continued Insurance, Pure Endowment, Year, Value, Insurance, Years, Months, Days. Rows 3-20.

Figures for later years will be furnished upon request.

RE-INSTATEMENT—In case of continued temporary insurance under the above provision this policy, upon evidence of insurability satisfactory to the company, may be re-instated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

OPTION AT MATURITY—The insured, by written notice to the company at its home office, and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

(1) By the payment of interest thereon at..... per centum per annum payable annually to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

(2) By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.

(3) By the payment of equal annual installments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Installments payable under options (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured, the payee may, on any interest date, receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2), in the following table, provided that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH \$1,000.

Table with 4 columns: Option 2, Option 3, Number of Annual Installments, Amount of Each Installment, Age of Payee when Policy Becomes Payable, Amount of Each Installment. Rows 3-20.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this.....day of .....

(Name of state)

.....Standard Life Insurance policy, (Insert "ordinary" or "limited payment") life fixed survivorship annuity.

Age.....

Amount \$..... Premiums \$.....

.....of (name of state).....

In consideration of.....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until (insert "the death of the insured" in ordinary life and ".....full years' premiums shall have been paid or until the prior death of the insured" in limited payment life).

Promises to pay at its home office in..... dollars, in twenty equal annual installments of \$.....to.....(herein called the beneficiary), (insert "his" or "her") executor, administrators or assigns, with (insert "out" if so desired), right of revocation, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured, the first installment being payable immediately upon receipt of due proof of the death of the insured and (any) indebtedness to the company on this policy together with the balance, if any, of the then current year's premium being deducted from the amounts first payable under this contract.

Should the beneficiary live to receive the twenty installments payable to (insert "him" or "her") as above

provided the company will pay (insert "him" or "her") annually during the remainder of (insert "his" or "her") life the sum of \$..... beginning one year after the date when the twentieth installment payable hereunder shall fall due.

**CHANGE OF BENEFICIARY**—When the right of revocation has been reserved or, in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving the right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual installments will be payable under this policy, and further (if necessary, insert "semi" or "quarter") annual premiums will be reduced to.....dollars each.

**PAYMENT OF PREMIUMS**—The company will accept payment of premiums at other times than stated above, as follows:

.....  
 Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future (here insert "annual," "semi-annual" or "quarterly") premiums to \$.....each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of.....per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner this policy shall on the... ..day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same times as the original amount insured under this policy is payable. The payment of such twenty installments shall discharge the company from all liability on account of such dividend additions, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

**LOANS**—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on the proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than.....per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy, and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

**ASSIGNMENT**—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

**OPTIONS ON SURRENDER OR LAPSE**—After this policy shall have been in force three full years the owner, within one month after any default, may elect:

- (a) To accept the value of this policy in cash, or
- (b) To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or

(c) To purchase non-participating paid-up insurance, payable, except as hereinafter provided, at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves), mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves), mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or paid-up insurance, as provided in options (a) and (c), the insurance will be continued as provided in option (b). The paid-up or continued temporary insurance will be payable in twenty equal installments and the payment of twenty installments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted:

"The figures apply to a policy for \$1,000. As this contract is for \$..... the loan, cash, or paid-up insurance available in any year will be ....., the amount stated in the table for that year.")

At end of Years	Cash or Loan Value.	Paid up Life Insurance.	Continued Insurance.		
			Years.	Months.	Days.
3	\$.....	\$.....			
4	\$.....	\$.....			
5	\$.....	\$.....			
6	\$.....	\$.....			
7	\$.....	\$.....			
8	\$.....	\$.....			
9	\$.....	\$.....			
10	\$.....	\$.....			
11	\$.....	\$.....			
12	\$.....	\$.....			
13	\$.....	\$.....			
14	\$.....	\$.....			
15	\$.....	\$.....			
16	\$.....	\$.....			

17	\$.....	\$.....
18	\$.....	\$.....
19	\$.....	\$.....
20	\$.....	\$.....

Figures for later years will be furnished upon request.

**REINSTATEMENT**—In case of continued temporary insurance under the above provisions this policy, upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at (here insert not greater than six) per centum per annum.

**AGENTS ARE NOT AUTHORIZED** to modify this policy or to extend the time for paying a premium.

IN WITNESS WHEREOF, the company has caused this policy to be executed this ..... day of .....

(Name of state).

.....Standard Life Insurance Policy.  
Endowment Fixed Survivorship Annuity.

Age.....

Amount \$..... Premium \$.....

Of (Name of State).

IN CONSIDERATION OF ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full years' premiums shall have been paid or until the prior death of the insured.

PROMISES to pay at its home office in..... dollars in twenty equal annual installments of \$..... to the insured, the first installment to be payable on the ..... day of .....19.... If the insured shall die before receiving all of the twenty installments herein provided for, the remainder of such twenty installments shall be payable as they fall due to ..... (herein called the beneficiary), (insert "his" or "her") executors, administrators or assigns, with ..... (insert "out" if so desired) right of revocation, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured.

Should the insured die before (insert date of maturity), this policy shall be payable to the beneficiary (insert "his" or "her") executors, administrators or assigns, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured (the first installment being payable immediately upon receipt of due proof of the death of the insured.) Any indebtedness to the company on this policy, together with the balance, if any, of the then current year's premium, will be deducted from the amounts first payable under this contract.

Should the insured or beneficiary live to receive the twenty installments payable as above provided, the company, beginning one year after the date when the twentieth installment payable hereunder shall fall due, will pay the sum of \$..... annually to the insured, or, in the event of the death of the insured, to the beneficiary, the said annual payment to be due and payable so long as either of the insured or beneficiary is living.

**CHANGE OF BENEFICIARY**—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving the right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated, only twenty annual installments will be payable under this policy, and future (if necessary insert "semi" or "quarter") annual premiums will be reduced to ..... dollars each.

**PAYMENT OF PREMIUMS**—The company will accept payment of premiums at other times than as stated above, as follows:

.....  
 Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future (here insert "annual," "semi-annual" or "quarterly") premiums to \$..... each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of ..... per centum, per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy).

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company, and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and ac-

count for the portion of the divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner of this policy shall on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or

(3) Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same times as the original amount insured under this policy is payable. The payment of such twenty installments shall discharge the company from all liability on account of such dividend additions; or

(4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

**LOANS**—After three full years' premiums have been paid the company at any time, while this policy is in force, will advance, on proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than ..... per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy less than the reserves at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto, and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy, and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

**ASSIGNMENT**—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

**OPTIONS ON SURRENDER OR LAPSE**—After this policy shall have been in force three full years the owner, within one month after any default, may elect:

(a) To accept the value of this policy in cash, or  
 (b) To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount including any outstanding dividend additions, less any indebtedness to the company hereon, or

(c) To purchase non-participating paid-up insurance payable, except as hereinafter provided, at the same times and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating, paid-up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not within one month from default surrender this policy to the company at its home office for cash surrender value or for paid-up insurance, as provided in options (a) and (c), the insurance will be continued as provided in option (b). The paid-up or continued temporary and pure endowment insurance will be payable in twenty equal annual installments and the payment of twenty installments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$....., the loan, cash, paid-up insurance or pure endowment available in any year will be ..... the amount stated in the table for that year").

At end of Year.	Cash or Loan Value.	Paid-up Endowment Insurance.	Continued Insurance.			Pure Endowment.
			Years.	Months.	Days	
3	\$.....	\$.....	.....	.....	.....	\$.....
4	\$.....	\$.....	.....	.....	.....	\$.....
5	\$.....	\$.....	.....	.....	.....	\$.....
6	\$.....	\$.....	.....	.....	.....	\$.....
7	\$.....	\$.....	.....	.....	.....	\$.....
8	\$.....	\$.....	.....	.....	.....	\$.....
9	\$.....	\$.....	.....	.....	.....	\$.....
10	\$.....	\$.....	.....	.....	.....	\$.....

11	\$.....	\$.....	.....	.....	.....	\$.....
12	\$.....	\$.....	.....	.....	.....	\$.....
13	\$.....	\$.....	.....	.....	.....	\$.....
14	\$.....	\$.....	.....	.....	.....	\$.....
15	\$.....	\$.....	.....	.....	.....	\$.....
16	\$.....	\$.....	.....	.....	.....	\$.....
17	\$.....	\$.....	.....	.....	.....	\$.....
18	\$.....	\$.....	.....	.....	.....	\$.....
19	\$.....	\$.....	.....	.....	.....	\$.....
20	\$.....	\$.....	.....	.....	.....	\$.....

Figures for later years will be furnished upon request.

**REINSTATEMENT**—In case of continued temporary insurance under the above provisions this policy, upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this ..... day of .....

(Name of State.)

.....Standard Life Insurance Policy.

Term.

Age.....

Amount \$..... Premium \$.....

OF (Name of State).

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full years' premiums shall have been paid, or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in ..... of due proof of the death of ..... of ..... of ..... County of ....., State of ..... herein called the insured, within ..... years from the date hereof .....dollars, less any indebtedness hereon to the company, and any unpaid portion of the premium for the then current policy year, at said home office, to ..... beneficiary with (insert "out" if so desired) right of revocation.

**CHANGE OF BENEFICIARY**—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her"), executors, administrators or assigns.

**PAYMENT OF PREMIUMS**—The company will accept payment of premiums at other times than as stated above, as follows:

.....  
 Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by such agents.

A grace of one month, subject to an interest charge at the rate of ..... per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to such cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner of this policy shall, on the ..... day of ....., of each year (here may be inserted "after the first policy year" or "after the second policy year"), be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or

(The policy, at the option of the company, may here provide for a further option as follows:)

- (3) Left to accumulate to the credit of the policy, with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

**ASSIGNMENT**—No assignment of this policy shall be binding upon the company, until it be filed with the company at its home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of the policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form:)

**CONTINUANCE OF INSURANCE ON LAPSE**—In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon, according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by the policy, will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured, according to the same table of mortality and rate of interest.

TABLE OF CONTINUED INSURANCE

At end of Years.	Continued Insurance.		
	Years.	Months.	Days.
3	.....	.....	.....
4	.....	.....	.....
5	.....	.....	.....
6	.....	.....	.....
7	.....	.....	.....
8	.....	.....	.....
9	.....	.....	.....
10	.....	.....	.....
11	.....	.....	.....
12	.....	.....	.....
13	.....	.....	.....
14	.....	.....	.....
15	.....	.....	.....
16	.....	.....	.....
17	.....	.....	.....
18	.....	.....	.....
19	.....	.....	.....
20	.....	.....	.....

Figures for later years will be furnished upon request. (If the term policy is for more than twenty years, the company shall provide for reinstatement in the following form:)

**REINSTATEMENT**—Upon evidence of insurability satisfactory to the company, this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at (here insert not greater than six) per centum per annum.

**OPTIONS AT MATURITY**—The insured, by written notice to the company at its home office and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

- (1) By the payment of interest thereon at ..... per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee, and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.
- (2) By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.
- (3) By the payment of equal annual installments, payable at the beginning of each year, for a fixed

period of twenty years, and for so many years longer as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Installments payable under options (2) or (3), which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed, in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise, the beneficiary may, after the death of the insured, by like written notice, and with written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured, the payee may on any interest date receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided, that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH \$1,000.

Option (2)		Option (3)	
Number of Annual Installments.	Amount of Each Installment.	Age of Payee when Policy Becomes Payable.	Amount of Each Installment.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this.....day of .....

(Name of State)

.....Standard Life Insurance Policy.

Term with right to renew and change.

Age.....

Amount \$..... Premium \$.....

Of (Name of State)

In consideration of.....dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until.....full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in.....of due proof of the death of ..... of ..... county of.....state of..... herein called the insured, within.....years from the date hereof.....dollars, less any indebted-

ness hereon to the company and any unpaid portion of the premium for the then current policy year, at said home office, to.....beneficiary..... with (insert "out") right of revocation.

**CHANGE OF BENEFICIARY**—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving the right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns.

**PAYMENT OF PREMIUMS**—The company will accept payment of premiums at other times than as stated above, as follows:

..... Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of.....per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace, the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

**CONDITIONS**—(The policy may here provide for restriction of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

**INCONTESTABILITY**—This policy constitutes the entire contract between the parties and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties, and no such statement shall avoid this policy, unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

**PARTICIPATION**—This policy shall participate in the surplus of the company, and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

**DIVIDENDS**—Dividends at the option of the owner of this policy shall, on the.....day of..... of each year (here may be inserted "after the first policy year" or "after second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums.





except for non-payment of premiums and except for violations of the conditions of the policy relating to naval and military services in time of war and, at the option of the company, provisions relative to benefits in the event of total and permanent disability and provisions which grant additional insurance specifically against death by accident, may also be excepted. A special form of policy, however, may be issued on the life of a person employed in an occupation classed by the company as extra hazardous or as leading to hazardous employment, which shall provide that service in certain designated occupations may reduce the company's liability under the policy to a certain designated amount not less than the full policy reserve.

(4) A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to the policy when issued.

(5) A provision that if the age of the insured has been understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.

(6) A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will annually determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right each year after the fifth to have the current dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide that if the owner of the policy shall not elect any such other options the dividends shall be paid in cash. Which provision may stipulate that any dividends payable during the first five years of such policy shall be conditioned upon the payment of the next ensuing annual premium. This provision shall not be required in non-participating policies, nor in policies issued on under-average lives, nor in insurance in exchange for lapsed or surrendered policies.

(7) A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment of the policy, and on the sole security thereof, at a specified rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on the policy, and on any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve, less a sum not more than two and one-half per centum of the amount insured by the policy, and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision shall further provide that such loan may be deferred for not exceeding sixty days after the application therefor is made and which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. It shall be further stipulated in the policy that failure to repay any such advance or to pay interest shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after notice shall have been mailed by the company to the last known address of the in-

sured and of the assignee of record at the home office of the company, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

This provision shall not be required in term insurance.

(8) A provision which, in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend additions thereto, specifying the mortality table and the rate of interest adopted for computing such reserves, less a sum not more than two and one-half per centum of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy.

Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and shall stipulate that the company may defer payment for not more than sixty days after the application therefor is made, and may stipulate that the company may defer payment for not more than six months after the application therefor is made.

This provision shall not be required in term insurance of twenty years or less.

(9) A table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such values and options become available.

(10) A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and cancelled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company, and payment of arrears of premiums with interest.

(11) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof.

(12) A table showing the amount of installments in which the policy may provide its proceeds may be payable.

(13) A title on the face and on the back of the policy correctly describing the same.

Any of the foregoing provisions or portions thereof relating to premiums not applicable to single premium policies, shall to that extent not be incorporated therein. ('07, c. 220, § 5; amended '13, c. 152; amended as to subd. 3 by '25, c. 247, § 1) [3477]

Section 2 is § 3399, herein.

**Explanatory note**—Subd. 3 only of this section is amended by Laws 1925, c. 247. Section 2 of Laws 1925, c. 247, repeals all inconsistent acts and parts of acts.

161-446, 201+920, note under § 3399; 155-186, 206+162.

Where the holder of a life insurance policy, issued by a company duly licensed to do such business, dies before the policy by its terms becomes incontestable, as provided by subdivision 3; there is a plain, speedy, and adequate remedy at law to the company, and an action in equity to cancel the policy on the ground of fraud will not be entertained, following *Mutual Life Insurance Co. v. Stevens* (Minn.) 195 N. W. 913. 153-359. 197+757.

**3403. Additional conditions in life insurance policies**—That in addition to the terms and conditions now re-

quired by law to be in the standard form of life insurance policies issued or delivered in this state, there shall be, when such policy provides for the payment to the beneficiary the proceeds thereof, in either monthly, quarterly, semi-annually or annual installments to continue during the life time of the beneficiary, or for a stipulated number of years whenever requested by the insured under said policy, a condition, term and agreement as follows, to-wit:

All rights of the beneficiary to commute, change time of payment or amount of installments, surrender for cash, borrow against or assign for any purpose whatever, are hereby withdrawn and those parts of this policy giving the beneficiary such rights are hereby declared inoperative and void; it being the intent hereof that the beneficiary shall have no right whatsoever under this contract except to receive the installments at such times and in such amounts as stated in this policy, and all the provisions of this policy in conflict herewith are hereby declared to be inoperative. ('13 c. 426 § 1) [3472]

3404. May be attached in form of rider—The foregoing may be attached to said policy in the form of a rider thereon and when so attached shall become a part of and form a part of said contract of insurance evidenced by such policy to all intents and purposes as if set forth at length therein. ('13 c. 426 § 2) [3473]

3405. May be attached to existing policies—Any life insurance company that has heretofore issued any insurance policy of life insurance may, at the request of the insured, attach to any such policy heretofore issued which, by its terms, is payable to a beneficiary or beneficiaries in installments, a rider containing the terms and conditions set forth in section 1 hereof, and when so attached the same shall become a part of the contract of insurance to all intents and purposes as if so attached when said policy was originally-issued. Provided, however, that it shall be unlawful for any insurance company to attach any rider, of any kind or description, to any policy except upon the approval of the commissioner of insurance, with whom it shall be discretionary whether any rider shall be attached to any policy. ('13 c. 426 § 3) [3474]

3406. Provisions which no policy may include—No policy of life insurance in form other than as prescribed in section 2 shall be issued or delivered in this state or be issued by a life insurance company organized under the laws of this state, if it contain any of the following provisions:

(1) A provision for forfeiture of the policy for failure to repay any loan on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. Notice of whose address and contract of the assignment has been filed with the company at its home office.

(2) A provision limiting the time within which any action at law or in equity may be commenced to less than five years after the cause of action shall accrue.

(3) A provision by which the policy shall purport to be issued or to take effect before the original application for the insurance was made, if thereby the as-

sured would rate at any age younger than his age at date when the application was made, according to his age at nearest birthday.

(4) A provision for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus dividend additions, if any, less any indebtedness to the company on the policy and less any premium that may by the terms of the policy be deducted. ('07 c. 220 § 6) [3478]

Section 2 is § 3399, herein.

161-446, 201+920, note under § 3377; 165-313, 206+450.

3407. Preliminary term policies—Preliminary term policies not issued on the standard forms shall be subject to the provisions of section 4. ('07 c. 220 § 7) [3479]

Section 4 is § 3401, herein.

3408. Commissioner's approval of forms of policy—No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been filed with the insurance commissioner; and after the insurance commissioner shall have notified any company of his disapproval of any form, it shall be unlawful for such company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction. ('07 c. 220 § 8) [3480]

3409. Reciprocal provisions in policies—The policies of a life insurance company, not organized under the laws of this state, may contain any provision which the law of the state, territory, district or country under which the company is organized, prescribes shall be in such policies, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this act to the contrary notwithstanding. ('07 c. 220 § 9) [3481]

3410. Exceptions—This act shall not apply to annuities, industrial policies or to corporations or associations operating on the assessment or fraternal plan, and in every case where a contract provides for both insurance and annuities this act shall apply only to that part of the contract which provides for insurance, but every contract containing a provision for a deferred annuity on the life of the insured only (unless paid for by a single premium) shall provide that in event of the non-payment of any premium after three full years' premiums shall have been paid, the annuity shall automatically become converted into a paid-up annuity for such proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract. ('07 c. 220 § 10, amended '09 c. 295 § 1) [3482]

3411. Definition of "company" — Wherever, the word company is used in this act it shall be held to include corporations and associations. ('07 c. 220 § 11) [3483]

3412. Life policies to contain entire contract—Every policy of insurance issued or delivered within this state on or after the first day of January, nineteen hundred and eight, by any life insurance corporation doing business within the state shall contain the entire contract between the parties. ('07 c. 44 § 1) [3469]

165-313, 206+450.

A provision in a premium promissory note for the forfeiture of a policy of life insurance, because of non-

3406-3408  
246nw 354  
246nw 368

3406  
251nw  
3309

3412  
230nw 207  
See 3334  
See 3370

payment of the note, when the policy does not contain language declaring it forfeited for nonpayment of notes given for a premium, is nugatory. 161-446, 201+920.

Under a Minnesota policy the insurer has the power to waive its right to cash payment and accept the insured's note as payment. 161-446, 201+920.

The fact that such note bears interest raises a presumption that the taking of the note was for the benefit of the party taking it. 161-446, 201+920.

Where the insurer prepares such agreement and procures its execution and then retains the note and cash after the insured's death, all under the circumstances state in the opinion, it is estopped from saying that such note was not given and accepted in payment of the premium. 161-446, 201+920.

**3413. Coupon policies forbidden**—So-called coupon policies shall not be issued or delivered by any company to any residents of this state. ('13 c. 443 § 1) [3484]

**3414. Additional data in annual statements**—In addition to any other matter which may be required by law or pursuant to law by the commissioner of insurance to be stated therein, every annual report of every life insurance company doing business in this state shall contain an accurate, concise and complete statement of the following matters, to-wit: (1) All the real property held by the company, the dates of acquisition, the names of the vendors, the actual cost, the value at which it is carried on the company's books, the market value, the amounts extended during the year for repairs and improvements, the gross and net income from each parcel, and if any portion thereof be occupied by the company the rental value thereof, a statement of any certificate issued by the commissioner extending the time for the disposition thereof, and all purchases and sales made since the last annual statement, with particulars as to dates, names of vendors and vendees, and the consideration. (2) The amount of existing loans upon the security of real property, stating the amount loaned upon property in each state and foreign country. (3) The moneys loaned by the company to any person other than loans upon the security of real property above mentioned and other than loans upon policies, the actual borrowers thereof, the maturity and rate of interest of such loans, the securities held therefor, and all substitutions of securities during the current year in connection therewith, and the same particulars with reference to any loans made or discharged since the last annual statement. (4) All other property owned by the company or in which it has interest (including all securities, whether or not recognized by the law as proper investments), the dates of acquisition, from whom acquired, the actual cost, the value at which the property is carried upon the books, the market value, the interest or dividends received thereon during the year; also all purchases and sales of property other than real estate made since the last annual statement, with particulars as to dates, names of purchasers and sellers, and the consideration; and also the income received and outlays made in connection with all such property. (5) All commissions paid to any persons in connection with loans or purchases or sales of any property, and a statement of all payments for legal expenses, giving particulars as to dates, amounts and names and addresses of payee. (6) All moneys expended in connection with any matter pending before any legislative body or any officer or department of government giving particulars as to dates, amounts, names and addresses of payees, the measure or proceedings in connection with which the payment was made, and the interest of the company therein. (7) The names of the officers and directors of the

company, the proceedings at the last annual election, giving the names of candidates and the number of votes cast for each, and whether in person, by proxy or by mail. (8) The salary, compensation and emoluments received by officers or directors, and where the same amounts to more than five thousand dollars, that received by any person, firm or corporation, with particulars as to dates, amounts, payees and the authority by which the payment was made; also all salaries paid to any representative either at the home office, or at any branch office, or agency, for agency supervision. (9) The largest balances carried in each bank or trust company during each month of the year. (10) All death claims resisted or compromised during the year, with particulars as to sums insured, sums paid and reasons assigned for resisting or compromising the same in each case. (11) A complete statement of the profits and losses upon the business transacted during the year and the sources of such gains and losses, and a statement showing separately the margins upon premiums for the first year of insurance and the actual expenses chargeable to the procurement of new business insured since the last annual statement. A foreign company, issuing both participating and non-participating policies, shall make a separate statement of profits and losses, margins and expenses, as aforesaid, with reference to each of said kinds of business, and also showing the manner in which any general outlays of the company have been apportioned to each of such kinds of business. (12) A statement separately showing the amount of the gains of the company for the year attributable to policies written after Dec. 31, 190... and the precise method by which the calculation has been made. (13) The rates of annual dividends declared during the year for all plans of insurance and all durations and for the ages at entry, twenty-five, thirty-five, forty-five and fifty-five, and the precise method by which such dividends have been calculated. (14) A statement showing the rates of dividends declared upon deferred dividend policies completing their dividend periods for all plans of insurance and the precise methods by which said dividends have been calculated. (15) A statement showing any and all amounts set apart or provisionally ascertained or calculated or held awaiting apportionment upon policies with deferred dividend periods longer than one year for all plans of insurance and all durations and for ages of entry as aforesaid, together with the precise statements of the methods of calculation by which the same have been provisionally or otherwise, determined. (16) A statement of any and all reserve or surplus funds held by the company and for what purpose they are claimed respectively to be held. ('07 c. 243 § 1) [3296]

#### STOCK AND MUTUAL LIFE INSURANCE COMPANIES.

**3414-1. Formation—Rights**—Insurance corporations for the transaction of the kinds of business authorized and permitted by sub-section 4 of General Statutes 1923, Section 3315, and subject to the provisions and limitations of such subsection may be formed having a capital stock, but which shall be controlled by the votes of both stockholders and participating policyholders. All such companies shall be known as stock and mutual companies. Corporations so formed shall have the right to make any contracts which insurance companies formed to transact the same kinds of business upon the stock plan or upon the mutual plan are authorized by law to make. ('27, c. 54, § 1)

**3414-2. Laws applicable to**—All provisions of law relating to stock companies and all such provisions relating to mutual companies shall, so far as applicable, relate to and govern such stock and mutual companies and the rights of stockholders and members thereof. ('27, c. 54, § 2)

**3414-3. Rights of stockholders**—Each stockholder shall at all meetings, be entitled to one vote for each share of stock held by him and, except as otherwise provided by law, each holder of a policy entitled to participate in profits or savings shall be a member and as such shall be entitled to the number of votes to which he would be entitled in a mutual company. ('27, c. 54, § 3)

**3414-4. Existing companies—Amendment of articles of incorporation**—Any existing stock or mutual insurance company authorized to do the kinds of business referred to in Section One of this Act may amend its articles of incorporation so as to become a stock and mutual company provided that no such amendment shall deprive any stockholder or member or policyholder of the right at any and all meetings of stockholders and members or policyholders, held thereafter, to cast as many votes for directors as is provided by the certificate of incorporation in force at the time of the adoption of such amendment, or by the law in force at such time. No such amendment shall be construed to change the identity of the corporation and it shall thereafter continue to be governed by the laws applicable thereto at the time of such amendment and as amended hereafter and not inconsistent with this act, as well as those relating to the added characteristic of capital stock or mutuality which it shall have acquired by such amendment. ('27, c. 54, § 4)

**ACCIDENT AND HEALTH INSURANCE.**

**3415. Form of policy to be approved by commissioner**—On and after the first day of January, 1914, no policy of insurance against loss or damage from the sickness, or the bodily injury or death of the insured by accident shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks, if more than one class of risks is written and the premium rates pertaining thereto have been filed with the commissioner of insurance; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing the company, corporation, association, society or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to review by any court of competent jurisdiction, provided, however, that nothing in this act shall be so construed as to give jurisdiction to any court not already having jurisdiction. ('13 c. 156 § 1) [3522]

(158+967).

It is held, that the provisions for a return of the premiums in lieu of the specific benefits will in instances operate as a direct limitation upon the amount specifically stipulated to be paid, and constitute a violation of G. S. 1913, § 3523.

An order of the state insurance department directing a discontinuance of writing policies containing that limitation held within the authority granted by G. S. 1913, § 3522, 156-116, 194+22.

A statute regulating and governing such insurance enacted after the issuance of the original policy, but in force before the making of the new contract, applies

to and controls such contract. 153-160, 197+101.

Where a policy of accident insurance contained no provision for continuing it in force beyond the time specified therein, but was continued in force for an additional period by a subsequent agreement, such agreement, created a new contract. 153-160, 197+101.

**3416. Provisions**—No such policy shall be so issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) if the policy purports to insure more than one person; nor (4) unless every printed portion thereof and of any endorsements or attached papers shall be plainly printed in type of which the face shall be not smaller than ten-point; nor (5) unless a brief description thereof be printed on its first page and on its filing back in type of which the face shall be not smaller than fourteen point, nor (6) unless the exceptions of the policy be printed with the same prominence as the benefits to which they apply, provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold face type and with greater prominence than any other portion of the text of the policy. ('13 c. 156 § 2) [3523]

156-116, 194+22, note under § 3415.

Does not apply to life insurance. 165-186, 206+162.

**3417. Standard provisions**—Every such policy so issued shall contain certain standard provisions, which shall be in the words and in the order hereinafter set forth and be preceded in every policy by the caption, "Standard Provision." In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company" or "corporation" or "association" or "society" or such other word as will properly designate the insurer. Said standard provisions shall be:

(1) A standard provision relative to the contract which may be in either of the following two forms: Form (A) to be used in policies which do not provide for reduction of indemnity on account of change of occupation, and Form (B) to be used in policies which do so provide. If Form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness," may be inserted therein immediately after the words "in the event that the insured is injured":

(A). 1. This policy includes the endorsements and attached papers, if any, and contains the entire contract of insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupation of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B). 1. This policy includes the endorsements and attached papers, if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act or thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits

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203nw 96  
217nw 122  
218nw 104  
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181m 437  
232nw 700  
234nw 299

so fixed by the insurer for such more hazardous occupation.

If the law of the state in which the insured resides at the time this policy is issued requires that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the state official having supervision of insurance in such state, then the premium rates and classification of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law, then they shall mean the insurer's premium rates and classification of risks last made effective by it in such state prior to the occurrence of the loss for which the insurer is liable.

(2) A standard provision relative to changes in the contract, which shall be in the following form:

2. No statement made by the applicant for insurance not included herein shall avoid the policy or be used in any legal proceeding hereunder. No agent has authority to change this policy or to waive any of its provisions. No change in this policy shall be valid unless approved by an executive officer of the insurer and such approval be endorsed hereon.

(3) A standard provision relative to reinstatement of policy after lapse which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; Form (B) to be used in policies which insure only against loss from sickness; and Form (C) to be used in policies which insure against loss from both accident and sickness.

(A). 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B). 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C). 3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

(4) A standard provision relative to time of notice of claim which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; Form (B) to be used in policies which insure only against loss from sickness, and Form (C) to be used in policies which insure against loss from both accident and sickness. If Form (A) or Form (C) is used the insurer may at its option add thereto the following sentence: "In event of accidental death immediate notice thereof must be given to the insurer."

(A). 4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B). 4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C). 4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness.

(5) A standard provision relative to sufficiency of notice of claim which shall be in the following form; and in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice:

5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at ..... or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(6) A standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss as follows:

6. The insurer, upon receipt of such notice, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice, the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

(7) A standard provision relative to filing proof of loss, which shall be in such one of the following forms as may be appropriate to the indemnities provided:

(A). 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B). 7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C). 7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety days after the date of such loss.

(8) A standard provision relative to examination of the person of the insured and relative to autopsy, which shall be in the following form:

8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder, and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

(9) A standard provision relative to the time within which payments other than those for loss of time on account of disability shall be made, which provision may be in either of the following two forms, and which may be omitted from any policy providing only indemnity for loss of time on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than sixty days, as it may desire; Form (A) to be used in policies which do not provide indemnity for loss of time on

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account of disability, and Form (B) to be used in policies which do so provide.

(A). 9. All indemnities provided in this policy will be paid . . . . . after receipt of due proof.

(B). 9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid . . . . . after receipt of due proof.

(10) A standard provision relative to periodical payments of indemnity for loss of time on account of disability, which provision shall be in the following form, and which may be omitted from any policy not providing for such indemnity. The insurer shall insert in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it may desire to pay, which proportion may be all or any part not less than one-half, and in the second blank space shall insert any period of time not exceeding sixty days:

10. Upon request of the insured and subject to due proof of loss . . . . . accrued indemnity for loss of time on account of disability will be paid at the expiration of each . . . . . during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

(11) A standard provision relative to indemnity payments which may be in either of the two following forms: Form (A) to be used in policies which designate a beneficiary, and Form (B) to be used in policies which do not designate any beneficiary other than the insured:

(A). 11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B). 11. All the indemnities of this policy are payable to the insured.

(12) A standard provision providing for cancellation of the policy at the instance of the insured, which shall be in the following form:

12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

(13) A standard provision relative to the rights of the beneficiary under the policy which shall be in the following form, and which may be omitted from any policy not a beneficiary:

13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change the beneficiary, or to any other changes in the policy.

(14) A standard provision limiting the time within which suit may be brought upon the policy as follows:

14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(15) A standard provision relative to time limitations of the policy as follows:

15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permitted by the law of the state

in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law. ('13 c. 156 § 3) [3524] (139-262, 166+221).

**In General.**

The rider or supplemental contract by which defendant assumed as its own the contract of insurance in controversy and agreed with the policy holder to perform all the obligations thereof, was not a contract of reinsurance, but a direct contract between defendant and the policy holder. 156-375, 194+880.

The contract in question did not create a novation of parties for the original insurer was not a party to it. 156-375, 194+880.

The policy holder did not waive or lose her rights against the original insurer by making this contract, but could enforce her claim under either contract. 156-375, 194+880.

The recital of a consideration was prima facie evidence thereof. 156-375, 194+880.

The court correctly excluded parol evidence of the terms of a written contract. 156-375, 194+880.

Suit on a policy insuring the deceased against accident. The finding that he was totally disabled from the time of the accident until his death is sustained by the evidence. 158-259, 197+257.

To avoid a settlement and release on the ground of mutual mistake, the mistake must be established by clear and convincing evidence. 158-259, 197+257.

In the instructions to the jury, the court defined a cyclone as: "A violent storm, often of vast extent, characterized by high winds rotating about a calm center of low atmospheric pressure. Popularly, . . . any violent and destructive windstorm." The definition was correct, and the evidence justified the jury in finding that the storm in which the insured lost his life was a cyclone. 156-65, 194+99.

Admission that, as the result of an automobile collision, the deceased sustained injuries from which he died three days later, justified the conclusion that the injuries were of the character covered by the accident insurance policy in question, and that death resulted therefrom independently of other causes. 163-267, 203+966.

A provision, exempting the insurer from liability for injuries resulting from "knowingly violating laws and rules of a corporation or firm for safety," does not include injuries sustained while violating the state law by driving an automobile at an excessive speed on the wrong side of a public highway. 163-267, 203+966.

**Injury in Affray or Quarrel.**

Defense that the insured assaulted another with a deadly weapon and received the fatal injuries in the affray thus provoked. 167-340, 209+20.

The insured in an accident insurance policy was killed by a shot from a revolver while engaged in a quarrel. The evidence conclusively shows that his death resulted from an intentional act. There was no liability under the terms of the policy. 210+634.

**Earnings.**

Earnings are the price of services performed or the fruit or reward of labor. The word, as used in plaintiff's applications, does not refer to net earnings. 210+846.

**Settlement by Minor.**

A settlement and release made by a minor may be rescinded by him in his lifetime or by his successor in interest after his death. 158-259, 197+257.

**Time for Suit.**

165-313, 206+450.

**Evidence.**

Evidence considered and held sufficient to sustain a verdict in favor of the plaintiff. 160-158, 199+899.

**Questions for Jury.**

The evidence made a question for the jury as to whether the paralysis with which respondent was afflicted was caused solely by the gunshot wound inflicted upon her. 162-265, 202+823.

3418. Provisions forbidden—Optional features—No such policy shall be so issued or delivered which contains any provision (1) relative to cancellation at the

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instance of the insurer; or (2) limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid; or, (3) providing for the deduction of any premium from the amount paid in settlement of claim; or, (4) relative to other insurance by the same insurer; or, (5) relative to the age limits of the policy; unless such provisions which are hereby designated as optional standard provisions, shall be in the words and in the order in which they are hereinafter set forth, but the insurer may at its option omit from the policy any such optional standard provision. Such optional standard provisions if inserted in the policy shall immediately succeed the standard provisions named in section three of this act.

(1) An optional standard provision relative to cancellation of the policy at the instance of the insurer as follows:

16. The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address as shown by the records of the insurer, together with cash or the insurer's check for the unearned portion of the premiums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto.

(2) An optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss without giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

(3) An optional standard provision relative to reduction of premium upon settlement of claim as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(4) An optional standard provision relative to other insurance by the same insurer which shall be in such one of the following forms as may be appropriate to the indemnities provided, and in the blank spaces of which the insurer shall insert such upward limits of indemnity as are specified by the insurer's classification of risks, filed as required by this act.

(A). 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of \$....., the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B). 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of \$..... weekly (or substitute the word "monthly"), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C). 19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss other than that of time on account of disability in excess of \$....., or the aggregate indemnity

for loss of time on account of disability in excess of \$..... weekly (or substitute the word "monthly") the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

(5) An optional standard provision relative to the age limits of the policy which shall be in the following form and in the blank spaces of which the insurer shall insert such number of years as it may elect:

20. The insurance under this policy shall not cover any person under the age of ..... years nor over the age of ..... years. Any premium paid to the insurer for any period not covered by this policy will be returned upon request. ('13 c. 156 § 4) [3525]

The court did not err in instructing the jury that an insured should have reasonable opportunity within which to give written notice of additional insurance provided for in part 17, before the prior insurer may pro rate a loss. 161-384, 201+626.

**3419. Policy not to be issued containing such provisions**—No such policy shall be so issued or delivered if it contains any provision contradictory, in whole or part, of any of the provisions hereinbefore in this act designated as "Standard Provisions" or as "Optional Standard Provisions"; nor shall any endorsements or attached papers vary, alter, extend, be used as a substitute for, or in any way conflict with any of the said "Standard Provisions" or the said "Optional Standard Provisions"; nor shall such policy be so issued or delivered if it contains any provision purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy unless such portion of the charter, constitution or by-laws shall be set forth in full in the policy, but this prohibition shall not be deemed to apply to any statement of rates or classification of risks filed with the commissioner of insurance in accordance with the provisions of this act. ('13 c. 156 § 5) [3526]

**3420. False statements**—The falsity of any statement in the application for any policy covered by this act shall not bar the right to recovery thereunder unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer. ('13 c. 156 § 6) [3527]

(158+967, 165+272, 165+475.)

See also notes under § 3370.

The evidence is not conclusive that respondent was suffering from a venereal disease at the time of making the application for the policy. 162-265, 202+823.

It appears conclusively that insured, prior to the application for the insurance, had consulted, and was treated by, a physician, which facts he denied in the application, that the same materially affected the risk, and that the same would not have been accepted had the truth been revealed. 163-127, 203+598.

Information possessed by an agent to solicit insurance is not attributable to the insurer, unless the information was imparted to the agent in the course of his agency. 163-134, 203+600.

Under the evidence there was no room for the application of the rule that, when the applicant for insurance correctly states the facts to the insurer's agent and he, without knowledge or fraud on the part of the applicant, mistakes them in the application, the insurer cannot shift the responsibility for the misconduct of its agent. 163-134, 203+600.

It is the duty of an applicant for life insurance to give truthful answers to question relative to medical consultations and treatment. Such matters are material to the risk, and, if the answers are false, the policy may be avoided; but the rule does not require the disclosure of consultations or treatment for slight or temporary ailments. 163-134, 203+600.

A material misrepresentation is a bar to a recovery, although it was not made with intent to deceive. 163-134, 203+600.

**3421. Defenses, when not waived**—The acknowl-

edgment by any insurer of the receipt of notice given under any policy covered by this act, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy. ('13 c. 156 § 7) [3528]

Evidence considered, and held to show a waiver of proof of claim under an insurance policy. 162-265, 202+823.

**3422. Alteration of application**—No alteration of any written application for insurance by erasure, insertion or otherwise, shall be made by any person other than the applicant without his written consent, and the making of any such alteration without the consent of the applicant shall be a misdemeanor. If such alteration shall be made by any officer of the insurer, or by any employee of the insurer, with the insurer's knowledge or consent, then such act shall be deemed to have been performed by the insurer thereafter issuing the policy upon such altered application. ('13 c. 156 § 8) [3529]

**3423. Policy issued in violation of act**—A policy issued in violation of this act shall be held valid, but shall be construed as provided in this act, and when any provision in such a policy is in conflict with any provision of this act the rights, duties and obligations of the insurer, the policyholder and the beneficiary shall be governed by the provisions of this act. ('13 c. 156 § 9) [3530]

**3424. Reciprocal provisions**—The policies of insurance against accidental bodily injury or sickness issued by an insurer not organized under the laws of this state may contain, when issued in this state, any provision which the laws of the state, territory or district of the United States under which the insurer is organized, prescribed for insertion in such policies, and the policies of insurance against accidental bodily injury or sickness issued by an insurer organized under the laws of this state may contain, when issued or delivered in any other state, territory, district or country, any provision required by the laws of the state, territory, district or country in which same are issued, anything in this act to the contrary notwithstanding. ('13 c. 156 § 10) [3531]

**3425. Discrimination prohibited**—Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by this act, or in the benefits payable thereon, on in any of the terms or conditions of such policy, or in any other manner whatsoever is prohibited. ('13 c. 156 § 11) [3532]

**3426. Not to affect workmen's compensation insurance, etc.**—(1) Nothing in this act, however, shall apply to or affect any policy or liability of workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof, or to any corporation, co-partnership, association or individual employer, police or fire department, underwriters' corps, salvage bureau, or like associations or organizations, where the officers, members or employes or classes or departments thereof are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

(2) Nothing in this act shall apply to or in any way affect contracts supplemental to contracts of life

or endowment insurance where such supplemental contracts contain no provisions except such as operate to safeguard such insurance against lapse or to provide a special surrender value therefor in the event that the insured shall be totally and permanently disabled by reason of accidental bodily injury or by sickness; provided, that no such supplemental contract shall be issued or delivered to any person in this state unless and until a copy of the form thereof has been submitted to and approved by the commissioner of insurance, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him.

(3) Nothing in this act shall apply to or in any way affect fraternal benefit societies.

(4) The provisions of this act contained in clause (5) of section 2 and clauses 2, 3, 8 and 12 of section 3 may be omitted from railroad ticket policies sold only at railroad stations, or at railroad ticket offices by railroad employes. ('13 c. 156 § 12) [3533]

Sections 2 and 3 are §§ 3416, 3417, herein.

**3427. Penalty for violation**—Any company, corporation, association, society or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this state any policy in wilful violation of the provisions of this act shall be punished by a fine of not more than one hundred dollars for each offense, and the commissioner of insurance may revoke the license of any company, corporation, association, society or other insurer of another state or country, or of the agent thereof which or who wilfully violates any provision of this act. ('13 c. 156 § 13) [3534]

**Explanatory note**—G. S. '13, § 3535 (Laws '13, c. 156, § 15), provides that this act shall take effect Oct. 1, 1913, and that any policy covered by the act, "the form of which has received the approval of the commissioner of insurance may be issued or delivered in this state on and after said date."

#### CO-OPERATIVE LIFE AND CASUALTY COMPANIES

**3428. Definitions—Scope of the act**—Every corporation, society or association which issues a certificate or policy or makes an agreement with its members by which upon the decease of a member any money is to be paid to, or benefit conferred upon, the legal representatives or designated beneficiaries of such member, or reaching a certain age to pay any money or benefit to him, such money or benefit to be derived from voluntary donations, admission fees, dues or assessments to be collected from its members or any class thereof, and which reserves the right to make any additional assessments, or without the consent of the certificate or policyholder to increase the premium named therein, shall be deemed to be engaged in the business of life insurance upon the co-operative or assessment plan. Every corporation which likewise agrees in case of accident, sickness or other physical disability, or reaching a certain age, to pay money or confer benefits likewise derived and issuing certificates or policies with similar conditions with reference to the payment of dues or assessments, shall be deemed to be engaged in the business of casualty insurance upon the co-operative or assessment plan, and shall, except as herein otherwise specified, be subject to the provisions of this act. ('07 c. 318 § 1) [3502]

**3429. Qualifications for license—Number of members**—No corporation not now authorized to transact business in this state, shall be licensed to transact the business of life or casualty insurance, or both, upon the

cooperative or assessment plan until at least two hundred and fifty (250) persons eligible to membership therein have made individual applications in writing therefor; containing warranties of age, health and other required conditions of membership, and that there has been paid into the treasury of such corporation for its use and benefit the sum of at least five thousand dollars (\$5,000), which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts, provided however, such a corporation that confines its membership exclusively to the members of volunteer fire departments shall be required to have not less than one hundred (100) individual applications in writing from persons eligible to membership and the sum of at least one thousand dollars (\$1,000), paid into the treasury of such corporation for its use and benefit which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts. ('07, c. 318, § 2; amended '27, c. 238) [3503]

**3430. Reserve fund—Reciprocal provisions—**Every domestic co-operative life or casualty corporation, society or association, except fraternal beneficiary associations, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, more than two hundred (200) dollars is to be paid to, or benefit conferred upon the legal representatives or designated beneficiary of such number, shall set aside ten (10) per cent of its gross premium receipts or assessments each year, as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of twenty-five thousand dollars (\$25,000).

Every domestic co-operative or assessment company transacting the business of life and health and accident insurance, which does not issue health and accident policies providing indemnity for disability from accident or disease in excess of seven hundred fifty dollars (\$750) on account of any one accident or illness, nor issues policies providing indemnity for disability from accident or illness in excess of seven hundred fifty dollars (\$750) on account of any one accident or illness and death indemnity of more than two hundred dollars (\$200), shall set aside as a reserve ten (10) per cent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to two thousand dollars (\$2,000), and shall thereafter set aside as a reserve five (5) per cent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to twenty-five thousand dollars (\$25,000).

Every domestic co-operative or assessment life insurance corporation, society or association, which issues a certificate or policy, or makes an agreement with its members, by which upon the decease of a member, a funeral benefit is to be paid or funeral service is to be furnished, not exceeding two hundred dollars (\$200) in amount or value, shall set aside ten (10) per cent of its gross premium receipts or assessments each year as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of five thousand dollars (\$5,000), which said reserve fund accumulated as herein provided, shall be deposited with the commissioner of insurance of the State of Minnesota for the benefit of all its policyholders.

Such deposit may consist of securities of the class in which insurance companies are authorized to invest under the laws of this state and the company deposit-

ing the same shall be entitled to the income derived from such securities. No foreign insurance company upon the co-operative or assessment plan shall hereafter be permitted to transact business in this state unless it makes the deposit hereinbefore required of domestic companies except that where by the laws of the state under which said foreign company is organized it is permitted to, and actually does, maintain for the benefit of all its policyholders a deposit with some proper officer of such state of an amount equal to the deposit required by this act; the deposit with such other state shall be a sufficient compliance with the provisions of this section. No deposit of securities other than that herein provided for shall be required of any such co-operative or assessment company. Any company transacting the business of life insurance, upon the co-operative or assessment plan and creating and maintaining a greater reserve than herein provided for, may elect by written stipulation, filed with the commissioner of insurance, to keep on deposit with the commissioner its entire reserve and special benefit funds, other than mortuary funds; and thereafter said entire reserve and special benefit funds shall be deposited with said commissioner in securities of like character and upon the same terms as provided herein for the deposit of the reserve required by this section. ('07 c. 318 § 3, amended '11 c. 211 § 1; '15 c. 365 § 1) [3504]

**3431. Payments—Liens—Assessments—Policies to be labeled—**No co-operative or assessment life insurance company shall hereafter issue any policy in this state which does not provide for the payment of a fixed minimum sum, which may be increased each year, the insurance remains in force in the amounts to be provided in the policy. Any agreement or by-law providing for the placing of a lien upon such policy, except for non-payment of premium or assessment, and any agreement or by-law providing for the payment of a less sum than the minimum sum specified in the contract, because of the failure of the corporation to receive or collect the amount in said contract by assessment upon the surviving members, shall be void. Nothing in this section contained shall be so construed as to render any member liable for more than one assessment for each death occurring during his period of membership, unless otherwise specified in the policy. And all policies issued by said company shall contain a title including the word "assessment" on the face and on the back of the policy correctly describing the same.

This section shall not apply to any existing domestic company until it has been in existence for four years. ('07 c. 318 § 4) [3505]

**3432. Accumulations—Amendment to articles or by-laws—**Any insurance company heretofore transacting the business of life or casualty insurance upon the co-operative or assessment plan under any law of this state may, upon so providing in its articles or by-laws, elect to ascertain and apportion to its outstanding policies or certificates the respective accumulations upon each such policy or certificate, and to carry to the credit of each such policy or certificate, the future net premiums or assessments and the accretions thereto, less its equitable contribution to the death claims and other benefits, and that the premiums or assessments upon any such policy or certificate may, upon such credit becoming exhausted, be increased as may be necessary to meet its share of death claims and other benefits, and that the holder of any such policy or certificate may be granted, extended or paid-

up insurance or the right to convert into any other form of policy or insurance then being issued by such company and to have the credit on such former policy or certificate applied to such new policy or insurance. When making such ascertainment and apportionment account shall be taken of the premiums or assessments theretofore paid and of the death claims and other benefits which should be borne by such policy or certificate, of the interest earnings and other accretions to the accumulated funds, and of other matters which should equitably be taken into consideration for the purposes of such apportionment. Subject to such adjustment as shall be equitable, the experience of the company or any table of mortality recognized for the purpose of insurance in any law of this state, may be used as a basis for the ascertainment and apportionment herein authorized; provided, that any company availing itself of the provisions of this section shall, in its articles or by-laws, specify the table of mortality and rate of interest which is to be the basis for the charges thereafter to be made to the policies or certificates aforesaid; and, provided further, that when any table of mortality is specified in any policy the said table shall be followed. ('19 c. 371 § 1)

**3433. Limitation on expenses—Life insurance—**Every such corporation now or hereafter organized or admitted to transact the business of life insurance in this state shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than sixty-five per cent (65%) of all premium receipts and all interest earnings thereon upon such life insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates except the expense dues and charges therein provided. And no such funds heretofore or hereafter so appropriated to such mortuary or benefit fund, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

Provided, that every such corporation which issues a certificate or policy or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid, or funeral service is to be furnished, not exceeding two hundred dollars (\$200.00) in amount or value, and which pays no accident, disability or other benefits, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than sixty per cent (60%) of all premium receipts upon such insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates except the expense dues and charges therein provided. And no such funds heretofore or hereafter so appropriated to such mortuary or benefit funds, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

The net accretions to the funds enumerated in this section derived from interest, rents or other sources, shall also be set aside and appropriated exclusively to the fund producing said net accretions. ('07 c. 318 § 5, amended '13 c. 377 § 1) [3506]

**3434. Limitation on expenses—Companies with reserve deposits—Gross misdemeanor—**No such company transacting the business of casualty or health insurance in this state shall incur, lay out or expend, in any one calendar year, as and for the expenses of conducting such business more than its application or

membership fees and forty (40) per cent of its total premiums or assessments.

Provided, however, that when any such company shall have on deposit with the Insurance Commissioner of this state a reserve of twenty-five thousand dollars (\$25,000.00) as provided by law, then and thereafter the said company may expend in addition to the forty (40) per cent, the interest earnings on the said reserve fund and the interest on any additional surplus funds it may accumulate.

Any officer of any corporation violating or consenting to the violation of this, or the preceding section, shall be guilty of a gross misdemeanor. ('07, c. 318, § 6; amended '27, c. 336) [3507]

**3435. Net rates—Reserve fund—Limitation on expenses—Mortuary or benefit funds—Expense fund—Default in premium payments—Valuation of policies—Reserve liability—Infantile insurance—**No corporation hereafter organized to transact the business of life insurance upon the co-operative or assessment plan, and no such corporation not already admitted to transact business in this state shall hereafter be licensed to transact such life insurance business in this state unless it shall by its charter, by-law and policy or certificate contracts, provide for and actually charge and collect from its members, for and on account of the insurance furnished to them, net rates which are at least equal to the rates known as the National Fraternal Congress rates, with 4 per cent interest.

Provided that when any such corporation has adopted the use of a net rate not less than the National Fraternal Congress table of mortality and interest at the rate of 4 per cent, on the full preliminary term plan, and shall set aside the said net premium to its mortuary or benefit funds, including reserve or special benefits, for the use and benefit of its members, such corporation shall on all premiums or assessments collected from and after January 1st, 1927, be exempt from the provisions of Section 5, Chapter 318 General Laws of 1907, as amended by Chapter 377, General Laws of 1913, and Section 1, Chapter 211, General Laws of 1911, as amended by Section 1, Chapter 365, General Laws of 1915; but it shall deposit, for the use and benefit of all its policyholders, ten per cent of its mortuary premiums each year, with the Commissioner of Insurance (of the Insurance) of the State of Minnesota, as a reserve until the same, together with any reserve already accumulated, shall amount to the sum of \$25,000.00.

Provided further that the accretions to the various funds derived from interest, rents, or other sources, less expenses incidental to investment supervision, shall also be set aside and appropriated to the fund producing said accretions. Gain from lapses, surrenders and changes shall revert to the expense fund.

Provided further that policies issued by such corporation may contain a provision that in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend addition thereto, specifying the mortality table and the rate of interest adopted for computing such reserve, less a sum not more than two and one-half per cent of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy; and that the policy may be surrendered to the company at its home office within one month from date of default for a

specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and shall stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in term insurance of 20 years or less.

Provided further that such corporation shall value its policies at the end of each calendar year and show in its annual statement as a reserve liability the amount of such valuation. If Infantile Insurance is written it may be valued on the table known as Craig's extension below age ten. ('07, c. 318, § 7; amended '27, c. 41) [3508]

**Explanatory note**—For the laws referred to in this section, see §§ 3430, 3433, herein.

**3436—Re-insurance or consolidation**—Any such corporation, association or society organized or authorized to transact business under the provisions of this act, may by contract of re-insurance assume the risks of any other similar corporation, association or society engaged in the business of life or casualty insurance, or both, only on the following condition:

**First**—That both the corporations, associations or societies which propose to enter into such re-insurance contract, shall be, upon the date of re-insurance, duly authorized under the provisions of this act, to transact business in this state.

**Second**—That the contract of re-insurance shall have previously been submitted to the insurance commissioner and the attorney general of this state and shall have received the approval of the insurance commissioner duly endorsed thereon.

**Third**—That such corporation, association or society, which proposes to re-insure and retire, shall have been thoroughly examined by the insurance commissioner of this state within six months of the date of such proposed consolidation or re-insurance. And further provided, that in the judgment of the insurance commissioner of this state such consolidation or re-insurance can in no way impair the solvency of the corporation, association or society which proposes to re-insure and assume the business and affairs of the corporation, association or society contemplating re-insurance and retirement.

**Fourth**—That the contract of re-insurance shall have been approved by a majority vote of all the members of the corporation, association or society, which proposes to re-insure and retire, present in person or by proxy, at any regular meeting thereof, or at any special meeting thereof called to consider the same. And further provided, that a written or printed notice of the purpose of such corporation, association or society to re-insure shall have been mailed to each of its members at least thirty days prior to the date fixed for such meeting.

When the members of any such corporation, association or society shall have so voted to re-insure and retire, its officers and the officers of the corporation, association or society which proposes to assume the risks and other obligations are hereby authorized to enter into and consummate the contract of re-insurance as submitted and approved, and to do and perform all other acts necessary to the final and complete consolidation or re-insurance. Such retiring corporation, association or society shall turn over all its property, securities, moneys and other assets to the corporation, association or society re-insuring and assuming its obligations, to become the sole and absolute property thereof. The actual and reasonable ex-

penses and costs incident to proceedings under the provisions of this section may be paid by the company or companies so consolidating or re-insuring, and an itemized and verified statement of such expenses, together with proper vouchers for each of the same, shall be filed with the insurance commissioner. No officer of any such company or companies, nor any employe of the state shall receive any compensation, gratuity, employment, or other promise or thing of value, directly or indirectly, for in any manner aiding, promoting or assisting in such consolidation or re-insurance. Any officer or director of any company which is a party to the agreement of re-insurance herein provided for who shall receive any compensation or gratuity for aiding or promoting or consenting to such contract shall be guilty of larceny, and any other person guilty of wilfully violating or consenting to the wilful violation of the provisions of this act, shall be guilty of a gross misdemeanor. ('07 c. 318 § 8) [3509]

**3437. May change to legal reserve or level premium companies—Effect**—Any such corporation, association or society may, with the written consent of the insurance commissioner of this state, upon a majority vote of its governing body, amend its articles of incorporation and by-laws in such manner as to transform itself into a legal reserve or level premium insurance company, and upon so doing and upon procuring from the insurance commissioner a certificate of authority, as provided by law, to transact business in this state, as a legal reserve or level premium company, shall incur the obligations and enjoy the benefits thereof, the same as though originally thus incorporated, and such corporation, under its charter as amended, shall be a continuation of such original corporation, and the officers thereof shall serve through their respective terms, as provided in the original charter, but their successors shall be elected and serve as in such amended articles provided; but such amendment or re-incorporation shall not affect existing suits, rights or contracts. Any corporation, association or society so re-incorporated to transact the business of life insurance, shall, unless a higher method of valuation be provided for in its policy, or certificates of membership previously written, value its assessment policies or certificates of membership previously written as yearly renewable term policies, according to the standard of valuation of life insurance policies prescribed by the laws of this state. ('07 c. 318 § 9) [3510]

**3438. Exemption from taxation**—Section 1625 of Revised Laws 1905 shall not apply to any corporation, association or society engaged in the business of life insurance upon the co-operative or assessment plan, or to any such corporation, society or association engaged in the business of casualty insurance upon the co-operative or assessment plan as in this act defined. ('07 c. 318 § 10) [3511]

**3439. Repeals**—Sections 1695, 1698, 1699, 1700, 1701, 1702 of Revised Laws 1905, are hereby repealed. Chapter 303 of Laws of Minnesota for 1905 and all other laws and parts of laws, in so far as they may be inconsistent with this act, shall not apply to corporations transacting the business of life or casualty insurance solely upon the co-operative or assessment plan as defined in this act. ('07 c. 318 § 11) [3512]

**3440. Fraternal beneficiary association not affected**—The provisions of this act shall not apply to fraternal beneficiary associations, nor shall anything herein be-

construed as governing or in anywise regulating such associations. ('07 c. 318 § 12) [3513]

**3441. Insolvency**—In case any such company is adjudged insolvent, the balance of its reserve fund, if any, after payment of claims and other indebtedness, shall be paid to the commissioner, and by him paid into the state treasury. (1704) [3515]  
(102-15, 112+1050.)

**3442. Reserve required**—No casualty company or association organized under the co-operative or assessment laws of this state not having a reserve of at least \$25,000.00 on deposit with the commissioner of insurance of this state shall issue policies or contracts providing for the payment of endowments of any kind. ('15 c. 318 § 1)

**3443. Commercial traveler insurance companies**—Any domestic assessment, health or accident association now licensed to do business in this state, which confines its membership to commercial travelers, professional men, and others whose occupation is of such character as to be ordinarily classified as no more hazardous than commercial travelers, and which does not pay commissions or other compensation for securing new members, may issue certificates of membership, which, with the application of the member and the by-laws of the association shall constitute the contract between the association and the member. A printed copy of the by-laws and a copy of the application shall be attached to the membership certificate when issued, and a copy of any amendment to the by-laws shall be mailed to the members following their adoption. Certified copies of certificate, by-laws and amendments shall be filed with the commissioner of insurance and subject to his approval. The by-laws shall conform to the requirements of chapter 156, Laws of 1913, so far as applicable, and wherever the word "policy" appears in said act, it shall for the purpose of this act be construed to mean the contract as herein defined. ('13 c. 410 § 1, amended '17 c. 183 § 1) [3536]

**Explanatory note**—For Laws 1913, c. 156, see §§ 3415 to 3427, herein.

#### DOMESTIC INSURANCE COMPANIES WITHOUT CAPITAL STOCK.

**3443-1. Amendment of certificate of incorporation or articles of association**—The certificate of incorporation or articles of association of any domestic insurance company without capital stock, now or hereafter organized and existing under the laws of this State may be amended in respect to any matter which an original certificate of incorporation or articles of association of a corporation of the same kind might lawfully have contained, by the adoption of a resolution specifying the proposed amendment, at a regular meeting of the members thereof or at a special meeting called for that expressly stated purpose, by the affirmative vote of a majority of the members present in person or by proxy at such meeting, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded and published in the manner prescribed by law for the execution, approval, filing, recording and publishing of a like original certificate of incorporation or articles of association. ('27, c. 202, § 1)

**Explanatory note**—Section 4 of Laws 1927, c. 202, repeals all inconsistent acts and parts of acts, to the extent only of such inconsistency.

**3443-2. By-laws** — Adoption, alteration, or amend-

ment—The by-laws of any such corporation, in cases where such by-laws must be adopted or approved by the members thereof, may be adopted, altered or amended at a regular meeting of the members thereof or at a special meeting called for that expressly stated purpose by the affirmative vote of a majority of the members present in person or by proxy at such meeting. ('27, c. 202, § 2)

**3443-3. Renewal of corporate existence**—That any domestic insurance company or corporation having no capital stock, heretofore or hereafter organized and existing under the laws of this State, whose period of duration has expired or is about to expire, may, on or before the date of such expiration, or within six months after such date of expiration, renew its corporate existence from the date of such expiration for any period permitted by the laws of this State, by the adoption of a resolution to that effect by the affirmative vote of three fourths of the members present in person or by proxy at a regular meeting of such members, or at any special meeting called for that expressly stated purpose, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary or other presiding and recording officers, under its corporate seal, and approved, filed, recorded and published in the manner prescribed by law for the execution, approval, filing, recording and publishing of an original certificate of incorporation or articles of association. ('27, c. 202, § 3)

#### MUTUAL BENEFIT ASSOCIATIONS

**3444. Employers who make deductions from wages of employes' funds must secure license**—From and after the first day of July, 1919, no employer shall, by agreement with his employes or otherwise, make deductions from their wages for the purpose of furnishing them with medical or hospital care, accident, sickness or old age insurance or benefits, either directly or through a mutual association, unless he has first received from the commissioner of insurance of this state a license for the benefit plan he operates or proposes to operate. Such license shall be granted by the commissioner of insurance only when he is satisfied that the benefits given are commensurate with the charges made, and that the said charges are sufficient to keep the fund solvent. All such licenses shall be for the period of one year, and it shall be proper for the commissioner to require a statement of the operation of the fund, on a form to be prescribed by him before granting a renewal. The fee for any license granted under this act shall be one dollar (\$1.00) and the fee for filing the annual statement one dollar (\$1.00). Provided, that in any case before granting a license the commissioner of insurance shall submit the proposed plan to the commissioner of labor and industries in order that he may determine whether the benefits are in conjunction with benefits under the workmen's compensation act and take such action as is required by section 8227, General Statutes of 1913, as amended by section 15, chapter 209, General Laws of 1915. ('19 c. 388 § 1)

**Explanatory note**—G. S. 1913, § 8227, as amended by Laws 1915, c. 209, § 15, was repealed by Laws 1921, c. 82.

**3445. Violation a misdemeanor**—Any person, firm, corporation or association that makes deductions from the wages of his, their or its employes in violation of section 1 of this act shall be deemed guilty of a misdemeanor. Provided, that this act shall not apply to

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railroad companies engaged in interstate commerce. ('19 c. 388 § 2)

### FRATERNAL BENEFICIARY ASSOCIATIONS

**3446. Accident and sick benefits—Funeral expenses—Death benefits—Designation of beneficiaries—Reserve fund—Tax exemptions—Any beneficiary or fraternal association, as defined in this chapter, may make provisions for the payment of benefits in case of sickness, or temporary or permanent physical disability, as a result of disease, accident or age exceeding seventy years, and may also provide for the payment of funeral expenses of a member not exceeding \$250; in any case all of said benefits to be paid subject to compliance by its members with its constitution and by-laws, out of funds derived from assessments and dues collected from its members. Payments of death benefits shall be made only to the families, heirs, blood relatives, adopted children, fiancée of the member, or persons dependent upon him, or whenever his certificate of membership may so provide, the executor or administrator of the estate of the member in trust for such person or persons above mentioned as may be designated in such certificate. Any member who by reason of old age or other disability is dependent for his support in whole or in part upon another, whether such other stands in the above relationship to him, or not, may with the consent of and under such regulations as the association may prescribe, designate such person upon whom he is so dependent as a beneficiary under his said certificate, and in such case the death benefits shall be paid according to such designation. Every such association may create and maintain a reserve fund for such purpose and shall be held to be an institution of public charity, and shall be exempt from payment of any taxes for state, county or municipal purposes, except that the real estate of such association shall be taxed as other real estate in the State of Minnesota. (R. L. '05, § 1703; amended '07, c. 382; '25, c. 349) [3514]**

167-198, 208+659.

Where the applicant knowingly makes such false statements, it destroys the contract of insurance, whether the agent had knowledge of the falsity or was in collusion with the insured. 159-14, 198+128.

Where the applicant knowingly makes such false statements, and agrees that untrue answers to any question shall render the certificate issued thereon void, it destroys the policy as a matter of law. 159-14, 198+128.

Where the insured knowingly makes false statements in his application and the application is to be forwarded to the insurer as the basis of the contract, such untruthful statements render the application invalid, and avoid the policy. 159-14, 198+128.

If an agent has unlimited authority he may make a contract regardless of false statements. 159-14, 198+128.

By-laws of such fraternal insurance company require that all contracts of insurance must be in writing and signed by certain officers; and district deputies are not endowed with any authority which will permit them to depart from by-laws. 159-14, 198+128.

Where the insured knowingly makes false statements in such application, without being induced thereto by the agent, he cannot recover, even though the agent participates therein. 159-14, 198+128.

A district deputy cannot waive the provisions in the by-laws, nor can he waive the falsehood in the application. 159-14, 198+128.

When such provisions relate to arbitration which is put under control of defendant, and the time to be consumed is unknown, the limited period in which action may be brought does not begin to run until the arbitration is had, or until the arbitration shall fail to settle the matter. 159-14, 198+128.

The knowledge of such agent to the effect that an insured made a false statement in application for membership is not controlling; such fraternal insurance company is not bound by such knowledge of such agent. 159-14, 198+128.

Characteristics of agency of a district deputy representing a fraternal insurance company considered, and his duties and authority held to be in the nature of a soliciting agent, and that he is without authority to make insurance contracts. 159-14, 198+128.

The agent of a fraternal insurance company does not become interested adversely so that his knowledge is not the knowledge of the company where he accepts an application for insurance contrary to the by-laws, and which constitutes a cause for the removal of the agent and a liability on his bond. 159-14, 198+128.

Disclaiming liability is a waiver of the right to arbitrate. 159-14, 198+128.

Period of limitation may be started by exercising right or arbitration. 159-14, 198+128.

When such limitation is not in harmony with other provisions, the uncertainties are to be construed most strongly against the insurer. 159-14, 198+128.

Parties to an insurance contract may, in a reasonable way, limit the time in which an action may be brought thereon. 159-14, 198+128.

A certificate, issued by a fraternal beneficiary association, provided that it would pay \$1,000 to the parents of the insured upon due proof of the fact and cause of the death of the insured during the continuance of the certificate. Held, that such provision made it a condition precedent to the right of action that the beneficiaries present the proof specified. 161-70, 200+809.

The certificate also provided that the parties legally entitled to the benefit arising thereon, failing to make application in writing to the High Court of the order for such benefit within one year after the death of the member to whom the certificate was issued, shall forfeit such benefit. Held, that such provision made it a condition precedent to the right of action that the beneficiaries present the proof specified. 161-70, 200+809.

The failure of the attending physician to send reports every 30 days to defendant, such reports not being requested, did not forfeit the benefits that had accrued under the accident insurance issued by defendant. 161-384, 201+626.

The proof did not justify a finding that the insured used malt or spirituous liquors in excess when he applied for insurance, hence it was not error to refuse to charge the jury that the verdict should be for defendant if they found that he then used them in excess. 161-384, 201+626.

Recovery of attorney's fee. 161-457, 201+630.

Even though the insured in a fraternal insurance order has agreed that amendments to the constitution made subsequent to the issuance of the insurance certificate shall apply to it, an amendment, adopted after the issuing of the certificate sued on, that disappearance of the insured shall not ripen into a claim for the insurance is unreasonable and void as to such certificate. *Boynton v. Modern Woodmen of America*, 148 Minn. 150, 181 N. W. 327, 17 A. L. R. 401, is adhered to. 162-127, 202+341.

The insured agreed that the certificate was to be deemed an Illinois contract and subject to its "laws." This language is construed to refer to the statute law of that state and not to decisions of the court rendered after the death of the insured, refusing to apply the common-law rule of presumption of death from disappearance, where the constitution of the order was amended as stated. 162-127, 202+341.

What state laws govern. 162-127, 204+957.

Carrying of delinquent members. 210+853.

(107-228, 120+37; 108-25, 121+235; 102-15, 112+1050; 107-12, 119+425; 122-224, 42+316.)

### 3447. Fraternal beneficiary association defined—

**Laws governing—Any corporation, society, order or voluntary association without capital stock organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government and which shall make provision for the payment of death or disability benefits, or for the payment of endowments, is hereby declared to be a fraternal beneficiary association; provided, that any beneficiary society or association, whose membership is confined to the members of any one religious denomination shall only be required to have a branch system and a representative form of government. Such beneficiary society or association shall be governed by the provisions of chapter 345 of the General Laws of 1907 and be exempt from all provisions**

of the insurance laws of this state to the same extent as fraternal beneficiary association. ('07, c. 345, § 1; amended '15, c. 96, § 1; '27, c. 264) [3537]

**Explanatory note**—For Laws 1907, c. 345, see § 3447, et seq., herein.

(120-422, 139+815). (136-442, 162+513, 162+1050).

**3448. "Lodge system" defined**—Any association having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by such association to hold regular or stated meetings at least once in each month, shall be deemed to be operating under the lodge system; provided, that any beneficiary society or association, whose membership is confined to the members of any one religious denomination, shall not be required to have ritualistic form of work or ceremonies. ('07 c. 345 § 2, amended '15 c. 96 § 2) [3538]

**3449. "Representative form of government" defined**—Any association shall be deemed to have a representative form of government, when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected by the members through a delegate convention system, together with such other members as may be prescribed by its constitution and laws, provided, that the elective representatives shall constitute a majority in number and have not less than a majority of the votes, nor less than the votes required to amend its constitution and laws, and provided further, that the meetings of the supreme or governing body and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal beneficiary society shall not vote by proxy. ('07 c. 345 § 3) [3539]

**3450. Scope of act**—Except as herein provided, such association shall be governed by this act and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to them unless they be expressly designated therein. ('07 c. 345 § 4) [3540]

**3451. Benefits—Reserves**—Every association transacting business under this act shall provide for the payment of death or disability benefits, or both, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age, provided, the period of life at which the payment of benefits for disability on account of old age shall not be under seventy years. Any such association may grant to its members extended and paid-up protection or such withdrawal equities as its constitution and laws may provide; provided, that such grants shall in no case exceed in value the portion of the reserves to the credit of such members to whom they are made, and that such association shall show by an annual valuation made by a competent actuary approved by the commissioner of insurance that it is accumulating and maintaining for the benefit of such members the reserves required by the American Experience Table of Mortality with interest at the rate of four (4) per cent per annum, or by the National Fraternal Congress Table of Mortality with interest at the rate of four (4) per cent per annum, and the association shall

carry as a liability the reserves so determined, and that assets representing such reserves shall be held in trust for such members separate and distinct from assets belonging to members holding certificates on which such reserves are not maintained, and that the assets so held in trust shall not be used to pay any claims or benefits upon any certificates to members other than to the members for whom said assets are so held in trust.

Nor shall anything contained herein or contained in the laws of this state regulating fraternal benefit societies, orders or associations be held to restrict the right of any fraternal benefit society in the use of any surplus over and above the accumulation required by the table by which the rates are computed and the accretions thereon, as prescribed by the laws or rules of the society, provided, the same are used for the common benefit of all the members. ('07 c. 345 § 5, amended '19 c. 35 § 1; '23 c. 224 § 1) [3541]

**3452. Who may be beneficiaries**—The payment of death benefits shall be confined to the wife, husband, family, relatives by blood or marriage, including illegitimate children, parent or child by adoption, affianced husband or wife, a person dependent on the member or on whom the member is dependent, the member's estate, a benevolent, educational, religious or charitable corporation, or to an incorporated institution for the support of the member; provided, that the member may at any time by written instrument authorize the society to provide and pay for the support, care, medical and surgical treatment and funeral of such member and deduct the amount so paid with legal interest from the net reserve to the credit of the member's certificate or from the amount otherwise payable under the certificate to the beneficiary, or the member may at any time designate the society as beneficiary, and in such case the society shall use such reserve or amount, to the extent necessary for the purposes aforesaid. Any society may limit the beneficiaries within the above classes.

Members shall have the right to change their beneficiaries within the above limits by complying with the requirements in that behalf prescribed by the society. ('07 c. 345 § 6, amended '21 c. 287 § 1) [3542]

The insured may change the beneficiary at his pleasure, except as restricted by the rules of the association, and these rules may be waived without the consent of the former beneficiary. 166-328, 207+641.

**3453. Persons disqualified for beneficial membership**—No association shall admit to beneficial membership any person less than sixteen (16) nor more than sixty (60) years of age, nor any person who has not been examined by a legally qualified practicing physician and whose examination has not been approved by the supervising medical authority of the association as provided by the laws of the association; provided, that such examination shall not be required of associations paying only accident or sick benefits, or funeral benefits not exceeding \$300. ('07 c. 345 § 7) [3543]

**3454. Death or annuity benefits on lives of children**—Any fraternal beneficiary association authorized to do business in this state and operating on the lodge plan may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death or annuity benefits upon the lives of children below the age of sixteen years at next birthday. Any person responsible for the support of a child may make application for such benefits; but neither such person nor the parent of such child need be a member of such association. Provided that such

society has a class of adult membership carrying life insurance certificates at a rate of contribution at least equal to those known as National Fraternal Congress rates, or upon a table based upon the society's own experience of at least twenty years, covering not less than one hundred thousand lives, with an interest assumption of not more than four per centum per annum, or any higher standard at the option of the society, to which juvenile certificate holders shall be transferred without medical re-examination upon attaining the age of sixteen years. Any such association may, at its option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the association. The total benefits payable by such society as above provided shall in no case exceed the following amounts at ages at next birthday at the time of death, respectively, as follows: One, twenty dollars; two, fifty dollars; three, seventy-five dollars; four, one hundred dollars; five, one hundred thirty dollars; six, one hundred sixty dollars; seven, two hundred dollars; eight, two hundred fifty dollars; nine, three hundred twenty dollars; ten, four hundred dollars; eleven, five hundred dollars; twelve, six hundred dollars; thirteen, seven hundred dollars; fourteen, eight hundred dollars; fifteen, nine hundred dollars; sixteen years where not otherwise authorized by law, one thousand dollars, and shall be payable to the estate of the child or to the person or persons responsible for the support of the child and named as beneficiary in the certificate. ('19, c. 20, § 1; amended '21, c. 111; '25, c. 322, § 1; '27, c. 277, § 1)

**3455. Medical examination and certificate**—No benefit certificate as to any child shall take effect until after medical examination or inspected by a licensed medical practitioner, in accordance with the laws of the association, nor shall any such benefit certificate be issued unless the association shall simultaneously put in force at least five hundred such certificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "Standard Industrial Mortality Table" or the "English Life Table Number Six," and a rate of interest not greater than four per cent per annum, or upon a higher standard; provided, that contributions may be waived or returns may be made from any surplus in excess of reserve and other liabilities, as provided in the by-laws, and, provided further, that extra contributions shall be made if the reserves hereafter provided for become impaired. ('19 c. 20 § 2)

**3456. Reserve required**—Any association entering into such insurance agreements shall maintain on all such contracts the reserve required by the standard of mortality and interest adopted by the association for computing contributions as provided in section 2, and the funds representing the benefit contributions and all accretions thereon shall be kept as separate and distinct funds, independent of the other funds of the association, and shall not be liable for nor used for the payment of the debts and obligations of the association other than the benefits herein authorized; provided that an association may provide that when a child reaches the minimum age for initiation into membership in such association, any benefit certificate issued hereunder may be surrendered for cancellation and exchanged for any other form of certificate issued by the association, and upon the issuance of such new

certificate any reserve upon the original certificate herein provided for shall be transferred to the credit of the new certificate. Neither the person who originally made application for benefits on account of such child, nor the beneficiary named in such original certificate nor the person who paid the contributions, shall have any vested right in such new certificate, the free nomination of a beneficiary under the new certificate being left to the child so admitted to benefit membership. ('19 c. 20 § 3)

**3457. Annual report**—An entirely separate financial statement of the business transactions and of assets and liabilities arising therefrom shall be made in its annual report to the insurance commissioner by any association availing itself of the provisions hereof. The separation of assets, funds and liabilities required hereby shall not be terminated, rescinded or modified, nor shall the funds be diverted for any use other than as specified in section 3, as long as any certificate issued hereunder remains in force, and this requirement shall be recognized and enforced in any liquidation re-insurance, merger or other change in the condition of the status of the association. ('19 c. 20 § 4)

Section 3 is § 3456, herein.

**3458. Specified expense**—Any association shall have the right to provide in its laws and the certificate issued hereunder for specified payments on account of the expense or general fund, which payments shall or shall not be mingled with the general fund of the association as its constitution and by-laws may provide. ('19 c. 20 § 5)

**3459. Membership terminations**—[Repealed.]

This section (Laws 1919, c. 20, § 6) is repealed by Laws 1927, c. 277, § 2.

Expulsion of member. 166-366, 207+722.

**3460. Valuations by insurance commissioner**—The commissioner of insurance may make a valuation of such benefit certificate or he may accept the valuation thereof made by the insurance commissioner of the state under whose authority such association is organized, whenever such valuation has been made on sound and recognized principles when furnished with a certificate of such commissioner setting forth said value on the last day of the preceding year. Every such association which fails to promptly furnish such certificate required shall on demand furnish the insurance commissioner detailed lists of all its certificates and securities and shall be liable for all charges and expenses resulting therefrom. ('19 c. 20 § 7)

**3461. Certificates — Evidence — Amendments to charter, etc., effect**—Every certificate issued by any association shall specify the maximum amount of benefit provided by the contract and shall provide that the certificate, the constitution and laws of the association and the application for membership and medical examination, signed by the applicant, shall constitute the contract between the association and the member and copies of the same certified by the secretary of the association, or corresponding officer, shall be received in evidence of the terms and conditions of the contract; and any changes, additions or amendments to said charter or articles of association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the contract in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership. Provided, that any association hereafter organized or admitted to do business in this state shall in its certi-

3461  
29 — 100

ificates specify a fixed minimum amount of benefit. ('07 c. 345 § 8) [3544]  
(122-310, 142+331; 124-436, 145+118, 151+905; 129-139, 130-332, 153+742.)

**3462. Reserve fund. Benefits and expenses—how paid—Extra assessments—**Any association may create, maintain, invest, disburse and apply a reserve, emergency, surplus or other fund in accordance with its constitution and laws for the purpose specified, in section 5 of this act. Any such association so creating, maintaining, investing, disbursing, or applying any such reserve, emergency, or surplus fund, shall not be held to be organized or carried on for profit within the intent of the provisions of section 1 of this act. Such funds shall be held, invested and disbursed for the use and benefits of the association, and no member or beneficiary shall have or acquire any individual rights therein, or be entitled to an apportionment or the surrender of any part thereof except as provided in section 5. The funds from which benefits shall be paid and the funds from which the expenses of the association shall be defrayed, shall be derived from periodical or other payments by the members of the association, and accretions of said funds; and every such association, shall provide in its constitution or laws that if such regular payments are insufficient to pay all matured death and disability claims in full and to provide for the creation and maintenance of the funds required by its constitution and laws, extra assessments, or other payments, may be levied upon the members to meet such deficiency. ('07 c. 345 § 9, amended '19 c. 35 § 2) [3545]  
Sections 1 and 5 are §§ 3447, 3451, herein.

**3463. Real estate holdings—Investments—Loans to officers and directors—**Any association may invest its funds in and hold real estate for lodge and office purposes, and real estate acquired by foreclosure or received in satisfaction of loans, and may sell and convey the same. Any such association may also invest its funds in government, state, provincial, or county or municipal bonds, or bonds of any township, park or school district having taxing powers, provided that such bonds shall be a direct obligation on all the taxable property within such municipality or district and the net indebtedness of such municipality or district shall not exceed five (5) per centum of the value of all taxable property therein, according to the last valuation for taxation preceding the issuance of said bonds; or in first mortgages or first mortgage bonds upon improved real estate for not exceeding fifty (50) per centum of the actual cash value thereof at the time of making the loan; provided, however, that every foreign association shall be empowered to invest its funds in such securities as may be permitted by the laws of the state, province or country in which it is organized. Provided, however, that no such association shall loan any of its funds to any of its officers or directors. ('07 c. 345 § 10, amended '13 c. 359 § 1) [3546]

**3464. Expenses—**Every association shall make provision in its constitution and laws for payment by members of such an association, which provision shall state the purpose of the same and a proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes and no part of the reserve, emergency or surplus funds or the net accretions of either or any of said funds shall be used for expenses; provided, however, that from the accretions to the principal of the emergency fund may be paid the taxes, if any, and the expense actually and necessarily incurred in the investment and protection of said fund; and that from the savings

in mortality may be paid the expense of medical examination and inspection of risks. ('07 c. 345 § 11, amended '13 c. 324 § 1; '21 c. 340 § 1) [3547]

**3465. Benefits exempted from process—Tax exemption—**The money or other benefits, charity, relief, or aid to be paid, provided, or rendered by any association authorized to do business under this act shall neither before nor after being paid be liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or operation of laws to pay any debt or liability of a certificate holder or of any beneficiary named in a certificate, or of any person who may have any right thereunder; such associations are hereby declared to be charitable institutions, and the property held and used for lodge purposes, and the funds of such associations shall be exempt from taxation under the general tax or revenue laws of this state. Except that the real estate of such association shall be taxable. ('07 c. 345 § 12) [3548]  
(137-226, 163+292.)

**3466. Methods of forming association—Powers and duties of commissioner—Certificate of association—Discontinuance of business—**Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a fraternal beneficiary association, as defined by this act, may make and sign—giving their addresses—and acknowledge before some officer competent to take acknowledgment of deeds, articles of association in which shall be stated:

First—The proposed corporate name of the association, which shall not so closely resemble the name of any association or insurance company already transacting business in this state as to mislead the public or lead to confusion.

Second—The purpose for which it is formed—which shall not include more liberal powers than are granted by this act, provided, that any lawful social, intellectual, educational, moral or religious advantages may be set forth among the purposes of the association—and the mode in which its corporate powers are to be exercised.

Third—The names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control and management of the affairs and funds of the association for the first year or until the ensuing election, at which all such officers shall be elected by the supreme legislative or governing body.

Such articles of association and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and literature to be issued by such association, and a bond in the sum of five thousand dollars with sureties approved by the insurance commissioner conditioned upon the return of the advanced payments, as provided in this section, to applicants, if the organization is not completed within one year, or after such further period, not exceeding one year, as may be authorized by the insurance commissioner, shall be filed with the insurance commissioner, who may require such further information as he deems necessary, and if the purposes of the association conform to the requirements of this act and all provisions of law have been complied with, the insurance commissioner shall so certify and retain and record the articles of association in a book kept for the purpose and furnish the incorporators a preliminary cer-

tificate authorizing said association to solicit members as hereinafter provided.

Upon receipt of said certificate from the insurance commissioner said association may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one death benefit assessment or payment, in accordance with its tables of rates, as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such association shall incur any liability other than for such advanced payments, nor issue any benefit certificate, nor pay or allow, or offer a promise to pay or allow to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least \$1,000 each and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians and certificates of such examinations have been duly filed and approved by the chief medical examiner of such association nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated nor until there has been submitted to the insurance commissioner under oath of the president and secretary or corresponding officers of such association a list of such applicants giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of regular payments or assessments, which shall not be lower for death benefits than those required by the National Fraternal Congress table of mortality with interest at 4 per cent per annum; nor until it shall be shown to the insurance commissioner by the sworn statement of the treasurer or corresponding officer of such association that at least five hundred applicants have each paid in cash at least one regular monthly payment or assessment as herein provided per \$1,000 of indemnity to be effected, which payments in the aggregate shall amount to at least \$2,500, all of which shall be credited to the mortuary or disability fund on account of such applicants and no part of which may be used for expenses. Said advanced payments shall during the period of organization be held in trust for and, if the organization is not completed within one year as hereinafter provided, returned to said applicants.

The insurance commissioner may make such examination and require such further information as he deems advisable, and upon presentation of satisfactory evidence that the association has complied with all the provisions of the law he shall issue to such association a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such association at the date of such certificate. The insurance commissioner shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate.

No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period not exceeding one year as may be authorized by the insurance commissioner upon cause shown, unless the 500 applicants herein required have been secured and the organization has been completed as herein provided and the articles of association and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate or at the expiration of said ex-

tended period, unless such association shall have completed its organization and commenced business as herein provided. When any domestic association shall have discontinued business for the period of one year, its charter shall become null and void. ('07 c. 345 § 13) [3549]

3467. Existing associations may have come under this act—Any domestic association now engaged in transacting business in this state, may exercise, after passage of this act, all of the rights conferred thereby, and in addition thereto, may exercise all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of association not inconsistent with this act, or it may be reincorporated hereunder. But no such association already organized, shall be required to reincorporate hereunder, nor shall it be required to adopt the rates prescribed herein for new associations, in order to avail itself of the privileges of this act, and any such association may amend its articles of association from time to time in the manner provided therein, or in its constitution or laws, and all such amendments shall be filed with the insurance commissioner and shall become operative upon such filing unless a later time be provided in such amendments, or in its articles of association, constitution or laws.

Any such society may continue to do business in this state until the first day of March, A. D. 1909. The commissioner of insurance shall then, if he finds that such society is complying with the provisions of this act, issue to it a license authorizing it to continue the transaction of business in this state until the first day of the succeeding March, and such license may be renewed annually but in all cases to terminate on the first day of the succeeding March. For each such license or renewal the association shall pay the commissioner of insurance the sum of \$10.00. A duly certified copy of such license shall be prima facie evidence in any court or proceeding in this state that the licensee is a fraternal beneficiary association within the meaning of this act. ('07 c. 345 § 14, amended '09 c. 329 § 1) [3550]

3468. Merging of fraternal benefit societies—No fraternal benefit society, organized under the laws of this state to do the business of life, accident or health insurance, shall consolidate or merge with any other benefit society, or reinsure its insurance risks, or any part thereof, with any other fraternal benefit society, or assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, except as herein provided. No fraternal benefit society or subordinate body thereof shall merge, consolidate with or be reinsured by any company or association not licensed to transact business as a fraternal benefit society. ('19 c. 42 § 1)

3469. Merging to be approved by commissioner of insurance—When any such fraternal benefit society shall propose to consolidate or merge its business, or to enter into any contract or reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, the proposed contract in writing setting forth the terms and conditions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after due notice, and if approved, such contract as so approved, shall be submitted to the commissioner of insurance of this state for his approval, and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of

each of such fraternal benefit societies as of the 31st day of December preceding the date of such contract; provided that such insurance commissioner may with- in his discretion require such financial statement to be submitted as of the last day of the month pre- ceding the date of such contract. The commissioner of insurance shall thereupon consider such contract of consolidation, merger or reinsurance, and if satisfied that the interests of the certificate holders of such fraternal benefit societies are properly protected, and that such contract is just and equitable to the mem- bers of each of such societies and that no reasonable objection exists thereto, shall approve said contract as submitted. In case the parties corporate to such contract shall have been incorporated in separate states, or territories, such contract shall be submitted as herein provided to the commissioner of insurance of each of such incorporating states, or territories, to be considered and approved separately by each of such commissioners of insurance. When said contract of consolidation, merger or reinsurance, shall have been approved as hereinabove provided, such commissioner or commissioners of insurance shall issue a certificate to that effect, and thereupon the said contract of con- solidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved the fact of its submission and its contents shall not be dis- closed by the commissioner of insurance. ('19 c. 42 § 2)

3470. **Payment of expenses**—All necessary and actual expenses and compensation incident to the pro- ceedings provided hereby shall be paid as provided by such contract of consolidation, merger or reinsurance, provided, however, that no brokerage or commission shall be included in such expenses and compensation or shall be paid to any person by either of the parties to any such contract in connection with the negotiation therefor or execution thereof, nor shall any compensa- tion be paid to any officer or employe of either of the parties to such contract for directly or indirectly aid- ing in effecting such contract of consolidation, merger or reinsurance. An itemized statement of all such ex- penses shall be filed with the insurance commissioner, or commissioners, as the case may be, subject to ap- proval, and when approved the same shall be binding on the parties thereto. Except as fully expressed in the contract of consolidation, merger or reinsurance, or itemized statement of expenses, as approved by the commissioner, or commissioners of insurance, as the case may be, no compensation shall be paid to any per- son or persons, and no officer or employe of the state shall receive any compensation, directly or indirectly, for in any manner aiding, promoting or assisting any such consolidation, merger or reinsurance. ('19 c. 42 § 3)

3471. **Violation a felony**—Any person violating the provisions of this act shall be guilty of felony, and up- on conviction shall be liable to a fine of not more than five thousand dollars, or to imprisonment for not more than five years, or to both fine and imprisonment. ('19 c. 42 § 4)

**Explanatory note**—Laws '19, c. 42, § 5, repeals G. S. '13, § 3551.

3472. **Foreign associations—Licenses**—Foreign as- sociations which are now authorized to transact busi- ness in this state may continue such business until the first day of March next, succeeding the passage of this act, and the authority of such associations may there- after be renewed annually, but in all cases to termin- ate on the first day of the succeeding March. For

each such license or renewal, the association shall pay the insurance commissioner \$10.00. A duly certified copy of such license shall be prima facie evidence that the licensee is a fraternal beneficiary association with- in the meaning of this act. ('07 c. 345 § 16) [3552]

3473. **Foreign association—Admission to business**—No foreign association which is not now authorized to transact business in this state shall transact any busi- ness herein without a license from the insurance com- missioner. Before receiving such license, it shall file with the insurance commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and laws, certified by its secretary or cor- responding officer; a power of attorney to the insur- ance commissioner as hereinafter provided; a state- ment under oath of its president and secretary or cor- responding officers in the form required by the insur- ance commissioner duly verified by an examination made by the supervising insurance official of its home state of the business for the preceding year; a copy of its contract, which must show that benefits are pro- vided for by assessments upon, or other payments by persons holding similar contracts, and shall furnish the insurance commissioner with such other information as he may deem necessary to a proper exhibit of its busi- ness and plan of working, and if he finds that it is transacting business in accordance with the provisions of this act; that its assets are invested in accordance with the laws of the state where it is organized; and unless it has under its jurisdiction, a grand lodge hav- ing a beneficiary department which grand lodge is now authorized by the insurance commissioner to transact business in this state, that it has the membership and qualifications required of domestic associations organ- ized under this act, he may license such association to do business in this state until the first day of the suc- ceeding March, and such license may be renewed an- nually, but in all cases to terminate on the first day of the succeeding March; provided, that any beneficiary society or association, having a branch system and representative form of government, whose membership is confined to the members of any one religious denom- ination, and who, prior to the passage of chapter 345 of the General Laws of nineteen hundred and seven (1907) was, and has been ever since continuously licensed to do business in this state, may, upon being authorized to transact the business provided for in the laws governing fraternal beneficiary associations in the state of its organization and making such changes, if any, in its charter and plan of business as may be necessary to meet the requirements of said chapter 345 of the General Laws of nineteen hundred and seven (1907), be licensed to do business in this state under said chapter without being required to adopt the rates required by the national fraternal congress table of mortality. ('07 c. 345 § 17, amended '11 c. 226 § 1; '15 c. 96 § 3) [3553]

3474. **Licenses, refusal or revocation—Existing contracts**—When the insurance commissioner refuses to license any association, or revokes its authority to do business in this state, he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the associ- ation, upon request. Any society affected by any such ruling, order or decision shall have the right to appeal to the district court of Ramsey county, in this state, by filing with said commissioner its notice of such appeal in writing, and in such case, said commissioner shall forthwith, and within ten days thereafter, deliver to

such association a full and certified transcript of all proceedings had before him in said matter, including all applications, together with all orders, rulings and decisions had thereon and on such transcript being filed in said court, such court shall be fully possessed of said action, and a full trial on the merits de novo shall be had thereon and upon such hearing, the findings of fact on which such order is based shall be prima facie evidence of the matters therein stated; provided, further, that said appeal shall be filed in such court within forty days after the rendition of the ruling, order or decisions appealed from; and provided, further, that nothing herein or in this act contained shall be taken or construed as preventing any such association from continuing in good faith all contracts made in this state during the time such association was legally authorized to transact business therein. ('07 c. 345 § 18) [3554]

**3475. Commissioner attorney to accept service—**Every foreign association now transacting business in this state shall within thirty days after the passage of this act, and every such association hereafter applying for admission shall, before being licensed, appoint in writing the insurance commissioner and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it, which is served upon such attorney, shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in his state.

Copies of such appointment, certified by said insurance commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service may only be made upon such attorney, must be made in duplicate and shall be deemed sufficient service upon such association, provided, however, that no such service shall be valid or binding against any such association when it is required thereunder to file its answer, pleading or defense in less than thirty days after the date of such service. When legal process against any such association is served upon said insurance commissioner, he shall forthwith forward by registered mail one of the duplicate copies, prepaid and directed to its secretary or corresponding officer. The plaintiff in such process so served shall pay to the insurance commissioner for the use of the state at the time of such service a fee of two dollars, which shall be recovered by him as part of the taxable costs, if he prevails in the suit. ('07 c. 345 § 19) [3555]

(124-390, 145+171; 131-131, 154+748; 133-11, 157+721.)

**3476.**

For this section, see *infra*, § 7937.

**3477. Meetings, where held—Principal office—**Any domestic association may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such association has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state. But its principal office shall be located in this state. ('07 c. 345 § 20) [3556]

**3478. Constitution and laws—**The constitution and laws of the association may provide that no subordinate body, nor any of the officers or members of such subordinate body, shall have the power or authority

to waive any of the provisions of the laws and constitution of the association, and the same shall be binding on the association and each and every member thereof. ('07 c. 345 § 21) [3557]

(111-207, 126+728.)

Association chargeable with notice of actions of lodge in permitting delay in payment of assessments. 167-104, 208+542.

**3479. Amendments to constitution—**Every association transacting business under this act shall file with the insurance commissioner a duly certified copy of all amendments of, or additions to, its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws and of additions or amendments thereto, certified by the secretary or corresponding officer of the association shall be prima facie evidence of the legal adoption thereof. ('07 c. 345 § 22) [3558]

(136-442, 162+513; 162+1050.)

**3480. Annual statement—**Every association transacting business in this state shall annually on or before the fifteenth day of February file with the insurance commissioner in such form as he may require, a statement under oath of its president and secretary, or corresponding officers of its condition and standing on the thirty-first day of December next preceding, and of its transactions for the year ending on that date, and shall also furnish such other information as the insurance commissioner may deem necessary to a proper exhibit of its business and plan of working. The insurance commissioner may at other times require any further statement he may deem necessary to be made relating to such associations. ('07 c. 345 § 23) [3559]

**3481. Domestic associations—Dissolution—**The insurance commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic association. He may employ assistants for the purposes of such examination, and he or any person he may appoint, shall have free access to any books, papers and documents that relate to the business of the association and may summon and qualify as witnesses, under oath, and examine its officers, agents and employes, or other persons, in relation to the affairs, transactions and condition of the association.

Wherever, after examination the insurance commissioner is satisfied that any domestic association has failed to comply with any provisions of this law, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or its certificate holders, or whenever any domestic association, after being in existence one year or more and one year from the passage of this act, shall have a membership of less than 300, or votes to discontinue business, the insurance commissioner may present the facts relating thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an action *quo warranto* in a court of competent jurisdiction and such court shall thereupon notify the officers of such association of a hearing, and, unless it shall then appear that some special and good reason exists why such association should not be closed, said association shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such association and shall proceed at once to take possession of the books, papers, moneys and other assets of the association and shall forthwith, under the direction

of the court, proceed to close the affairs of the association and to distribute its funds to those entitled thereto. No such proceedings shall be commenced by the attorney general against any such association until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it on a date to be named in said notice to show cause why such proceedings should not be commenced. ('07 c. 345 § 24) [3560]

162-274, 202+498, note under § 3482.

**3482. Proceedings to be instituted by attorney general only**—No action or proceedings to discontinue or enjoin, in whole or in part, the business or methods of any such domestic association, or to appoint a receiver therefor, or to dissolve the same, or in any manner affecting its corporate rights, except for failure to pay final judgment, or to oust any foreign association or enjoin it from transacting business in this state, shall be entertained by any court, except on the suit of the attorney general of this state. ('07 c. 345 § 25) [3561]

A member in a domestic fraternal insurance association has no right to resort to the courts to correct irregularities or illegal acts of the supreme or subordinate governing bodies of such association relative to the selection of delegates, or to any other matter in the methods of conducting its business. A suit of that nature can be maintained only by the Attorney General of the state. 162-274, 202+498.

**3483. Foreign associations—Examinations—Revocation of license**—The insurance commissioner, or any person whom he may appoint, may examine any foreign association transacting or applying for admission to transact business in this state. The insurance commissioner may employ assistants for the purpose of such examination and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the association and may summon and qualify as witnesses under oath and examine its officers, agents, employees and other persons in relation to the affairs, transactions and condition of the association. He may in his discretion accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country, where such association is organized.

If any such association or its officers refuse to submit to such examination or to comply with the provisions of this section relating thereto, or if upon such examination the insurance commissioner on investigation is satisfied that any foreign association transacting business under this act has exceeded its powers, or has failed to comply with the provisions of the law, or is conducting business fraudulently, or is not carrying out its contracts in good faith, or is in such condition as to render further proceedings hazardous to the public or its certificate holders, he may by a written order or decision, filed in his office, revoke the license of such association to do business in this state, subject to an appeal by such association as provided by and in accordance with the provisions of section 18 of this act, and upon any such appeal all the provisions of said section 18 shall apply thereto. No such license shall be revoked by the insurance commissioner until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it on a date to be named in said notice to show cause why such license should not be revoked. ('07 c. 345 § 26) [3562]

Section 18 is § 3474, herein.

**3484. Expenses of examinations**—The necessary ex-

penses of any examination made by the insurance commissioner, pursuant to the provisions of this act, of any association herein authorized, shall be paid by such association; but no per diem shall be paid to or on account of any regular salaried member of the insurance department, nor a per diem of more than \$10 to any other person. ('07 c. 345 § 27) [3563]

**3485. Certain organizations exempted**—Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, Elks or Knights of Pythias—exclusive of the insurance branch of the supreme lodge Knights of Pythias—or to similar orders which do not issue insurance certificates, nor to societies which limit their membership to any one hazardous occupation, nor to local lodges of an association which was doing business in this state at the time of the enactment of General Laws 1907, Chapter 345, that provide death benefits not exceeding three hundred dollars to any one person, or disability benefits not exceeding three hundred dollars in any one year to any one person, or both, except that all foreign associations, transacting business in this state shall comply with the provisions of Section 3475, General Statutes 1923, nor to any contracts of reinsurance of, or between such local lodges of such association now doing business on such plan in this state, nor to domestic associations which limit their membership to the employees of a particular city or town, designated firm, business house or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description, which do not operate with a view to profit, and which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars to any one person in any one year, nor to any domestic lodge, order, or association which was incorporated under the laws of this state prior to the year 1917 and has been doing business in this state since such incorporation and which now has not less than \$4,000.00 in cash or in securities acceptable to the commissioner of insurance and which has heretofore agreed in its constitution or by-laws to pay \$300.00 as death benefits and \$200.00 as funeral expenses and which does not operate with a view to profit and which shall hereafter pay no funeral expenses and pay not more than \$300.00 as death benefits, and shall hereafter collect from its members at their then attained ages regular payments or assessments not lower than those required by the national fraternal congress table of mortality, with interest at four per cent per annum, provided, always, and save and except as in this section otherwise specifically modified, limited or qualified, that any such domestic order or association which has more than five hundred members, and provides for death or disability benefits, and any such domestic lodge, order or association which issues to any person a certificate providing for the payment of benefits, shall not be exempt by the provisions of this section, but shall comply with all the requirements of this act. The insurance commissioner may require from any association such information as will enable him to determine whether such association is exempt from the provisions of this act. No association which is exempt by the provisions of this section from the requirement of this act, shall give or allow or promise to give or allow to any person any compensation for procuring new members. ('07, c. 345, § 28; amended '21, c. 339, § 1; '25, c. 393) [3564]

**Explanatory note**—For Laws 1907, c. 345 see § 3447, et seq., herein.

**3486. Violations of act—Penalties**—Any person, officer, member or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership or for the purpose of obtaining money from or benefit in any association transacting business under this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than ninety days, in the discretion of the court, and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of certificate holder in any such association, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

Any person who shall solicit membership for, or in any manner assist in procuring membership in, any association not licensed to do business in this state; or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided, to do business as herein defined in this state, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than one hundred dollars.

Any association, or any officer, agent or employe thereof, neglecting or refusing to comply with, or violating any of the provisions of this act, the penalty for which neglect, refusal or violation is not specified in this section, shall be fined not exceeding one hundred dollars upon conviction thereof. ('07 c. 345 § 29) [3565]

**3487. Definitions—Deputy insurance commissioner to act, when**—The word "association" as used in this act shall be taken and construed as meaning a fraternal beneficiary corporation, society, order or voluntary association as defined in this act. The words "domestic association" shall be taken and construed as meaning an association organized or incorporated under the laws of this state. The words "foreign association" shall be taken and construed as meaning an association organized or incorporated under the laws of another territory, district, state, province or country. The word "state," as used in this act, shall be taken and construed as meaning "state," "territory," "district," "country," or "province." All provisions of each section of this act, except as otherwise provided, shall be taken and construed as applying to both domestic and foreign associations.

In the event of a vacancy in the office of the insurance commissioner, or in the absence or disability of that officer, the deputy insurance commissioner shall perform all the duties required of the insurance commissioner by this act. ('07 c. 345 § 30) [3566]

**3488. Valuations of benefit certificates**—Nothing contained in this act shall be construed to require any society to make or cause to be made any valuation of its benefit certificates for any purpose whatsoever, nor shall the insurance department have the right to require or demand that such valuation be made or embraced in the report of any fraternal beneficiary society to the insurance department; nor shall any valuation of the certificates of any association, if made by the insurance department, be published unless upon re-

quest of such associations. ('07 c. 345 § 31) [3567]

**3489. Readjustment of assessment rates**—If the now existing laws of the state in which any foreign fraternal beneficiary society licensed to do business in this state is incorporated, contain provisions under which the officers of such society may submit to the members for their approval or repeal by-laws providing for the readjustment of assessment rates or rates of periodical contribution to the benefit fund, such officers shall submit to a referendum of the membership such question of new rates within the time within which the same may be done under the laws of such foreign state, and pending and during the time when such question is before the members of the order for their approval or repeal, the columns of the official organ shall be open to the membership of this state for expression of views for and against such new rates. ('12 c. 6 § 1) [3568]

**3490. Society to file roster of officers**—Any such fraternal beneficiary society doing business in this state shall file in the office of the insurance commissioner for use of parties interested, a roster giving the names and addresses of the officers corresponding to presiding officer and secretary of all subordinate lodges in the entire jurisdiction of such society within thirty days after demand made on the chief executive officers corresponding to secretary, by a subordinate lodge in this state. ('12 c. 6 § 2) [3569]

**3491. Cancellation of license penalty for failure of compliance**—Provided that if the officers of any such fraternal beneficiary society shall fail and neglect to comply with the provisions of this act, the license of said society to do new business in this state shall be cancelled by the insurance commissioner on proof of such failure or neglect. ('12 c. 6 § 3) [3570]

#### LODGES OR CAMPS OF FOREIGN ASSOCIATIONS MAY ORGANIZE.

**3492. When state lodges may sever connection with national association**—When one-third of all the subordinate lodges or camps organized at the time of the passage of this act in any fraternal beneficiary association now licensed to do business in the state of Minnesota, within two years after the passage of this act, at regular or special meetings called therefor, adopt resolutions by a majority vote of each lodge or camp, provided at least thirty-five per cent (35%) of all the members of such lodge or camp voted for said resolution declaring that they thereby sever their connections with such foreign fraternal beneficiary association, they may, in conjunction with each other, continue as a fraternal beneficiary association, and may become incorporated as a fraternal beneficiary association under this act, provided that at least seventy-five hundred (7,500) members of such lodges or camps so severing their connection with such foreign fraternal beneficiary associations, have signified in writing their intention to transfer their insurance to the association incorporated under this act and to become members of such association. ('13 c. 450 § 1) [3571]

**3493. Incorporation of state associations**—When a subordinate lodge or camp of any foreign fraternal beneficiary association, now licensed to do business in this state, shall become suspended under the terms and provisions of the by-laws of such association for failure to make, within the time provided by its by-laws, remittance to the proper officer of such foreign fraternal beneficiary association of benefit assessments, per capita or other dues, such subordinate lodge or

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camp may retain its organization, and in conjunction with other subordinate lodges or camps or members of such association in this state, continue as a fraternal beneficiary association, and may join with each other and become a part of the fraternal beneficiary association incorporated under this act. ('13 c. 450 § 2) [3572]

**3494. To have 15,000 members**—When fifteen thousand or more members in this state in good standing in any foreign fraternal beneficiary association shall file with the insurance commissioner of this state applications in writing signifying their intentions to sever their connection with such foreign fraternal beneficiary association and to transfer their insurance and become members of an association to be incorporated hereunder such members may form an association and become incorporated under this act, and such association and the members thereof so incorporated shall have all the rights and the same privileges under this act and be subject to the same conditions and requirements as associations incorporated pursuant to the provisions of section 1 hereof. ('13 c. 450 § 3) [3573]

**3495. When individual members may join**—When subordinate lodges or camps take advantage of the provisions of this act any individual members of any other subordinate lodge or camp of the same association may become associated with such subordinate lodges or camps under this act. ('13 c. 450 § 4) [3574]

**3496. Individual member may retain membership, or join new association**—Nothing in this act contained shall be construed to prevent an individual member of any such foreign fraternal beneficiary association from retaining his membership therein where the subordinate lodge or camp of which he is a member shall have severed his connection with such association, and all assessments or per capita tax which shall have been paid by such member shall be remitted to the proper chief executive officer of such association unless said member shall designate in writing that he does not want a remittance made to the foreign fraternal beneficiary association. ('13 c. 450 § 5) [3575]

**3497. Provisions as to property**—Whenever fifty per cent of the entire membership of any subordinate lodge or camp shall vote to sever its connection from the foreign fraternal beneficiary association and affiliate with the association incorporated under this act, such subordinate lodges or camps shall retain their local identity as such, and shall retain the title to all property, real and personal of such subordinate lodge or camp, but shall be accountable to individual members who preserve their membership in such foreign fraternal beneficiary association for their share in the property of the subordinate lodge or camp ascertained on a per capita basis. ('13 c. 450 § 6) [3576]

**3498. Not to affect the liability**—Nothing in this act shall be construed to affect or limit the liability of any such foreign fraternal beneficiary association under any certificate issued by such association to any member during the time for which it shall have received his assessments in accordance with the constitution and by-laws of such foreign fraternal beneficiary association. ('13 c. 450 § 7) [3577]

**3499. Foreign association to return excess assessments**—If such foreign beneficiary association shall have collected from the members of such association that sever their connection therefrom any funds in excess of such as shall have been properly collected under its articles of incorporation and laws, then the association organized under the provisions of this act

shall have the right as such an association to recover such amount from such foreign beneficiary association for the benefit of the members of the association formed hereunder. ('13 c. 450 § 8) [3578]

**3500. Clerk to give written notice of withdrawal**—Whenever any subordinate lodge or camp shall under this act decide to sever its connections with the foreign fraternal beneficiary association, the clerk of said camp shall give written notice of the action taken to every member of said lodge or camp at his last known post-office address and shall request that each member file his written preference as to whether or not he desires his assessments or per capita tax to be paid to the foreign fraternal beneficiary association or transmitted to the new organization. All members failing within thirty days to respond to the request of the clerk in the matter of filing preference shall be considered as desiring to remain with the foreign fraternal beneficiary association and shall be considered members of that organization. ('13 c. 450 § 9) [3579]

**3501. Medical examination not required**—Members of subordinate lodges or camps and individual members taking advantage of this act shall not be required to pass a medical examination, but new certificates shall be issued to them for the same amount of insurance provided for in the certificate held by such member at the time of the change, or for a less amount of insurance at the option of the insured, or the benefit certificate issued to such member by such foreign fraternal beneficiary association may be assumed by the corporation organized under this act. ('13 c. 450 § 10) [3580]

**3502. Contributions may be remitted to temporary organizations**—When subordinate lodges or camps take advantage of this act, contributions to the benefit fund in the hands of the officers of such subordinate lodges or camps may be remitted to such temporary organizations or lodges or camps as may be created, or when an association of such subordinate lodges or camps or members is duly incorporated under this act, such funds may be paid into the treasury of the association so incorporated, and all such remittances and payments shall be subject to the payment of death claims that occur after the liability of such foreign fraternal beneficiary association upon certificates issued to such members has ceased. ('13 c. 450 § 11) [3581]

**3503. Insurance commissioner to be notified**—When one or more of such subordinate lodges or camps desiring to sever its or their connections with such foreign fraternal beneficiary association and become members of the associations organized or to be organized under this act shall notify the commissioner of insurance of its or their purpose to do so, it shall be the duty of the commissioner of insurance at once to demand of the chief executive officer in charge of the records of such foreign fraternal beneficiary association to immediately file in the office of the commissioner of insurance a mailing list of all the members of subordinate lodges or camps of such foreign fraternal beneficiary association within this state, and when such foreign fraternal beneficiary association shall have filed such mailing lists, arranged by lodges or camps, it shall be the duty of subordinate lodges or camps desiring to take advantage of this act to mail written notices to all members of any subordinate lodge or camp so desiring to sever its connection from said foreign fraternal beneficiary association at least ten days prior to the submission of such question in such local subordinate lodge or camp, and such notice shall specifically state that the question of surrendering the

charter and joining with the state organization is to be taken up, and the date of meeting, and may contain such other information as is deemed relevant; provided that where all the members of a subordinate lodge or camp signify in writing their desire and intention to surrender the charter of such camp and join such new organization then and in such case the notice herein provided for shall not be required. ('13 c. 450 § 12) [3582]

**3504. Articles to be filed with secretary of state—**Whenever one-third (1-3) of the subordinate lodges or camps organized at the time of the passage of this act signify their intention to withdraw, and in numbers as provided in section 1 [3492] of this act signify their intention of transferring their insurance, or whenever fifteen thousand (15,000) members without reference to the number of lodges or camps of which they shall be members in any fraternal beneficiary association now licensed to do business in the state of Minnesota, have severed their connections with such foreign fraternal beneficiary association, in the manner herein provided for, they may become incorporated as a fraternal beneficiary association by causing not less than fifteen thousand (15,000) members, to be designated by such camps or lodges, or fifteen thousand (15,000) members, so severing their connections with such foreign fraternal beneficiary association to execute and file articles of association with the secretary of state, and a copy thereof with the commissioner of insurance of the state of Minnesota, which articles shall contain the following:

1. The name of the association.
2. The location of the head office or place of business of said association.
3. The purpose for which it is formed, the official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the association.
4. The length of time such corporation shall continue.
5. The names and places of residence of the officers of such association who hold such office at the time such certificate is filed, and until such time as their successors are elected and qualified under this act. Upon the filing of such articles, as herein provided, the commissioner of insurance shall issue to such association a license authorizing it to transact business in this state. ('13 c. 450 § 13) [3583]

**3505. Delegates to state convention—**Within ninety days after the incorporation of such association the lodges or camps or 15,000 members of such foreign fraternal beneficiary association so severing their connections shall call a special election and elect delegates to a state convention for the purpose of adopting by-laws, rules and regulations for the proper organization of such association, and to adopt a ritual and form a grand lodge of the state of Minnesota, and for the purpose of electing officers to fill the positions of this new association, which said officers so elected shall act until their successors are duly elected and qualified. Said convention so called shall consist of one delegate at large from each subordinate lodge or camp, and one delegate for each three hundred (300) members or major fraction thereof; provided, that no camp or lodge shall have more than five delegates. The rules and regulations, by-laws and ritual of such association shall comply with the laws of this state in all respects

except as herein otherwise provided. ('13 c. 450 § 14) [3584]

**3506. Rates of assessments—**Any such association so formed under this act shall during no year levy a less number of assessments than was levied in 1912 by the society or association from which such new association has seceded or from which it has severed its connection, and shall adopt a rate of assessment by increasing its rates of mortuary assessments by fifty per cent in addition to rates actually paid by the members at the time they sever their connection with the foreign fraternal organization, said rate to be so fixed within ninety days after such association has secured its license from the commissioner of insurance, provided, however, that if said fraternal beneficiary association fails to carry out the provisions of this section, then and in that event the commissioner of insurance shall have the right to cancel its license to do business in this state. ('13 c. 450 § 15) [3585]

**3507. Names may be retained—**Subordinate lodge or camps of such foreign fraternal beneficiary association incorporated under the laws of the state of Minnesota by virtue of this act, may retain the name of such foreign fraternal beneficiary association, provided it be modified by some territorial or other designation to clearly distinguish it from such foreign fraternal beneficiary association. ('13 c. 450 § 16) [3586]

**3508. Copy of mailing list to be furnished—**When any member of a subordinate lodge or camp of such foreign fraternal beneficiary association demands of the officers in charge of the mailing list and membership roll the privilege to take a copy thereof, such member shall be promptly given the privilege of copying such membership list and roll from the records of the subordinate lodge, and any officer refusing to permit a member in good standing of such subordinate lodge or camp to take a list of the members from such records shall be guilty of a misdemeanor. ('13 c. 450 § 17) [3587]

**3509. Mandamus proceedings—**Mandamus proceedings shall lie in the courts of this state against any officer or member of any subordinate lodge or camp to require compliance with the provisions of this act and necessary proceedings incident to the incorporation of subordinate lodges or camps under this act; and no action or proceeding to restrain subordinate lodges or camps or members from proceeding under this act, or to discontinue or enjoin any association organized under this act shall be commenced except on the suit of the attorney general of this state. ('13 c. 450 § 18) [3588]

**3510. To apply to auxiliary lodges—**This act shall apply to auxiliary lodges, and when the subordinate lodges or camps or members of a foreign fraternal beneficiary association shall incorporate under this act, auxiliary subordinate lodges or camps or members may join with such organization so incorporated under this act. ('13 c. 450 § 19) [3589]

**3511. To be subject to laws relating to fraternal associations—**Except as herein otherwise provided, every fraternal beneficiary association organized under the provisions of this act shall be subject to all of the laws of this state relating to fraternal beneficiary associations. ('13 c. 450 § 20) [3590]

#### FIRE INSURANCE COMPANIES

**3512. Standard fire policy—**No fire company shall issue on property in this state any policy other than the standard form herein set forth, the blanks for

which may be filled in print or in writing, and no condition, stipulation or term, other than those therein provided for, whether as to jurisdiction, limitation, magistrate, certificate or otherwise, shall be valid if inserted in any such policy, except as follows:

1. It may print on or in its policy its name, location and date of incorporation, the amount of its paid-up capital, the names of its officers and agents, the number and date of the policy, and, if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at ....."

2. It may print or use in its policy printed forms of description and specification of the property insured, including permits for the use of electricity, gasoline, acetylene or storage of other extra hazardous product or material, for repairs and improvements, for the operation or ceasing to operate, for the maintenance of sprinkling or other improvements, and for the use of the premises for ordinary work and materials incident to the business.

Any permit for the use or storage of a hazardous product may contain a caution giving instructions as to the proper method of use or storage.

It may print or use in its policy printed forms for insurance against loss of rents and rental values, leaseholds, values, use and occupancy, and indirect or consequential loss or damage caused by change of temperature resulting from the destruction of refrigerating or cooling apparatus, or any of its connections. It may also use a form specifically excluding the last mentioned hazard.

All contracts of insurance against loss of rents and rental values, leasehold values, use and occupancy, shall contain the following provision:

The period of indemnity under this contract shall be limited to such length of time (commencing with the date of the fire and not limited by the date of the expiration of the policy) as would be required with the exercise of due diligence and dispatch to rebuild, repair or replace such part of the property described in said policy as may be destroyed or damaged.

When the policy covers a lumber risk upon the request of the insured in writing, of which fact such writing shall be the only evidence, and if in consideration thereof, a reduction in the rate of premium is made by the company, the form known as the "clear space lumber clause" may be used, said form to be in the following terms, to-wit:

The rate of premium upon the within policy has been reduced from the sum of \$..... to the sum of \$....., and in consideration of such reduction the assured agrees that a continuous space of ..... feet shall hereafter at all times be maintained between the property hereby insured and any wood-working or manufacturing establishment; said space shall, in all cases, exclude and be measured from the exterior boundary of any permanent structure or addition connected with or attached to (here insert description of nearest woodworker); said space not to be occupied by any independent or disconnected building or structure (here first exceptions if any) or by accumulation of combustible material of any kind and except the loading or unloading only within or transportation of lumber or timber products across such clear space. It shall not be used for handling, piling or sorting lumber for temporary purposes or otherwise. This clause shall not be construed to prohibit the maintenance of operation within said clear space of tramways used exclusively for the

transportation of lumber; provided, that lumber is neither piled or stored thereon. Sorting platforms shall not be held tramways within the meaning of this clause, and failure upon the part of the insured to comply with the terms of this clause shall not avoid this policy, nor in any manner lessen the liability of the company hereunder, but in case of such failure, the assured shall be liable to the company for the difference in the premium hereinbefore set forth.

It may also print or use in its policy in case the assured desires a permit containing what is known as the "watchman clause," said clause to be in the following words, to-wit:

The insured agrees that during the continuance of this policy he will uniformly and constantly maintain a watch service in connection with said premises, and in consideration of such uniform and constant watch service the rate of premium charged upon the policy has been reduced from \$..... to \$....., and it is hereby expressly agreed and understood that the failure of the assured to maintain such uniform and constant watch service or comply with this clause or agreement, shall in no manner nor to any extent avoid this policy, or in case of loss lessen the liability of the company under this policy; but in the event of the failure of the assured to maintain such watch service or perform his part of this agreement, he shall then be liable, and hereby agrees to pay said full premium for the unexpired term of said policy.

It may also print or use in its policy a printed form providing that in case of a risk equipped with automatic sprinklers, the assured shall use due diligence in seeing that the equipment is properly maintained; also a permit that the premises may remain vacant or unoccupied for a stipulated number of days beyond the thirty (30) days provided in the policy, for which permit an additional premium may be charged; also a form whereby the assured agrees that, for a reduction in the rate of premium, barrels and buckets of water shall be kept at hand at all times; that failing so to do, the assured shall be liable for the highest rate written in the policy; also a form may be attached excluding liability for loss or damage to dynamos and other electrical appliances caused by electric current, either natural or artificial.

It may also print or use in its policy printed forms providing that in case of loss, such loss shall be payable to the mortgagee, as his, her, its or their interest may appear, a printed form in the following words, to-wit:

Subject to the stipulations, provisions and conditions contained in this policy, the loss, if any, is payable to ....., mortgagee, as his, her, its or their interest may appear.

It may also print or use in its policy in case the assured desires liability to attach to several buildings, divisions or locations under one item, a printed form in the following words, to-wit:

It is hereby agreed in case of loss, this policy shall attach in or on each building, division or location in such proportion as the value in or on such building, division or location bears to the aggregate value of the subject insured.

It may also print or use in its policy the following clause, to-wit:

The insured has relinquished all rights to recover for loss or damage by fire from ..... (Here insert name of individual, partnership, association or corporation).

3. If insuring against damage by lightning, it

may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning, whether fire ensues or not," and in the clause providing for apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

4. If incorporated or formed in the state, it may print in its policy any provision which it is authorized or required by law to insert therein; if not incorporated in this state, it may, with the approval of the commissioner, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state.

5. It may print upon a policy issued in compliance herewith the words "Minnesota Standard Policy."

6. No provision shall be attached to or included in such policy limiting the amount to be paid in case of total loss on buildings to less than the amount of insurance on the same.

7. When two or more authorized companies unite in the issue of a joint policy, the heading thereof may show the severalty of the contract, and also the proportion of premium to be paid to each, and the proportion of liability which each assumes.

In the printed conditions of such standard policy the necessary changes may be made from the singular to the plural number when reference is had to the companies issuing such policy. It shall be plainly printed, no portion thereof in smaller than long primer type, and shall be as follows, to-wit:

No. .... \$.....  
(Corporate name of the company or association, its principal place or places of business.)

In consideration of ..... dollars, to be paid by the insured hereinafter named, the receipt whereof is hereby acknowledged, does insure ..... and ..... legal representatives, against loss or damage by fire, to the amount of ..... dollars.

(Description of property insured.)

Bills of exchange, notes, accounts, evidences and securities of property of every kind, books, wearing apparel, plate, money, jewels, metals, patterns, models, scientific cabinets and collections, paintings, sculpture and curiosities are not included in said insured property unless specially mentioned.

Said property is insured for the term..... beginning on the ..... day of ..... in the year nineteen hundred and ..... at noon, and continuing until the ..... day of ..... in the year nineteen hundred and ..... at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotion, riots, or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, except in case of total loss on buildings; but not to include loss or damage caused by explosion of any kind, unless fire ensues, and then to include that caused by fire only.

The policy shall be void if any material fact or circumstance stated in writing has not been fairly represented by the insured, or if the assured now has or shall hereafter make any other insurance on the said property without the assent of the company, or if without such assent the property shall be removed, except that, if such removal shall be necessary for the preservation of the property from fire, this policy shall be valid without such assent for five days there-

after, or if without such assent the situation or circumstances affecting the risk shall, by or with the knowledge, advice, agency or consent of insured, be so altered as to cause an increase of such risks, or if, without such assent, the property shall be sold or this policy assigned, or if the premises hereby insured shall become vacant by the removal of the owner or occupant, and so remain vacant for more than thirty days without such assent, or if it be a manufacturing establishment running in whole or in part extra time, except such establishment may run in whole or in part extra hours, not later than 9:00 o'clock P. M., or if such establishment shall cease operations for more than thirty days without permission in writing indorsed hereon, or if the insured shall make any attempt to defraud the company, either before or after the loss, or if gunpowder or other articles subject to legal restrictions shall be kept in quantities or manner different from those allowed or prescribed by law, or if camphene, benzine, naphtha or other chemical oils or burning fluids shall be kept or used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal oil may be used for lighting, and in dwelling houses kerosene oil stoves may be used for domestic purposes, to be filled when cold, by daylight, and with oil of lawful fire test only.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect same.

In case of any loss or damage under this policy, a statement in writing, signed and sworn to by the insured, shall be forthwith rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount, if not agreed upon, shall be ascertained by award of referees, as hereinafter provided, or replace the property with other of the same kind and goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises or any portion thereof separately insured by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition.

It is moreover understood that there can be no abandonment of the property insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of loss, except in case of total loss on buildings, sustained than the sum hereby insured bears to the whole amount insured thereon.

And whenever the company shall pay any loss, the insured shall assign to it, to the extent of the amount

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so paid, all rights to recover satisfaction for the loss or damage from any person, town or other corporation, excepting other insurers, or the insured, if requested, shall prosecute therefor at the charge and for the account of the company.

If this policy shall be made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee, or his agents, or those claiming under him, shall affect such mortgagee's right to recover in case of loss on such real estate.

Provided, that the mortgagee shall, on demand, pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy, for which no liability exists as to the mortgagor or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgagee, then the mortgagee shall assign and transfer to the company interested, upon such payment, the said mortgage, together with the note and debts thereby secured.

This policy may be cancelled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force.

The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

In case of loss, except in case of total loss on buildings, under this policy and a failure of the parties to agree as to the amount of the loss, it is mutually agreed that the amount of such loss shall, as above provided, be ascertained by two competent, disinterested and impartial appraisers who shall be residents of this state, the insured and this company each selecting one within fifteen days after a statement of such loss has been rendered to the company, as herein provided, and in case either party fail to select an appraiser within such time, the other appraiser and the umpire selected, as herein provided may act as a board of appraisers, and whatever award they shall find shall be as binding as though the two appraisers had been chosen; and the two so chosen shall first select a competent, disinterested and impartial umpire; provided, that if after five days the two appraisers cannot agree on such an umpire, the presiding judge of the district court of the county wherein the loss occurs may appoint such an umpire upon application of either party in writing by giving five days' notice thereof in writing to the other party. Unless within fifteen days after a statement of such loss has been rendered to the company, either party, the assured or the company, shall have notified the other in writing that such party demands an appraisal, such right to an appraisal shall be waived; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage, and, failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall determine the amount of the loss; the parties thereto shall pay the appraisers respectively selected by them and shall bear equally the expenses for the appraisal and um-

pire. The fees of any appraiser or umpire shall in no case exceed ten dollars (\$10.00) per day.

No suit or action against the company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this state, unless commenced within two years from the time the loss occurred.

In witness whereof, the said .....  
Company has caused this policy to be signed by its president and attested by its secretary (or by such proper officers as may be designated), at its office in ..... Date .....  
(R. L. § 1640, amended '09 c. 331 § 1; '13 c. 405 § 1; '13 c. 421 § 1; '23 c. 410) [3318]

(125-374, 147+242.)  
1. In general.—This form contains the only terms and conditions that may be incorporated in a fire insurance policy. (99-190, 180+871.) To be construed as similar contracts voluntarily entered into (92-234, 99+892). "Legal representatives" include a receiver (88-478, 93+517). When interest begins to run on loss (91-210, 218, 97+875, 98+100). Form of policy to be used by mutual company (87-392, 92+227). Mis-statements as to interest in property (71-338, 73+849). Effect of statement in policy that premium has been paid (78-284, 80+976). A policy insuring the "estate of A. B., deceased" is valid (86-486, 91+5).

160-209, 199+968, note under § 3517; 210+385.

Does not prohibit the issuance of valued policy of insurance upon personal property in this state. 166-273, 207+625.

The statute permits the blanks in a standard fire policy to be filled in by print or writing for insurance against loss of a leasehold interest. 166-273, 207+625.

Subject to the statutory law of this state, a policy of insurance is within the application of the general principles of the law of contracts. The insurer has the burden of proving consent by the insured to a modification of the terms of the policy. Accepting and attaching a rider to the policy is proof of consent to the modification of the contract shown by the rider, but the circumstances mentioned in the opinion warranted the court in finding that in fact such consent was lacking. 158-40, 196+804.

A contract for the sale of land, part of the purchase price being paid and possession taken, vests in the vendee an equitable title in fee. The legal title in fee is retained by the vendor as security, and upon payment he holds it in trust for the vendee. A policy of insurance issued to the vendee with a condition of forfeiture in the event that the property is sold without the assent of the insurer is not forfeited by his subsequently making such a contract. 159-315, 198+1003.

The operation by the vendee of a still for the illicit manufacture of intoxicating liquor, and the use of an oil stove to heat the room where the mash is kept, in the house insured, do not defeat a recovery by the vendor of the amount of a loss caused by a fire set by the stove, unless it is shown that the vendor had knowledge of the acts of the vendee. 162-277, 202+730.

The vendor may recover all of the proceeds of a policy payable in the manner above mentioned, and apply the money on the indebtedness of the vendee, when the amount of the loss is less than the unpaid portion of the purchase price of the property. 162-277, 202+730.

The term the "insured" as used in a policy of fire insurance in the standard form, refers to the owner of the property insured, to whom the policy is issued and by whom the premium is paid. 162-277, 202+730.

Transfers and mortgages of property. 163-300, 204+321.

A vendee in possession of real estate under an executory contract has an insurable interest even though the contract is subject to rescission for his fraud. 163-492, 204+528.

Whether certain insurance policies were assigned by the plaintiff to one of the defendants upon the sale of property which they covered was a question for the jury. 209+830.

After a fire insurance policy was issued protecting the interest of the record owner, he conveyed to one of plaintiffs, and both the grantor and the grantee notified the agent of the insurance company, who had issued the policy, and requested him to make the entries needed upon the policy to protect both the grantee and the other plaintiff, who, to the agent's knowledge, held a contract for deed from the grantor to which he conveyance was made subject. This the agent consented and agreed to do, but omitted to make the entries. The dwelling insured was destroyed by fire. The agreement was within the authority of the agent to make, and bound the company. 213+539.

**2. Notice and proof of loss**—"Forthwith" means within a reasonable time (79-337, 82-647; 78-46, 80-839). Waiver by insurer (80-527, 83-409; 95-492, 104-560). Claim as to amount of loss need not be specific. Substantial compliance with policy sufficient (83-398, 86-425). Failure to furnish proof of loss within prescribed times does not forfeit the rights of insured but merely postpones payment (82-336, 85-13; 84-116, 119, 86-838). Misrepresentation in proof of loss (68-335, 71-388). Books of account as evidence of value of stock. When company objects to sufficiency of proof of loss on specified grounds other objections are waived (66-138, 68-855).

A waiver of proofs of loss may be inferred from words or conduct of the insurer's authorized officers or agents. 165-442, 206-655.

Proof of negotiations for the settlement of a loss, or of an offer to pay the loss, warrants a jury in finding that there was a waiver of formal notice and proofs of loss. 165-442, 206-655.

**3. Increased risk**—78-240, 80-971; 88-231, 92-952; 96-81, 104-687.

**4. Limitation of actions**—Two year limitation runs from time of fire (84-116, 86-888).

**5. Requisite exertions to save property**—84-419, 87-932.

**6. Other insurance**—Prohibition against (86-371, 90-766; 86-486, 91-5; 92-390, 100-88; 96-81, 104-687; 29-347, 13-164; 54-162, 167, 55-909). Where a person suffering a partial loss was insured by several companies it was held that he might join them all in a single action to determine their liability (94-486, 103-495).

**7. Mortgage clause**—Rights of mortgagee—86-486, 91-5; 81-478, 84-334; 68-170, 70-979; 100-374, 111-260.

The union mortgage clause in an insurance policy constitutes an independent contract between the insurer and the mortgagee; and that contract is not avoided, though at the time of the issuance of the policy there was other insurance upon the property, and though it was a condition of the policy that in such event the policy should be void. 167-146, 208-816.

#### 7½. Fraud.

The standard fire insurance policy provides that it shall be void, if the insured shall make any attempt to defraud the company. It is held, that the attempt must consist of willful and known wrongful, fraudulent, or deceitful acts to defraud; but the result of the attempt is immaterial. 167-479, 209-490.

#### 7¾. Arson.

Evidence held to make a case for the jury, as to whether plaintiff attempted to burn his own property. 164-490, 205-442.

**8. Vacancy**—Provision as to vacancy unaffected by section 1642, R. L. '05, G. S. '13, s. 3322 (77-474, 80-630). Effect (53-549, 55-740).

**9. What constitutes total loss**—85-48, 88-265; 85-65, 88-272; 85-118, 88-438.

#### 9½. Presumptions.

Every presumption of validity attends the award of appraisers of a fire insurance loss under the Minnesota standard policy, and one attacking it for fraud must state his grounds by way of direct and specific allegations and not by way of conclusions. 156-281, 194-755.

#### 9¾. Evidence.

A booklet, "National Used Car Market Report," admissible on issue as to value of used car. 167-362, 209-27.

**10. Arbitration**—Not a condition precedent to action on policy when no disagreement as to amount of loss (79-337, 82-647; 94-141, 102-380). When a building is destroyed by fire, if the total insurance thereon, exclusive of foundation, is less than its insurable value as designated by the insurer in its policy the insured is not required to submit to arbitration (82-426, 85-212. See 85-48, 63, 88-265). In an action on a policy it is unnecessary when there is no disagreement as to the amount of loss, to allege in the complaint that an arbitration was or was not held or was waived by the insurer (94-141, 102-380; 94-486, 103-495). Insured is entitled to appear before referees and submit evidence of his loss (92-306, 99-886). Referees not bound by the same strict rules as courts in their investigations. Presumption that referees did their duty. Must be impartial and disinterested (92-210, 214, 97-875, 98-100). Board of reference a quasi court subject to rules governing common law arbitration. Should sit in a body and receive evidence offered by the parties with right of cross-examination, but are not limited to such evidence. May examine locus in quo and within reasonable limits pursue their investigations independently (84-526, 530, 88-16. See 50-341, 52-932). Notice of refusal to accept award. Procedure (84-526, 88-16). Requisites of pleading to charge fraud

and misconduct in referees. Compensation of referees (83-21, 85-824). Waiver of right to arbitration by insurer (68-335, 71-388; 77-291, 79-1005; 96-154, 104-900). See 86-138, 68-855) (96-477, 105-675). A refusal by the insured to submit to arbitration held a waiver of his right to an appraisal but not to extinguish his right to recover on the policy (77-231, 78-1005). Effect of refusal of referee to serve (96-154, 104-900). Actions to set aside award (92-306, 99-886; 91-210, 97-875; 98-100, 84-526, 88-16; 66-138, 68-855). The right to demand arbitration is waived by a denial of liability (96-477, 105-675).

To attack an award of arbitrators, made under a standard fire insurance policy provision, it is necessary to allege specific facts and not general conclusions that the arbitrators acted erroneously and incorrectly. 167-479, 209-490.

#### 10½. Appraisal.

Provisions of the Minnesota standard fire insurance policy construed and held to give insured as well as insurer the right to appraisal. 212-449.

#### 10¾. Cancellation of policy.

The insured wrote a letter to the insurer, inclosing the policy, and asking that it be canceled as of the date of the letter. Before the letter was delivered, a fire damaged the property insured. Under these circumstances the trial court correctly held that the policy was still in effect at the time of the fire. 212-451.

**11. Lightning clause**—100-528, 111-400.

**12. Proximate cause of loss**—100-528, 111-400.

**3513. Automobile fire insurance policies**—Insurance on automobiles, motorcycles and other motor vehicles, against loss or damage by fire, when combined in one policy with insurance against one or more of the other hazards mentioned in subdivision 12 of section 1 of chapter 138, Laws 1915 (§ 3305) need not be in accordance with section 3512. ('21 c. 342 § 1)

**3514. Cancellation of fire policy**—Any fire insurance company which has not collected the premium on its policy at the time of the delivery thereof may print or indorse or attach by rider on its policy the following clause:

"If the insured hereunder shall not have actually paid the premium hereon, or any part thereof, within sixty (60) days from the date of this policy, then this policy may be cancelled by the insurer by giving five days' written notice to the insured and to the mortgagee or other person to whom the policy is made payable, if any, without tendering any part or portion of such premium, anything to the contrary in the policy contract notwithstanding." ('23 c. 390 § 1)

The evidence sustains the finding of the jury that a stock of wall paper owned by plaintiff was substantially damaged by smoke. 155-475, 194-14.

**3515. Violation of preceding section**—Every company and every agent who shall willfully make, issue or deliver a policy in violation of section 3512 shall be guilty of a gross misdemeanor; but every stipulation of such policy in favor of the insured shall nevertheless be binding upon the company issuing the same. (1641) [3319]

**3516. Whole amount collectible**—Co-insurance, etc.—Every company insuring any building or other structure against loss or damage by fire, lightning or other hazard, by the issue of a policy or renewal of one therefore issued, or otherwise, shall cause such structure to be previously examined, a full description thereof to be made, and its insurable value to be fixed, all by the insurer or his agent, and the amount thereof to be stated in the policy. In the absence of any change increasing the risk, without the consent of the insurer, of which the burden of proof shall be upon it, and in the absence of intentional fraud on the part of the insured, the whole amount mentioned in the policy or renewal upon which the insurer receives a premium, shall be paid in case of total loss, and in case

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of partial loss, the full amount thereof. If there are two or more policies upon the property, each shall contribute to the payment of the whole or partial loss in proportion to the amount specified. Any policy where the entire risk covered by the same amounts to five thousand dollars (\$5,000.00) or more may contain a co-insurance clause, if the insured requests the same in writing, of which fact such writing shall be the only evidence, and if in consideration thereof, a reduction in the rate of premium is made by the company. When so demanded and attached to the policy, said agreement shall be binding upon both the insured and the company, and, in case of loss, the actual cash value of the property so insured at the time of the loss, including the buildings, shall be the basis for determining the proper amount of such co-insurance, and the amount of loss, notwithstanding any previous valuation of such building. Every person who solicits insurance and procures an application therefor shall be held to be the agent of the party afterwards issuing insurance thereon or a renewal thereof. (R. L. '05 § 1642, amended '07 c. 446; '13 c. 79 § 1) [3322]

(131-26, 154+517, 136-36, 161+217.)  
Nature of duty to examine premises defined. Insurer not charged with notice of vacancy by failure to examine. "Occupied as a dwelling" in a policy are words of warranty (92-337, 100+8). Provision in standard policy as to vacancy not affected by second sentence of this section (77-474, 88+630). Effect of valuation fixed under this section on right of arbitration (82-426, 85+212). Cited as to who is an "agent" (94-86, 102+213); "broker" (104-76, 116+221). A condition as to use and occupation of building held not available against certain mortgages (100-374, 111+260). Notice of other insurance (96-477, 105+675). Basis of recovery (119-417, 138+777). 160-209, 199+968, note under § 3517.

Applies to and is, under the "union mortgage clause," a part of the contract between a mortgagee and an insuring insurance company. 158-363, 197+749

Mortgagee's contract of insurance cannot be destroyed by the mortgagor. 158-363, 197+749.

In such case the original insurer cannot be required to contribute toward the payment of a loss in excess of the insurable value as fixed in its policy. 158-363, 197+749.

**3517. Insurance in excess of value**—No company shall knowingly issue any policy upon property in this state for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor a longer term than five years. Any company wilfully insuring property for more than its real value shall forfeit to the state, for the benefit of the school fund, double the premium collected on such policy. (1643) [3323]

158-363, 197+749, note under § 3516.

Insurance as evidence of value. 160-209, 199+968.

**3518. Payment to mortgagee**—Whenever the whole, or any part of the loss, is payable, in terms or otherwise, to or for one or more mortgagees, upon proof before payment of the rights of the parties, the company shall pay the same in the order of priority to the extent of its liability, and every such payment to such extent shall be payment and satisfaction of its liability under the policy. (1644) [3324]

Where a policy makes the loss, if any, payable to the mortgagee the mortgagee is not bound by an adjustment between the insurance company and the mortgagor. 156-1, 194+6.

**3519. Adjustment—Reference**—Any person who shall not, within five days after written request, appoint a qualified referee as provided in the policy, shall be deemed to have waived the right to reference, and, if it be the insurer, shall be liable to suit. If any two such referees fail for ten days to agree upon a third, either party may within the next ten days make written application to a judge of the district court of the county wherein the fire occurred, setting forth the

facts; whereupon said judge shall make the appointment. No person shall be a qualified referee who is not a resident of the state, disinterested and willing to act. (1645) [3325]

(109-388, 124+5; 96-154, 104+900; 125-517, 147+651.) (19 Cyc. 906; Minn. Dig. 4732.)

156-1, 194+6; 212+449, notes under § 3512.

Action to recover upon a fire insurance policy. Held, that the evidence justified the verdict that the policy had not been canceled by mutual consent. 160-6, 199+886.

**3520. Liability of company**—Notwithstanding any penalty prescribed for the making, issuing or delivery of any policy in violation of any provision of law, every such policy shall be binding upon the company issuing the same. (1646) [3326]

**3521. Salvage corps and fire patrols**—Every authorized board of fire underwriters in any municipality containing fifty thousand or more inhabitants may provide a salvage corps, a fire patrol with competent superintendent for the purpose of discovering and preventing fires, suitable rooms for their accommodations and necessary apparatus to save and preserve property and life at and after a fire. Such superintendent and patrol subject to the control of the fire chief of the fire department of the municipality may enter any building on fire or in danger of taking fire and endeavor to protect, save or remove the contents, or any part thereof, during or after the fire; provided, however, that the employes of said fire patrol salvage corps shall be divided into two platoons or shifts to be known as the day and night shift. The working hours to be as follows: The time of the night shift shall be fourteen hours, and that of the day shift shall be ten hours each day, except days for changing from the day shift to the night shift as hereinafter provided: the shift which shall be assigned to day duty shall for the first day thereof remain on duty for the full twenty-four hours of said day. A change of shift from day duty to night duty shall be made every week on Sunday.

Each employe shall be entitled to a vacation of not less than fifteen (15) days each year with pay. No employes shall be subject to call or perform any duties in said department out of his regular hours as defined in this section; provided further, that their superintendent may establish such rules as may be necessary to insure attendance of employes in case of a great conflagration, and in such case said superintendent may require each and every employe in the protection of life or property notwithstanding said employe has been relieved from duty under the provisions of this act. (R. L. '05 § 1656; G. S. '13 § 3359, amended '19 c. 515 § 1)

**3522. Guaranty surplus and special reserve fund**—Any insurance company organized under the laws of this state, authorized to transact a fire insurance business, may create the funds herein provided for, to be known and designated as the guaranty surplus fund and the special reserve fund, and may avail itself of the provisions of this section and the following sections of this chapter, upon complying with the requirements thereof. ('09 c. 437 § 1) [3332]

**3523. Action of stockholders to be filed with insurance commissioner**—Any such insurance company, desiring to create such funds may do so if such action is authorized by its stockholders, upon the adoption of a resolution to that effect by its board of directors at a regular meeting of such board, or at any special meeting called for that purpose, and filing with the insurance commissioner of the state a copy thereof, declaring the intention of such company to create such

funds and to do business under the provisions of this chapter; and, as soon after the filing of such copy of the resolution as convenient, the insurance commissioner shall make, or cause to be made, an examination of such company, and he shall make a certificate of the result thereof, which shall particularly set forth *the amount of surplus funds held by such company at the date of such examination, the whole or any part of which, under the provisions of this chapter, may be equally divided between and set apart to constitute guaranty surplus and special reserve funds, which certificate shall be recorded in the insurance department.* ('09 c. 437 § 2) [3333]

**3524. Dividends may be declared out of surplus profits**—After the date of filing any such resolution with the insurance commissioner, such company shall not make or declare or pay in any form any dividend upon its capital stock, exceeding eight per cent per annum thereupon and six per cent per annum upon the surplus funds to be formed hereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock or to the sum of \$2,000,000.00; and any part of the surplus profits of such company above such annual dividend, may be equally divided between and set apart to constitute the said guaranty surplus fund and the said special reserve fund, which funds shall be held and used as hereinafter provided, and not otherwise. And any company doing business under this chapter, whose guaranty surplus fund and special reserve fund shall have together accumulated to an amount equal to its capital stock or to the sum of \$2,000,000.00, may, from time to time, declare dividends out of its surplus profits in such amounts as its board of directors may prescribe, subject only to the limitation that the payment of such dividends shall not deplete its capital, nor reduce the aggregate amount of the guaranty surplus and special reserve funds to an amount less than the amount of its capital stock, or if its capital stock exceeds \$2,000,000.00, to an amount less than \$2,000,000.00; and subject to the further limitation that no dividends exceeding 10 per cent upon the capital stock shall be declared in any year if the payment thereof would reduce the aggregate amount of all surplus funds, including guaranty surplus and special reserve funds, below an amount equal to 30 per cent of its unearned premiums. And any company doing business under this chapter, which shall declare or pay any dividend contrary to the provisions herein contained, shall forfeit its charter and be liable to be proceeded against by the attorney general for its dissolution. ('09 c. 437, § 3, amended '11 c. 263 § 1; '23 c. 130 § 1) [3334]

**3525. Commissioner to make examination**—Whenever such company shall notify the insurance commissioner that it has fulfilled the requirements already expressed in this act, and that its guaranty surplus fund and its special reserve fund, taken together, equals its capital stock or amount to the sum of \$2,000,000.00, the commissioner shall make an examination of such company and make a certificate of the result thereof, and file the same in his office, and if the commissioner shall find that said combined funds shall equal the capital stock of such company or amount to the sum of \$2,000,000.00, thereafter such company may continue, out of any subsequent profits of its business, to add to such funds; provided, that whenever any addition is made to the special reserve fund an equal sum shall be carried to the guaranty surplus fund. ('09 c. 437 § 4, amended '23 c. 130 § 2) [3335]

**3526. Items to be considered in estimating profit**—In estimating the profit of any such company for the purpose of making a division thereof between said guaranty surplus fund and such special reserve fund, until such funds shall together amount to a sum equal to the capital stock of such company or amount to the sum of \$2,000,000.00, there shall be deducted from the gross assets of the company, including for this purpose the amount of the special reserve fund, the sum of the following items:

First—The amount of all outstanding claims.

Second—An amount sufficient to meet the liability of such company for the unearned premiums upon its unexpired policies, which amount shall at least equal one-half the premiums received on policies having one year or less to run from the date of policy, and a pro rata proportion of the premiums received on the policies having more than one year to run from the date of policy, and shall be known as the re-insurance liability.

Third—The amount of its guaranty surplus fund and of its special reserve fund.

Fourth—The amount of the capital of the company; and

Fifth—Interest at the rate of eight per centum per annum upon the amount of the capital, and six per centum per annum upon the amount of the said funds for whatever time shall have elapsed subject to an equal division between the said funds as herein since the last preceding cash dividend. And the balance shall constitute the net surplus of the company, any portion of which is provided. ('09 c. 437 § 7, amended '23 c. 130 § 3) [3338]

**3527. Investment of guaranty surplus**—Said guaranty surplus shall be held and be invested by such company in the same manner as its capital stock and surplus accumulation may be held and be invested, and shall be liable and applicable in the same manner as the capital stock to the payment generally of the losses of such company. ('09 c. 437 § 5) [3336]

**3528. Investment of special reserve fund**—Said special reserve fund shall be invested according to existing laws relating to investments of capital by fire insurance companies, and shall be deposited from time to time as the same shall accumulate and be invested, with the insurance commissioner of the state, who shall permit the company depositing the same to change such deposits by substituting for those withdrawn others of equal amount and value, and to collect and receive the interest or dividends upon such securities as the same may accrue; and said fund shall not be regarded as any part of the assets in possession of said company, so as to be or render the same liable for any claim for loss by fire or otherwise, except as herein provided. ('09 c. 437 § 6) [3337]

**3529. When claims exceed guaranty surplus and capital stock**—Whenever the claims upon such company shall exceed the amount of its capital stock and of guaranty surplus fund provided for by this chapter, and of its surplus funds, other than the special reserve fund, the said company shall notify the insurance commissioner of the fact, who shall then make or cause to be made an examination of said company, and shall issue his certificate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of re-insurance liability and of other assets, and upon his issuing such certificate in duplicate, one copy to be given to the company and one to be recorded in the insurance department, the said special reserve fund shall be immediately held to protect all

policyholders of said company other than such as are claimants upon it at the date of said certificate, and said special reserve fund, together with other assets, certified by the insurance commissioner as equal in value to the amount of the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policyholders other than such claimants and for the further conduct of its business, and any official certificate of the insurance commissioner herein provided for shall be binding and conclusive upon all parties interested in such company, whether as stockholders, creditors or policyholders, and upon the payment to claimants who are such at the date of said certificate, of the full sum of the capital of such company and of its guaranty surplus fund and of its assets at said date, excepting only such special reserve fund and an amount of its assets equal to the liability of the commissioner, such company shall be forever discharged from any and all further liability to such claimants, and to each of them, and the said insurance commissioner shall, after issuing his said certificate, upon the demand of such company, transfer to it all such securities as shall have been deposited with him by such company as such special reserve fund, and if the amount of such special reserve fund be less than fifty per centum of the full amount of the capital of the company, if the capital be \$2,000,000.00 or less, or if the amount of such special reserve fund be less than \$1,000,000.00, if the capital be over \$2,000,000.00, a requisition shall be issued by the said insurance commissioner upon the stockholders, to make up such capital to that proportion of its full amount, not exceeding \$1,000,000.00; provided, that any capital so impaired shall be made up at least to the sum of one hundred thousand dollars, and in case said company, after such requisition, shall fail to make up its capital at least to said sum of one hundred thousand dollars, as therein directed, said special reserve fund shall still be held as security and liable for any and all losses occurring upon policies of such company. If, after such application or the special reserve fund and requisition on the stockholders, the par value of outstanding shares of stock shall exceed the new amount of capital so established, outstanding shares, to the amount of such excess, shall be surrendered by the stockholders pro rata. Such company shall, in its annual statement to the insurance commissioner of this state, set forth the amount of such special reserve fund and of its guaranty surplus fund. If, in consequence of the payment of losses by fires, or of the expenses of the business, or of the interest or dividends payable under the provisions of this act to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund, the directors of the corporation shall make no additions to the special reserve fund until the guaranty surplus fund is equal to the special reserve fund. The policy registers, insurance maps, books of record and other books in use by such company in its business, and its policy and other blanks, office furniture, fixtures and supplies are not to be considered as assets, but shall be held by the company for its use in the protection of its policyholders. Provided, however, that if any amount greater than a sum equal to one-half of its capital stock shall by such company, under the provisions of this chapter, have been deposited with such commissioner, he shall retain of such securities an amount equal to one-half of what amount he shall so hold

thereof in excess of a sum equal to such one-half of such capital stock if the capital be \$2,000,000.00 or less, or in excess of \$3,000,000.00 if the capital be over \$2,000,000.00, and he shall transfer the balance thereof to such company as herein provided, and the amount so transferred to such company shall from the time of such transfer, provided the amount thereof shall not be less than one hundred thousand dollars, constitute the capital stock of such company for the further conduct of its business as hereinbefore provided, and the securities so retained shall be regarded as the special reserve fund of such company, to which additions may be made as herein provided and shall be held in the same manner, and for the same purpose, and under the same conditions as the original special reserve fund of such company was held. The provisions of this section, providing for discharge of the company from further liability to existing claimants upon application to the payment of such claims of its capital, surplus and assets, excepting the special reserve fund, and an amount equal to the liability for unearned premiums, shall not be construed to relieve the stockholders of said corporation from any liability imposed by the constitution of this state. ('09 c. 437 § 8, amended '23 c. 130 § 4) [3339]

**3530. Directors to call upon stockholders to make up impairment**—If at any time after said special reserve fund shall have been accumulated by any company, the directors of such company shall present evidence satisfactory to the insurance commissioner that the capital of such company has become impaired, he shall order the directors to call upon the stockholders to make up such impairment, and the board of directors may thereupon require the necessary payment by the stockholders to make good the whole of such impairment, or they may apply for that purpose the whole or any part of the special reserve fund and require of the stockholders payment of such amount as may be necessary to make up the balance of such impairment not made up out of the special reserve fund. The stock of every stockholder shall be pledged and liable for the amount assessed upon him to make up such impairment, either in whole or in part, and in case any stockholder refuses to pay such assessment, the stock standing in his name may be sold at public auction, after thirty days' notice, in such manner as the directors may provide. If the board of directors elect to make good such impairment or any part thereof out of the special reserve fund, the insurance commissioner shall, upon request of said board, transfer to said company so much of said special reserve fund as is necessary for the purpose. No company doing business under this chapter shall insure any larger amount upon any single risk than is permitted by law to a company possessing the same amount of capital irrespective of the fund herein provided for. ('09 c. 437 § 9) [3340]

**3531. Statement to be printed on policy**—From and after the date when this act goes into effect, every policy not then in the hands of agents issued by a company which has constituted and set apart a guaranty surplus and special reserve fund, under this or any prior law of this state, shall have printed thereon by such company a statement that the same is issued under and in pursuance of the laws of the state of Minnesota relating to guaranty surplus and special reserve funds, and every such policy shall be deemed to have been issued and received subject to the provisions hereof. ('09 c. 437 § 10) [3341]

**3532. Railroad company liable for property injured**

or destroyed by fire from engines—Each railroad corporation owning or operating a railroad in this state shall be responsible in damages to every person and corporation whose property may be injured or destroyed by fire communicated directly or indirectly by the locomotive engines in use upon the railroad owned or operated by such railroad corporation, and each such railroad corporation shall have an insurable interest in the property upon the route of the railroad owned or operated by it and may procure insurance thereon in its own behalf for its protection against such damages. (R. L. § 2041, amended '09 c. 378 § 1) [4426]

1909, c. 378, sec. 2, repeals inconsistent acts, etc. The statute merely makes the fact of the fire being scattered or thrown from railroad cars and engines prima facie evidence of negligence. The existence of such negligence is still the issue to be presented by the complaint and tried by the jury. The statute simply relieves plaintiff of the initiative in proof of negligence. It does not relieve of any proof save that of negligence. The presumption of negligence does not arise and defendant need not introduce evidence to rebut it until plaintiff has made out a case for the jury on the issue of the cause of the fire. (29-12, 11+122; 32-526, 21+732; 35-361, 29+6; 63-66, 65+93; 65-112, 67+794; 117-434, 136+275. (C. C.) 22 Fed. 811.) Plaintiff's case must rest upon something more than mere speculation or conjecture (83-370, 86+451; cf. 117-434, 136+275). Evidence to rebut presumption must be as broad as the presumption and must satisfactorily rebut every negligent act or omission which might, under the circumstances of the case, reasonably or naturally have caused the fire (29-12, 11+122; 35-170, 28+215; 43-334, 45+608; 45-481, 48+22. See, also, 97-467, 107+548). Presumption is overcome by satisfactory proof that the engine was properly constructed and managed and in suitable repair (43-319, 45+611; 145 Fed. 577, 76 C. C. A. 591. See 40-60, 41+301; 63-233, 65+433). Whether presumption is overcome is ordinarily a question for the jury (29-12, 11+122; 32-526, 21+732; 35-170, 28+215; 97-467, 107+548). Presumption held not overcome (29-12, 11+122; 29-58, 11+146; 31-57, 16+488; 32-526, 21+732; 33-369, 23+536; 35-170, 28+215; 36-452, 32+176; 39-413, 40+270; 40-60, 41+301; 43-334, 45+608; 43-427, 45+719; 43-519, 45+1132; 45-17, 47+260; 45-481, 48+22; 46-269, 48+1117; 58-104, 59+978; 62-207, 64+392; 62-243, 64+562; 63-233, 65+443; 117-434, 136+275. See prior to statute (21-60). Presumption held overcome (43-319, 45+611). No presumption that right of way was in unsafe condition (36-522, 32+751).

Not unconstitutional, as arbitrary class legislation (186 Fed. 139, 29 C. C. A. 612).

Cited (119-181, 137+970).

#### HAIL INSURANCE.

**3532-1. Policies—Provision for adjustment of loss—**Every policy of insurance against damage by hail issued by any company, however organized, shall provide as follows: "In case of loss under this policy, and failure of the parties to agree as to the amount of such loss, it is mutually agreed that such amount shall be referred to three disinterested men, the company and the insured each choosing one out of three persons named by the other, the third being selected by such two. The written award of a majority of such referees shall be final and conclusive upon the parties as to amount of loss, and such reference, unless waived by the parties, shall be a condition precedent to any right of action to recover for such loss, and no suit for the recovery of any claim by virtue of this policy shall be sustained unless commenced within six months after the loss occurred," and shall also provide the form, manner and length of notice to be given to the company by the insured of any loss sustained. ('27, c. 419)

#### MUTUAL FIRE COMPANIES AND LLOYDS

**3533. Lloyds—Authority to do business—**Associations of individuals, citizens of the United States, whether organized within this state or elsewhere, within the United States, formed upon the plan known

as Lloyds, whereby each associate underwriter becomes liable for a proportionate part of the whole amount insured by a policy, may be authorized to transact insurance other than life in this state in such manner and on such terms as the insurance commissioner may direct, providing that if such organization shall be possessed of cash on hand and securities of the underwriters satisfactory to the insurance commissioner after deducting all liabilities except insurance reserve, to the amount of not less than \$250,000.00, and in addition thereto shall be possessed of guaranteed subscriptions or other securities of the underwriters satisfactory to the insurance commissioner to an amount of not less than \$250,000.00, making a total of \$500,000.00 so possessed, and if the net cash on hand shall be equal to the re-insurance reserve calculated on a basis of 50 per cent of the premiums in force on policies running one year or less from date of policy, and a pro rata amount on policies running more than one year from date of policy, except upon inland and marine risks, which shall be computed by charging 50 per cent of the premium written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other inland and marine risks not terminated, and such other reserves as may be required by law and the insurance commissioner, and if evidence shall be furnished to the insurance commissioner that the underwriters are men of good financial standing, responsible for their obligations, and that the organization does not issue policies of insurance on any one risk in greater sums than one-fifth of the aggregate of the cash paid in, the aforesaid securities and the subscriptions of the several underwriters or the amount to which they may become liable, unless the excess shall be provided for by re-insurance, the commissioner shall license them under similar requirements as are made and prescribed in this act for the admission of foreign mutual fire insurance companies so far as the same may reasonably apply. Said association of individuals known as Lloyds are herein expressly authorized to transact insurance known as sprinkler leakage insurance. ('95 c. 175 § 85, amended '05 c. 130; '13 c. 534 § 1) [3327]

**3534. Renewal of license—**No Lloyds not now licensed to do business in this state shall hereafter be licensed except upon complying with the provisions of this act, but Lloyds heretofore licensed and now doing business under the provisions of said section 85 of chapter 175 of Laws of 1895 as amended by chapter 130 of the Laws of 1905, may have their license renewed without increasing their cash and securities and subscription on hand to the amount herein required, provided they shall set aside the reserves required by this act. ('13 c. 534 § 2) [3328]

**Explanatory note—**For Laws 1895, c. 175, § 85, as amended by Laws 1905, c. 130, see § 3533, herein.

**3535. Mutual companies—When permitted—**No policy shall be issued by a mutual fire company, other than a town or farmers' company, until not less than seven hundred and fifty thousand dollars of insurance in not less than three hundred separate risks upon property in this state, has been subscribed for and entered upon its books, except in the following cases:

1. Those organized to insure creamery and cheese factory buildings, their contents and equipments, exclusively, which may issue policies when not less than fifty thousand dollars, in not less than twenty-five separate risks, upon such buildings and contents in this

state have been subscribed for and so entered. The name of every such company shall include the word "Mutual Creamery Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

2. Those organized to insure the stock in trade, tools and fixtures of retail hardware dealers, or the buildings containing the same, when owned by the owner of the stock, tools and fixtures, or both, which may issue policies when not less than five hundred thousand dollars of insurance, in not less than two hundred separate risks, upon such property in this state, has been subscribed for and entered upon its books. The name of every such company shall include the words "Mutual Retail Hardware Fire Insurance Company," and it shall issue no policy except as above specified.

3. Those organized to insure dwelling houses, their contents, barns, livestock and vehicles, which may issue policies when not less than two hundred and fifty thousand dollars of insurance, in not less than two hundred separate risks, upon such property located within the state, has been subscribed for and entered upon their books. The name of every such company shall include the words "Mutual Dwelling House Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

4. Those organized to insure printing material, machinery and stock in trade of newspaper publishers and printers, or the building containing same, or the dwelling house and contents when owned by the owner of the printing material, machinery and stock in trade, or both, which may issue policies when not less than two hundred thousand dollars of insurance, in not less than two hundred separate risks upon such property located within this state, has been subscribed for and entered upon their books. (1648) [3329]

3536. **Mutual fire companies—Policies, when authorized—**No policy shall be issued by a purely mutual fire insurance company hereafter organized until not less than seven hundred fifty thousand dollars (\$750,000) of insurance, in not less than three hundred (300) separate risks; upon property located in this state, has been subscribed for and entered upon the books and the premiums thereon for one year to be paid in cash, which premium shall aggregate not less than seven thousand five hundred dollars (\$7,500) in cash, except that where such mutual insurance company is organized to issue policies exclusively upon dwelling houses, their contents, barns, livestock, and vehicles, or exclusively upon the property of any one church or of any one religious denomination, and the church property or properties and equipment and furnishings thereof, or exclusively upon the stock in trade, tools, fixtures, building containing the same, of one specified line of business and the dwelling houses, barns and buildings appurtenant thereto and vehicles and livestock contained therein, and when the same are owned and occupied by the person so engaged in said business, trade or a vocation it may issue policies insuring such stock in trade, tools, fixtures, buildings containing the same, said dwelling houses and the contents thereof, barns livestock and vehicles, when there has been subscribed the amount of insurance hereinafter specified.

1. Those organized to insure creamery and cheese factory buildings, their contents and equipments, and the dwelling house and contents, and barn, livestock and vehicles of the owner of such creamery or factory, may issue policies when not less than fifty thousand dollars (\$50,000.00), in not less than twenty-five (25)

separate risks, upon such buildings and contents in this state, has been subscribed for and so entered and the premium thereon for one year paid in cash, which premium shall aggregate not less than one thousand dollars (\$1,000) in cash. The name of every such company shall include the words "Mutual Creamery Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

2. Those organized to insure the stock in trade, tools and fixtures of retail hardware dealers, the buildings containing the same, and the dwelling house and its contents, barns, livestock and vehicles owned by such dealers, may issue policies when not less than five hundred thousand dollars (\$500,000) of insurance, in not less than two hundred (200) separate risks upon such property in this state, has been subscribed for and entered upon its books and the premium thereon for one year paid in cash, which premiums shall aggregate not less than five thousand dollars (\$5,000) in cash. The name of every such company shall include the words "Mutual Retail Hardware Fire Insurance Company," and shall issue no policy except as above specified.

3. Those organized to insure dwelling houses, their contents, barns, livestock and vehicles, exclusively, may issue policies when not less than two hundred and fifty thousand dollars (\$250,000) of insurance, in not less than two hundred (200) separate risks upon such property located within this state, has been subscribed for and entered upon their books and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than two thousand five hundred dollars (\$2,500) in cash. The name of every such company shall include the words "Mutual Dwelling House Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

4. Those organized to insure printing material, machinery and stock in trade of newspaper publishers and printers, the buildings containing the same, and the dwelling house and its contents, barns, livestock and vehicles, when such buildings and contents are owned and occupied by the owner of such printing material, machinery and stock in trade, may issue when not less than two hundred thousand dollars (\$200,000) of insurance, in not less than two hundred (200) separate risks, when such property located in this state has been subscribed for and entered upon such companies' books and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than two thousand dollars (\$2,000) in cash. The name of every such company shall include the words, "Mutual Publishers' Fire Insurance Company," and shall issue no policy except upon the class of risks aforesaid.

5. Those organized to insure grain elevators, warehouses and cribs, machinery, grain, sacks and tools appurtenant to or contained in such elevators, warehouses and cribs and dwelling house and contents, barns, livestock and vehicles, when such buildings and contents are owned and occupied by the owner of such grain elevator, may issue such policies when not less than one hundred thousand dollars (\$100,000) of insurance, in not less than fifty (50) separate risks upon such property in this state, has been subscribed for and entered upon the books of such companies and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than one thousand dollars (\$1,000) in cash. The name of such company shall include the words "Mutual Grain Dealers' Fire Insurance Company," and shall issue no policy except upon the class of risks aforesaid.

6. Those organized to insure exclusively the property of any one church or any one religious denomination, and the church property or properties and equipment and furnishings thereof of any one church or of any one religious denomination, may issue policies when not less than one hundred thousand dollars (\$100,000), in not less than fifty (50) separate risks, upon said properties has been subscribed for and so entered, and the premium thereon for one year paid in cash, which premiums shall aggregate not less than one thousand dollars (\$1,000) in cash. The name of every such company shall include the words "Mutual Denominational Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid, provided that this section shall not be construed as a repeal of Section 3259, General Statutes of Minnesota 1913. (R. L. '05, § 1648; amended '05, c. 117, § 1; '25, c. 172) [3330]

**Explanatory note**—For G. S. '13, § 3259 see § 3553, herein.

**MISCELLANEOUS PROVISIONS REGARDING VARIOUS KINDS OF MUTUAL COMPANIES**

**3537. Membership—Meetings—Notice**—Every policyholder in a mutual fire, hail, tornado, cyclone and hurricane insurance company shall be a member thereof while his policy is in force, and entitled to one vote for each policy he holds, and shall be notified of the time and place of holding its meetings, either personally or by imprint upon the back of every policy, receipt and certificate of renewal, substantially as follows, viz.: "The beneficiary hereunder is hereby notified that he is a member of the ..... Insurance Company, and that its annual meetings are held at its home office in the ..... (town or city) of ..... on the ..... day of ..... in each year, at ..... o'clock, .....m." (1626) [3303] (90-9, 11, 95+579.)

**3538. Premiums—Contingent liability**—Every mutual fire company shall charge and collect on each policy a premium, in cash, or in notes absolutely payable, or it may accept a deposit of cash equal to one year's premium on the policy issued, and while such deposit remains intact collect all future premiums on such policy by assessments thereon, and shall also provide in its by-laws, and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. Such contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium, nor more than a sum equal to five times the amount of such annual premium, or, in case of a policy written for less than one year, the contingent liability shall not exceed the amount of premium written in the policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon each policy. Whenever any reduction shall be made in the contingent liability of members, such reduction shall apply proportionally to all policies in force. Provided, that mutual fire insurance companies maintaining a full fifty (50) per cent reinsurance reserve and having a fully paid-in and unimpaired guaranty fund of not less than \$100,000, may issue policies without a contingent liability; but the fact that there is no such contingent liability must be plainly and legibly stated in such policies. (R. L. § 1627, amended '07 c. 321) [3304] (87-393, 92+227; 90-9, 11, 95+579.)

**3539. Requirements when note given**—Except as

provided in § 3538, whenever a note or other written evidence of indebtedness is given for any premium due, or to become due upon any insurance of property, except marine, the same shall be full payment therefor and operate to continue the same in full force during the term thereof, except that when any such note or written evidence of indebtedness is not paid at maturity, the policy for which the same was premium in whole or in part may be cancelled upon notice and in same manner as though said premium was paid in cash and the surrender of said note or other written evidence of indebtedness shall constitute a return or payment of the unearned portion of premium, and in such event the parties liable on such note or evidence of indebtedness shall be liable for and shall pay the premium earned prior to such cancellation, and no more. Provided further, that in case of any cancellation of a policy any note or notes or written evidence of indebtedness, given for whole or part of the premium thereon, may be by insurer returned to the insured in lieu of cash to the extent of the unpaid amount thereof plus accrued interest. No note given for premiums or deposit for assessment, or both, or for any part of either, shall be negotiable, and every assignment thereof shall be subject to all existing defenses. Nor shall any such notes be valid for any purpose unless the words "not negotiable" are plainly and legibly written or printed across the face thereof. (R. L. '05 § 1628, amended '07 c. 321) [3305]

156-128, 194+1.

**3540. Policies of insurance without contingent liability**—Any mutual company authorized to transact business in this state which establishes and maintains, over and above its liabilities and the reserves required by law of like stock insurance companies, a guaranty fund available for the payment of losses and expenses at least equal to the capital stock required of a like stock insurance company, may issue policies of insurance without contingent liability. ('19 c. 393 § 1)

**3541. To insure against loss or damage to automobiles, etc.**—Any such company authorized to write workmen's compensation or liability insurance under chapter 122, Laws 1913, when its articles of incorporation so provide, shall also be permitted to insure against loss or damage to automobiles or other vehicles and their contents by collision, fire, burglary or theft, and other perils of operation, and against liability for damage to persons or property of others by collision with such vehicles, and to insure against any loss or hazard incident to the ownership, operation or use of motor or other vehicles as specified in subdivision 12 of section 1 of chapter 138, Laws 1915. ('19 c. 393 § 2) [3305]

**Explanatory note**—For Laws 1913, c. 122, see §§ 3566 to 3586, herein.

For Laws 1915, c. 138, § 1, see § 3315, herein.

**3542. Provisions as to policies lapsing**—Any mutual company insuring property may provide by its certificate or by-laws that upon failure by any member for sixty days after notification thereof to pay any premium or assessment made upon his policy such policy shall lapse and become void without notice or further act by or on behalf of the company. Such condition shall be plainly and legibly specified in each policy. Whereupon such company may recover the amount of earned premium or assessment, or both, but no more. Nothing herein contained shall prevent the reinstatement of such lapsed policy by voluntary acceptance of any delinquent assessment before suit. (1629) [3306]

3542  
251nw 14

Mutual fire insurance companies may waive by-law made pursuant to this section (112-418, 128+462).. (164+910, 138-234, 164+908.)

Under the terms of the policy, also the bylaws, which form part of the contract, the failure to pay the premium operated to suspend plaintiff's membership in the company, but not to cancel or annul the insurance rights thereby granted. 156-128, 194+1.

The latter rights could be canceled only by written notice as provided by the policy.—Id.

**3543. Assessments—When and how made—**Whenever the net assets of any mutual insurance company are insufficient for the payment of incurred losses and expenses above its reinsurance reserve, as provided by law, it shall make an assessment for the amount required ratably upon its members liable thereto. The order for assessment shall be duly entered upon its records, with a statement of its condition at the date thereof, including all cash assets, deposit notes, and contingent amount liable to such assessment, the amount of the assessment, and the particular losses or other liabilities for which it is made. Such record shall be signed by each director voting for the order before any part of the assessment is collected, and any person liable thereto may inspect and take a copy thereof.

Provided, that the commissioner of insurance may by written order relieve such company from an assessment or other proceedings to restore such assets during the time fixed in such order, when such deficiency does not exceed ten (10) per cent of its admitted assets. (R. L. § 1630, amended '07 c. 321 § 1; '15 c. 354) [3307]

126-246, 148+305; 15-354).

Whether a notice of assessment was mailed by the defendant insurance company to the plaintiff insured was for the jury. 167-509, 209+325.

**3544. Guaranty fund—**Whenever, by reason of depreciation, loss, or otherwise, the net assets after providing for other debts are less than the required premiums reserve upon policies the deficiency shall be restored by assessment as above provided, notice of which shall be filed with the commissioner. Whenever the board of directors, or the commissioner, shall be of the opinion that the insolvency of any company is probable, such board, or upon their failure so to do, the commissioner, may order two assessments made, the first to determine what each policyholder should equitably pay or receive in case of withdrawal from the company and cancellation of his policy; the second, such further sum as each should pay to reinsure the unexpired term at the same rate as the first insurance. The directors shall forthwith cause written notice and demand of payment to be served personally or by mail upon each policyholder subject thereto. After adjustment of the first assessment, every policy upon which the second assessment shall not be paid shall be cancelled; but in no case shall there be credited upon a policy more than if cancelled by the board of directors under the by-laws. If within two months after the last assessment is payable, the amount of the policies whose holders have paid the same is less than five hundred thousand dollars, all other policies shall be void, and the company shall continue only for the purpose of adjusting the deficiency or excess of premiums and settling outstanding claims. No assessment shall be valid against a policyholder who has not been duly notified thereof in writing within one year after the expiration or cancellation of his policy. A mutual fire insurance company may be formed with, or an existing fire insurance company may establish a guaranty fund divided into certificates of ten dollars

each, or multiples thereof, and such guaranty fund shall be invested in the same manner as is provided for the investment of capital stock of insurance companies. The certificate holders of such guaranty fund shall be entitled to an annual dividend of not more than ten (10) per cent on their respective certificates, if the net profits or unused premiums left after all losses, expenses or liabilities, then incurred, with reserves for reinsurance are provided for shall be sufficient to pay the same; and if the dividends in any one year are less than ten (10) per cent the difference may be made up in any subsequent year or years from the net profits.

The guaranty fund shall be applied to the payment of losses and expenses when necessary, and if the guaranty fund be impaired, the directors may make good the whole or any part of such impairment from future profits of the company, but no dividend shall be paid on guaranty fund certificates while the guaranty is impaired.

The holder of the guaranty fund certificates shall not be liable for any more than the amount of his certificate which has not been paid in and such amount shall be plainly and legally stated on the face of the certificate.

Each certificate holder of record shall be entitled to one vote in person or by proxy in any meeting of the members of the company for each ten dollars investment by him in guaranty fund certificates. The guaranty fund may be reduced or retired by vote of the policyholders of the company and the assent of the insurance commissioner, if the net assets of the company above its reinsurance reserve and all other claims and obligations, and the amount of its guaranty fund certificates and interest thereon for two years last preceding and including the date of its last annual statement, shall not be less than fifty (50) per cent of the premiums in force.

Due notice of such proposed action on the part of the company shall be mailed to each policyholder of the company not less than thirty days before the meeting when such action may be taken.

In mutual fire insurance companies with a guaranty fund, the certificate holders shall be entitled to choose and elect from among their own number or from among the policyholders at least one-half of the total number of directors.

If any mutual fire insurance company with a guaranty fund ceases to do business, it shall not divide among its certificate holders any part of its assets or guaranty fund, until all its debts and obligations have been paid or cancelled.

Foreign mutual fire insurance companies having a guaranty fund shall not be required to make their certificates of guaranty fund conform to the provisions of this section, but when such certificates do not conform therewith, the amount thereof shall be charged as a liability. (R. L. § 1631, amended '07 c. 321) [3308]

**3545. Non-assessable policies may be written—**Creation of guaranty fund—Kinds of business permitted—Any mutual insurance company which establishes and maintains over and above its liabilities and the reserves required by law of a like stock insurance company, a guaranty fund available for the payment of losses and expenses at least equal to the capital stock and surplus, if any, required of a like stock insurance company, may issue policies of insurance without contingent liability, and when the articles of incorporation of any mutual insurance company having such

guaranty fund so provide, such company may transact any and all of the kinds of business as set forth in subdivisions 1 to 14 inclusive, of chapter 138, Laws of 1915, as amended by chapters 29 and 276, Laws of 1917, and by chapter 413, Laws of 1919, subject to the restrictions and limitations imposed by law on a like stock insurance company, and any domestic mutual company having a guaranty fund equal to the amount of capital stock and surplus required of a like stock insurance company, may insure the same kinds of property and conduct and carry on its business, subject only to the restrictions and limitations applicable to like domestic stock insurance companies; provided, however, that section 3308, General Statutes 1913 shall not apply to such guaranty fund, save and except that the guaranty fund of such company shall be invested in the same manner as is provided by law for the investment of its other funds. Every such company shall in its annual statement, show as separate items, the amount of the guaranty fund and the remaining divisible surplus, and the aggregate of such items shall be shown as surplus to policy holders.

A guaranty fund may be created in whole or in part in either or both of the following ways.

(a) Where an existing mutual company has a surplus, the members of the company may at any regular or special meeting, set aside from and out of its surplus such sum, as shall be fixed by resolution, to be transferred to and thereafter constitute in whole or in part the guaranty fund of the company.

(b) By the issuance of "guaranty fund certificates" as specified in section 4 of this act, the same to be issued upon the conditions and subject to the rights and obligations specified in said section 4.

Any such company establishing a guaranty fund as hereinbefore provided may, subject to the restrictions and limitations imposed by law as to a like stock insurance company, amend its articles so as to provide for the doing by it of one or more of the kinds of insurance business specified in subdivisions 1 to 14 inclusive, of chapter 138, Laws of 1915, as amended by chapters 29 and 276 of Laws of 1917, and chapter 413, Laws of 1919.

The policy liability of any such mutual company issuing policies without a contingent liability shall, as to such policies, be computed upon the same basis as is applicable to like policies issued by stock insurance companies; provided, however, that where any such company shall issue five year term policies, wherein the premiums shall be payable in annual or biannual installments, and no premium note is taken by the company as payment of the full term premium, such company then shall be required to maintain a reserve fund on only the portion of premiums actually collected from time to time under such term policies, and no such company so creating a guaranty fund shall issue policies without a contingent liability after the guaranty fund shall be impaired or reduced below the capital and surplus required of a like stock insurance company doing the same kind or kinds of insurance. Any company having a guaranty fund may insure, without a contingent liability, any kind or class of property which a like stock company may insure. ('21 c. 200 § 1, amended '23 c. 159 § 1)

**Explanatory note.**—For Laws 1915, c. 138, as amended by Laws 1917, cc. 29, 276, and Laws 1919, c. 413, see § 3315, herein.

For G. S. 1913, § 3308, see § 3544, herein.

Section 4 is § 3548, herein.  
167-198, 208+659.

**3546. Kind of business permitted by companies not having a guaranty fund.**—When the articles of incor-

poration of any mutual insurance company, not having a guaranty fund of the amount required by section 1 of this act, so provide, it may transact any and all kinds of business as set forth in subdivisions 1 to 14 inclusive, of chapter 138, Laws of 1915, as amended by chapters 29 and 276, Laws of 1917, and chapter 413, Laws of 1919, subject to the conditions and restrictions as to the kinds of insurance which may be combined by a like stock insurance company, and subject to all restrictions contained in the laws of this state with reference to mutual insurance companies transacting the same kinds of business; provided that nothing in this section contained shall be construed as prohibiting a company issuing policies with a contingent liability from creating a guaranty fund as authorized by section 4 of this act. Any mutual company, however, organized, may amend its articles so as to provide for the doing of two or more of the kinds of business specified in said subdivisions 1 to 14 inclusive, of chapter 138, Laws of 1915, as amended by chapters 29 and 276, Laws of 1917, and chapter 413, Laws of 1919. ('21 c. 200 § 2, amended '23 c. 159 § 2)

**Explanatory note.**—For Laws 1915, c. 138, as amended by Laws 1917, cc. 29, 276, and Laws 1919, c. 413, see § 3315, herein.

Section 4 is § 3548, herein.

**3547. Prerequisites of mutual companies transacting business other than life, fire, accident, etc.**—No mutual insurance company shall transact the kinds of business specified in subdivisions 3, 6, 8, 9, 10, 12, 13 and 14 of chapter 138, Laws of 1915, as amended, except upon compliance with the following conditions.

(a) It shall have not less than three hundred separate risks subscribed for and entered upon its books and one year's premiums thereon paid in cash, and shall have admitted assets of not less than \$10,000, which admitted assets shall be not less than five times the maximum net single risk, as hereinafter defined.

(b) It shall not expose itself to any loss on any one risk or hazard, except as hereinafter provided, in an amount exceeding 10 per cent of its net assets, actual and contingent; such contingent assets being the aggregate amount of the contingent liability of its members for the payment of losses and expenses not provided for by its cash funds. No portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this section. For the purpose of transacting employers' liability and workmen's compensation insurance, each employe shall be considered a separate risk for determining the maximum single risk.

(c) It shall maintain unearned premiums and other reserves, separately for each kind of business upon the same basis as that required of domestic stock insurance companies transacting the same kind of business.

(d) Except as herein expressly provided, it shall comply with all the provisions of the laws of this state relating to the organization and internal management of mutual fire insurance companies, insofar as the same may be applicable and not inconsistent herewith.

(e) All policies issued by such companies shall provide for a premium or premium deposit payable in cash, and except as herein provided, for a contingent liability of the members at least equal to the premium or premium deposit as adjusted by audit if any. If at any time the admitted assets are less than the reserves and other liabilities, the company shall immediately collect upon policies with a contingent liability a

3547  
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sufficient proportionate part thereof to restore such assets, and the commissioner may, when such deficiency does not exceed 10 per cent of its admitted assets, by written order direct that proceedings to restore such assets be deferred during the period of time fixed in such order. The contingent liabilities, if any, of the policy holder shall be plainly and legibly stated in every policy in terms of either dollars or premiums. ('21 c. 200 § 3)

**Explanatory note**—For Laws 1915, c. 138, see § 3315, herein.

The fundamental essential of mutual insurance, that the insured and insurer are identical, will not permit a mutual company to write surety bonds for public officials. The facts involved in writing such bonds are inherently incompatible with mutual insurance. 167-198, 208+659.

**3548. Directors or officers may advance money—**  
**Votes by person or proxy—Liquidation of assets in wind-up**—Any director, officer, or member of any mutual insurance company, or any other person, may advance to such company, any sum or sums of money necessary for the purposes of its business, or to enable it to comply with any of the requirements of the law, including the creation in whole or in part of a guaranty fund to enable it to do one or more of the kinds of business specified in section 1 of this act, and also for the creation by a company issuing policies with a contingent liability of a guaranty fund, in such amount as the board of directors shall determine, for the protection of policy holders of such company, and such moneys, together with such interest thereon as may have been agreed upon not exceeding 10 per cent per annum shall be repaid only out of the surplus remaining after providing for all reserves, if any, and other liability and which shall not otherwise be a liability or claim against the company or any of its assets. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company, and the amount of such advance remaining unpaid shall be reported in each annual statement.

The company shall issue to each person so advancing money for the creation of a guaranty fund a certificate or certificates specifying the amount so advanced. Such certificates may be assigned by the holder thereof and a transfer thereof recorded upon the books of the company. The holders of such guaranty fund certificates shall be entitled to annual interest thereon at the rate agreed upon, if the net profits of the company, after all losses, expenses, liabilities and legal reserves, if any, have been paid or provided for, are sufficient to pay the same. If the net profits of the company in any year are insufficient to pay the full amount of interest agreed upon, the difference may be paid in any subsequent year or years from the net profits of such subsequent years.

Such guaranty fund shall be applied to the payment of losses and expenses when necessary and if the guaranty fund be impaired the directors may make good the whole or any part of such impairment from future net profits of the company, or by the issue and sale of additional guaranty fund certificates, but no interest shall be paid on the guaranty fund certificates while the guaranty fund is impaired. No certificate shall be issued except for money actually paid to the company, which amount shall be plainly and legibly stated therein. The company shall issue certificates only in sums of \$10.00 or multiples thereof; it shall keep a record of the name and address of the person to whom issued and of all assignments thereof. Upon the surrender of a certificate, duly assigned in writing, the company

shall cancel the same and issue a new certificate to the assignee.

Each certificate holder of record shall be entitled to one vote in person or by proxy at any meeting of the members of the company for each \$10.00 investment by him in the guaranty fund certificates.

Such guaranty fund may be reduced or retired by vote of the board of directors of the company, if the net assets of the company, above its legal reserves, if any, and all other claims and obligations are sufficient therefor. The certificate holders shall be entitled to choose and elect from among their own members or from among the policy holders at least one-half of the total number of directors.

In case the members of any company, by resolution adopted at any regular meeting, or special meeting called for that purpose, shall determine to wind up and liquidate the business of any such company, the assets thereof shall be applied, first, to the payment of the expense of such liquidation; second, to the payment of any accrued liability, including losses, if any; third, to the payment of any unearned premiums on policies in force at the time of such liquidation; fourth, to the payment of guaranty fund certificates, if any, together with accrued interest thereon, if any; fifth, the residue shall be distributed to the policy holders who were such at the time of the adoption of such resolution, in the proportion which the face amount of the insurance carried by each policy holder bears to the total amount of insurance in force. ('21 c. 200 § 4, amended '23 c. 159 § 3)

Section 1 is § 3545, herein.

**3549. Dividends, determination of**—The board of directors of any mutual insurance company may from time to time fix and determine the amounts to be paid during the year as dividends or a refund of savings and gains to policyholders, provided that no such dividend or refund shall discriminate between members of the same class and that no dividend or refund shall be declared or distributed except out of the net divisible surplus of the company, and no such company shall pay or credit a policyholder any sum in anticipation of a future dividend or refund. ('21 c. 200 § 5)

167-198, 208+659.

**3550. Revocation of license**—In case of the failure of any insurance company to comply with any of the provisions of this act, its right to transact insurance business in this state shall cease, and it shall be the duty of the commissioner of insurance to immediately declare its license revoked; and in case of such revocation such company shall not be again licensed to transact business in this state for a period of one year from the date of such revocation. ('21 c. 200 § 6)

**3551. Kinds of business authorized**—Nothing herein shall be deemed to authorize or permit mutual insurance companies to engage in any kind of insurance not included in said subdivision 1 to 14 of chapter 138, Laws of 1915, inclusive, as amended, nor shall this act be deemed to apply to life insurance or life insurance companies, nor to town mutual insurance companies, township mutual insurance companies, township mutual livestock insurance companies, or farmers and township mutual reinsurance or guaranty associations. ('21 c. 200 § 7, amended '23 c. 159 § 4)

**3552. Foreign mutuals**—The admission of a foreign mutual insurance company to do business under this act shall be governed by the provisions of section 3591, General Statutes 1913, insofar as the same are applicable. ('21 c. 200 § 8)

**3553. Fire, hail and tornado associations maintain-**

ed by members of one religious denomination, exempt from insurance laws—That the members of any one church or of any one religious denomination, may maintain for the exclusive benefit of the members thereof an unincorporated association for the mutual insurance of the property of said members against loss or damage by fire, lightning, hail or tornado, or all of them. Such association shall furnish no insurance except upon the property of an actual member of such church or denomination. It may conduct said business upon the plan and method adopted by it and shall not be required to be licensed by or report to the insurance commissioner. ('07 c. 165 § 1) [3259]

This section is not repealed by Laws 1925, c. 172. See § 3422, herein.

#### MUTUAL AUTOMOBILE INSURANCE COMPANIES

3554. Mutual automobile insurance companies may be formed—Any number of persons not less than five may associate themselves together and form an incorporated company to insure against loss or damage to automobiles or other vehicles and their contents, by collision, fire, burglary or theft, and by windstorm or tornado, and against liability for damage to property of others by collision with such vehicles. ('19 c. 492 § 1, amended '21 c. 288 § 1)

3555. When policies may be issued—(a) No policies shall be issued by any company or association now or hereafter organized under the provisions of this act until not less than \$200,000 of insurance upon not less than 200 separate automobiles located in this state has been subscribed for and entered upon the books of the company or association and the premiums thereon for one year have been paid in cash, which premiums shall aggregate not less than \$2,500.00.

(b) Every such company shall provide in its by-laws and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. Such contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium nor more than a sum equal to five times the amount of such annual premium, but in case of a policy written for less than one year the contingent liability shall not exceed the amount of the premium written in the policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon each policy as follows:

"The maximum contingent liability of a policyholder under this policy is \$....." ('19 c. 492 § 2, amended '21 c. 288 § 2)

3556. Liability—The maximum net single risk, after deducting reinsurance, for which a company organized under this act shall be solely liable, shall not be more than:

(a) \$1,000.00 while the membership is less than five hundred.

(b) \$2,000.00 while the membership is more than five hundred and not more than one thousand.

(c) \$3,000.00 so long as the membership is one thousand or more.

No such company shall insure any person against damage to his own car on account of collision while the membership in such corporation is less than one thousand. ('19 c. 492 § 3, amended '21 c. 288 § 3)

3557. Limit of expense—No such company shall expend in any calendar year for the expense of conducting its business more than its membership fees and 40 per cent of its total premiums and assessments actually collected. The membership fee collected by

such company shall not exceed five dollars upon each policy written. ('19 c. 492 § 4, amended '21 c. 288 § 4)

3558. Reinsurance reserve—The reinsurance or unearned premium reserve of every such company shall be determined in the same manner as that of a domestic mutual fire insurance company, as provided in section 3268, General Statutes 1913. ('21 c. 288 § 4 A)

3559. Additional coverage—Any such company, which shall set aside and maintain over and above its liabilities and the reserves required by law of like stock insurance companies a guaranty fund available for the payment of losses and expenses of at least one hundred thousand dollars, shall, when its certificate of incorporation so provides, be permitted to insure against damage to persons of others by collision with automobiles or other vehicles and against any loss or hazard incident to the ownership, operation or the use of motor or other vehicles. Where a membership fee is charged the amount thereof shall be specified in the consideration clause of the policy. ('21 c. 288 § 4 B)

3560. Guaranty reserve fund—Any such company may, if a majority of its members so elect at any annual meeting or special meeting called for that purpose, amend its articles of incorporation so as to provide for a guaranty reserve fund in an amount not exceeding one hundred thousand dollars, said guaranty reserve fund to be used only in the payment of losses and expenses in the event the total liabilities of the company, including its statutory reserves and such guaranty reserve fund are in excess of its total admitted assets and that the total contingent liability of the policyholders has been exhausted. The guaranty reserve fund may be created from the profits or surplus of the company, also by the levying of assessments, but no policy holder shall be liable for an assessment for any purpose whatsoever for an amount greater than as specified in his policy contract. ('19 c. 492 § 5, amended '21 c. 288 § 5)

#### MUTUAL THRESHERMEN'S INSURANCE COMPANY.

3561. Formation—Not less than twenty (20) persons may form an incorporated company for the purpose of co-operative insurance of property of its members against loss or damage by fire, lightning, windstorm and tornado, which property to be insured shall embrace traction, portable, steam and gas engines, grain separators, clover hullers, corn shredders, hay balers, ensilage cutters and attachments belonging thereto, and including agricultural machinery used in connection therewith, which property to be insured shall be specifically set forth in the policy of the insured. Such company may insure its members against employers' liability and workmen's compensation upon complying with the requirements of section 4, chapter 122, Laws 1913, which class of business shall constitute a separate department of such company for the purpose of assessment and contingent liability of members. ('21 c. 208 § 1)

3562. Articles to be approved and filed—The articles of incorporation for forming such a company shall be signed and acknowledged by the persons who at first form such company and shall be filed with and approved by the commissioner of insurance and filed with the secretary of state, which articles shall state in substance such facts as are required to be stated in articles of incorporation by the general corporation laws of this state. ('21 c. 208 § 2)

3563. Voting—Each policyholder shall be a member of the company and shall be entitled to one vote at all regular or special meetings of the corporation. ('21 c. 208 § 3)

3564. Number of policies to be subscribed for before commencing business—(a) No policies shall be issued by any company organized under the provisions of this act until not less than two hundred thousand dollars (\$200,000.00) of insurance, upon not less than one hundred (100) separate risks, averaging not less than two thousand dollars (\$2,000.00) each, has been subscribed for and entered upon the books of the company, and the premiums thereon for one year have been paid in cash, which premiums shall aggregate not less than five thousand dollars (\$5,000.00), and no policies insuring against employers' liability and workmen's compensation shall be issued until the subscribers for such class of policy aggregate at least 250 and the number of employes covered thereby aggregate 1,000, and in case the number of subscribers and employes fall below such respective numbers, no more of such policies shall be issued until additional subscribers have been procured to bring such members up to the respectively stated requirements.

(b) Every such company shall provide in its by-laws and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. Such contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium nor more than a sum equal to five times the amount of such annual premium, but in case of a policy written for less than one year the contingent liability shall not exceed the amount of premium written in the policy. The total amount of liability of the policyholder shall be plainly and legibly stated on each policy as follows: "The maximum contingent liability of a policyholder under this policy is \$....."

(c) Every policy issued by a company organized under this act shall contain the following clause imprinted upon the back thereof: "The insured hereunder is hereby notified that he is a member of the ..... insurance company, and that its annual meetings are held at its home office in the (town or city) of..... on the..... day of..... of each year at..... o'clock...M."

(d) All policies issued by such company against loss or damage by fire or lightning shall be issued upon the standard form prescribed by law. ('21 c. 208 § 4)

3565. Expense limitation—No such company shall incur, lay out, or expend in any one year for the expense of conducting the business more than forty per cent (40%) of its total premiums and assessments actually collected, and a membership fee of not more than \$5.00 upon each policy written. Where a membership fee is charged the amount thereof shall be specified in the consideration clause of the policy. ('21 c. 208 § 5)

#### MUTUAL EMPLOYERS' LIABILITY ASSOCIATIONS.

3566. Mutual employers' liability association may be formed—Twenty or more persons may form an incorporated mutual employers' liability insurance association for the purpose of insuring themselves and such other persons, firms or corporations as may become subscribers to the association against liability for compensation payable under the terms of the workmen's compensation law and for the purpose of insur-

ing against loss or damage by the sickness, bodily injury or death by accident of any person employed by or for whose injury or death the insured is responsible. ('13 c. 122 § 1) [3439]

3567. Form of certificate—They shall subscribe and acknowledge a certificate specifying:

1. The name, general nature of its business, and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, authorized to do business in this state, and shall end with "company," "corporation," "association," or the word "incorporated."

2. The period of its duration.

3. The names and places of residence of the incorporators.

4. In what board its management shall be vested, and the names and addresses of those composing the board until the first election, a majority of whom shall always be residents of the state.

5. The highest amount of indebtedness or liability to which the corporation shall at any time be subject.

6. The territory within which the association may do business.

It may also contain any other lawful provisions defining and regulating the powers or business of the corporation, its officers, directors, trustees and members. ('13 c. 122 § 2) [3440]

3568. To be approved by insurance commissioner and filed with secretary of state—The certificate of every such corporation shall be submitted to the commissioner of insurance for his approval and, if he approves the same, one copy thereof shall be filed with the secretary of state of this state and one copy with said commissioner of insurance. After such record such certificate shall be filed for record with the register of deeds of the county of the principal place of business as specified in said certificate. ('13 c. 122 § 3) [3441]

3569. Number of policies to be subscribed for before commencing business—Such associations shall not begin to issue policies until a list of the subscribers, with the number of employes of each which, in the aggregate must number in the aggregate, not less than five thousand, together with such other information as the commissioner of insurance may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement of all the subscribers that they will take the policies subscribed for within thirty (30) days of the granting of a license by the commissioner of insurance; provided that in case of associations organized exclusively for the purpose of insuring creameries, cheese factories and livestock shipping associations such associations may begin to issue policies when the number of employes insured aggregates three hundred. ('13 c. 122 § 4, amended '15 c. 65 § 1; '19 c. 317 § 1) [3442]

3570. Investigation—Upon the filing of the certificate provided for in the preceding section, the commissioner of insurance shall make such investigations as he may deem proper, and if his findings warrant it, grant a license to the association to issue policies. ('13 c. 122 § 5) [3443]

3571. Compensation companies may write glass insurance—Any company authorized to write workmen's compensation or liability insurance under chapter 122, Laws 1913, when its articles of incorporation so provide, shall also be permitted to insure against loss or

damage by breakage of glass located or in transit. ('21 c. 114)

**3572. Duration 30 years**—Corporations may be formed under this section for not to exceed thirty years in the first instance. ('13 c. 122 § 6) [3444]

**3573. To frame by-laws**—Such association shall have the power to make by-laws for the government of its officers and the conduct of its affairs, and the same to alter and amend; and adopt a common seal. ('13 c. 122 § 7) [3445]

**3574. Calling of annual meeting—Business to be transacted**—The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the association may direct. Of the time and place of said meeting at least thirty (30) days' previous written or printed notice shall be given to the subscribers, or such notice may be given by publication not less than three times in at least two daily or weekly newspapers, published in the city or county wherein the association has its principal office and in the legal periodical, if any, designated by the rules of court of the proper county for the publication of legal notices. Subscribers who, during the preceding calendar year, have paid into the treasury of the association, premiums amounting to more than one-half of the total premiums received by it during that year, shall constitute a quorum. At such annual meeting the subscribers shall elect, by ballot, from their own number, not less than five directors, a majority of whom shall be residents of this state to serve for at least one year and until their successors are duly chosen; provided, however, that such association may provide in its by-laws for the division of its board of directors into two, three or four classes and for the election thereof, at its annual meetings, in such manner that the members of one class only shall retire and their successors be chosen each year. Vacancies may be filled by election by the board until the next annual meeting. In the choice of directors and in all meetings of the association, each subscriber shall be entitled to one vote for every one hundred dollars or any fraction thereof paid by him in premiums into the treasury of the association during the preceding calendar year. Subscribers may vote by proxy, and the record of all votes shall be made by the secretary, and shall show whether the same were cast in person or by proxy and shall be evidence of all such elections. Not less than three directors shall constitute a quorum. The directors shall annually choose, by ballot, a president, who shall be a member of the board; a secretary; a treasurer, who may also be either the president or secretary; and such other officers as the by-laws may provide; and they shall fix the salaries of the president and secretary, as well as the salaries or compensation of such other officers and agents as the by-laws prescribe. Vacancies in any office may be filled by the directors or by the subscribers, as the by-laws shall prescribe. ('13 c. 122 § 8) [3446]

**3575. Issuance of policies**—Policies of insurance issued by any such association may be made either with or without the seal thereof, and they shall be signed by the president, or such other officers as may be designated by the directors for that purpose and attested by the secretary. ('13 c. 122 § 9) [3447]

**3576. Subscribers not to fall below a certain number**—If at any time the number of subscribers falls below twenty, or the number of subscribers' employes within the state falls below five thousand, no further policies shall be issued until the total number of subscribers amount to not less than twenty, whose em-

ployes within the state are not less than five thousand. Provided, that in case of associations, organized for the purpose of insuring creameries, cheese factories and livestock shipping associations, the number of subscribers must not fall below two hundred nor the number of subscribers' employes within the state below three hundred. ('13 c. 122 § 10, amended '15 c. 65 § 2; '19 c. 317 § 2) [3448]

**3577. Power of board of directors**—The board of directors shall be entitled to inspect the plant, work-room, shop, farm or premises of any subscriber, and for such purpose to appoint inspectors, who shall have free access to all such premises during regular working hours, and the board of directors shall likewise from time to time be entitled to examine by their auditor or other agent, the books, records and pay-rolls of any subscribers, for the purpose of determining the amount of premium chargeable to such subscriber.

The board of directors shall make reasonable rules and regulations for the prevention of injuries upon the premises of subscribers; and they may refuse to insure or may terminate the insurance of any subscriber who refuses to permit such examinations or disregards such rules or regulations, and forfeit all premiums previously paid by him, but such termination of the insurance of any subscriber shall not release him from liability for the payment of assessments then or thereafter made by the board of directors to make up deficiencies existing at the termination of his insurance. ('13 c. 122 § 11) [3449]

**3578. Premium to be collected**—Every such company shall charge and collect on each policy a premium equal to one year's premium on the policy issued, and shall state in the policy the estimated annual premium and shall also provide in its by-laws for the determination of the actual premium and for payment of same when determined. The premium thus determined shall be known as the annual premium on the policy. And such company shall also provide in its by-laws and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. The contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium, nor more than a sum equal to five times the amount of such annual premium, or, in case of a policy written for less than one year, the contingent liability shall not be less than the proportionate fractional part of such annual premium nor more than five times the proportionate fractional part of such annual premium. The contingent liability of the policyholder shall be plainly and legibly stated in each policy as follows:

The maximum contingent liability of the policyholder under this policy shall be a sum equal to \_\_\_\_\_ annual premium (or "premiums"). ('13 c. 122 § 12, amended '17 c. 201 § 1) [3450]

**3579. Board of directors to establish rates**—The board of directors shall determine the amount of premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of injury to their employes under existing conditions, and they shall fix premiums at such amounts as in their judgment shall be sufficient to enable the association to pay to its subscribers all sums which may become due and payable to their employes under provisions of law, and also the expenses of conducting the business of the association. In fixing the premium payable by any sub-

scriber, the board of directors may take into account the condition of the plant, workroom, shop, farm or premises of such subscriber in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such board, and they may from time to time change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, workroom, shop, farm or premises of such subscribers in respect to the safety of their employes may justify and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the board of directors in accordance with the provisions of section 11 of this act. ('13 c. 122 § 13, amended '17 c. 201 § 2) [3451]

**3580. Classification of subscribers and premium rates**—The board of directors may divide the subscribers into groups in accordance with the nature of their business and the probable risk of injury therein. In such case they shall fix all premiums, make all assessments, and determine and pay all dividends by and for each group in accordance with the experience thereof, but all funds of the association and the contingent liability of all subscribers shall be available for the payment of any claim against the association; provided, however, that (as between the association and its subscribers), until the whole of the contingent liability of the members of any group shall be exhausted, the general funds of the association and the contingent liability of the members of other groups shall not be available for the payment of losses and expenses incurred by such group in excess of the earned premiums paid by the members thereof.

Whenever the liabilities, including unearned premiums and such other reserves as are or may be required by law and the insurance commissioner, are in excess of the admitted assets computed on the basis allowed for its annual statement, it shall make an assessment upon its policyholders, said assessment to be based upon the amount of one annual premium as written in the policy and not to exceed the amount of five annual premiums.

If it becomes necessary to levy the assessment as provided by this section, no policies shall be issued until the admitted assets of the association are in excess of its liabilities. ('13 c. 122 § 14) [3452]

**3581. Statement to be filed with insurance department**—A statement of any proposed distribution of subscribers into groups shall be filed with the insurance department. ('13 c. 122 § 15, amended '17 c. 201 § 3) [3453]

**3582. When officer is guilty of perjury**—If any officer of the association shall falsely make oath to any certificate required to be filed with the commissioner of insurance, he shall be guilty of perjury. ('13 c. 122 § 16) [3454]

**3583. Withdrawal of subscriber**—Any subscriber of the association who has complied with all its rules and regulations, may withdraw therefrom by written notice to that effect, sent by such subscriber by registered mail to the association, and such withdrawal shall become effective on the first day of the month immediately following the tenth day after the receipt of such notice, but such withdrawal shall not release such subscriber from liability for the payment of assessments thereafter made by the board of directors to make up deficiencies existing at the date of his withdrawal, and such subscriber shall be entitled to his

share of any dividends earned at the date of his withdrawal. ('13 c. 122 § 17) [3455]

**3584. Investment of funds**—Such association shall invest and keep invested all its funds of every description, excepting such cash as may be required in the transaction of its business, in accordance with the laws of this state or relating to the investment of funds of domestic insurance companies. ('13 c. 122 § 18) [3456]

**3585. Not to hold real estate**—No such association shall purchase, hold or convey real estate except as provided by section 1615, Revised Laws 1905. ('13 c. 122 § 19) [3457]

**Explanatory note**—For R. L. '05, § 1615, see § 3333, herein.

**3586. Foreign associations**—Any mutual employer's liability insurance association of another state, upon compliance with all laws governing such corporations in general, the provisions of section 1705, Revised Laws of 1905, and the provisions of this act, may be admitted to transact business in this state. Such associations shall pay to the department of insurance the fees prescribed by section 9, chapter 386, Laws of 1911.

Whenever the contracts of insurance issued by such associations shall cover in the aggregate less than five thousand employes, or in the case of associations organized for the purpose of insuring creameries, cheese factories and livestock shipping associations less than three hundred employes, the assured shall forthwith notify the commissioner of insurance of such fact and if, at the expiration of six months from said notice, the aggregate number of employes covered by said contracts of insurance shall be less than five thousand, or in the case of associations organized for the purpose of insuring creameries, cheese factories and livestock shipping associations less than three hundred employes, the commissioner of insurance shall revoke the license of such association and shall petition the district court for the appointment of a receiver for the purpose of winding up its affairs. ('13 c. 122 § 20, amended '15 c. 65 § 3; '19 c. 317 § 3) [3458]

**Explanatory note**—For R. L. '05, § 1705, see § 3711, herein.

For Laws 1911, c. 386, § 9, see § 3295, herein.

#### RECIPROCAL OR INTER-INSURANCE EXCHANGES

**3587. Reciprocal or inter-insurance contracts**—Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other, or with individuals, partnerships and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under other provisions of the laws, excepting life and marine insurance. (13 c. 464 § 1) [3360]

**3588. How executed**—Such contracts may be executed by an attorney, agent or other representative, herein designated attorney, duly authorized and acting for such subscribers. ('13 c. 464 § 2) [3361]

**3589. What must be filed with insurance commissioner**—Such subscribers so contracting among themselves shall through their attorney file with the insurance commissioner of this state a declaration verified by the oath of such attorney, setting forth:

(a) The name or title of the office at which such subscribers propose to exchange such indemnity contracts. Said name or title shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or

association as in the opinion of the insurance commissioner is calculated to result in confusion or deception.

(b) The kind or kinds of insurance to be effected or exchanged.

(c) A copy of the form of policy contract or agreement under or by which such insurance is to be effected or exchanged.

(d) A copy of the form of power of attorney or other authority of such attorney under which such insurance is to be effected or exchanged.

(e) The location of the office or offices from which such contracts or agreements are to be issued.

(f) That applications have been made for indemnity upon at least one hundred separate risks aggregating not less than \$1,500,000.00 as represented by executed contracts or bona fide applications, to become concurrently effective, or, in case of liability or compensation insurance covering a total payroll of not less than one and one-half million dollars (\$1,500,000.00).

(g) That there is on deposit with such attorney and available for the payment of losses a sum of not less than twenty-five thousand dollars (\$25,000.00). Provided further, that in case of employers' liability or workmen's compensation insurance or liability insurance covering damage to persons or property of others by automobiles not used as carriers of passengers for hire, there is on deposit with such attorney and available for the payment of losses a sum of not less than seventy-five thousand dollars (\$75,000.00).

Provided further, that in the case of liability insurance, covering damage to persons or property of others, by automobiles engaged as carriers of passengers for hire, the subscribers to such contracts shall have on deposit with such attorney and available for the payment of losses not less than \$100,000.00. ('13 c. 464 § 3, amended '17 c. 352 § 1; '19 c. 512 § 1) [3362]

**3590. Insurance commissioner to act as agent for service**—Concurrently with the filing of the declaration provided for by the terms of section 3 hereof the attorney shall file with the insurance commissioner an instrument in writing executed by him for said subscribers, conditioned that upon the issuance of certificate of authority provided for in section 10 hereof, service of process may be had upon the insurance commissioner in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney and return one copy with his admission of service. ('13 c. 464 § 4) [3363]

Sections 3 and 10 are §§ 3589, 3596, herein.

**3591. Maximum amount of indemnity**—There shall be filed with the insurance commissioner of this state by such attorney a statement under the oath of such attorney showing the maximum amount of indemnity upon any single risk and such attorney shall, whenever and as often as the same shall be required, file with the insurance commissioner a statement verified by his oath to the effect that he has examined the commercial rating of such subscribers as shown by the reference book of a commercial agency having at least one hundred thousand subscribers, and that from such examination or from other information in his possession it appears that no subscriber has assumed on any single risk an amount greater than ten per cent of the

net worth of such subscriber. ('13 c. 464 § 5) [3364]

**3592. Reserve fund**—There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to 50 per cent of the net annual deposits collected and credited to the accounts of the subscriber on policies in force having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscribers' agreements, for expenses. Said sums shall at no time be less than twenty-five thousand dollars (\$25,000), and if at any time fifty per cent of the deposits so collected and credited shall not equal that amount, then the subscribers shall make up any deficiency.

In case of the failure of any such reciprocal or inter-insurance exchange to comply with any of the provisions of this act, it shall be the duty of the insurance commissioner to immediately declare its license revoked, and in case of such revocation, said reciprocal or inter-insurance exchange shall not be again licensed to transact business in this state for the period of one year from the date of such revocation. ('13 c. 464 § 6, amended '17 c. 352 § 2; '19 c. 512 § 2) [3365]

**3593. Annual report**—Such attorney shall make a report to the insurance commissioner for each calendar year, on the first day of March, showing the financial condition of affairs at the office where such contracts are issued and shall furnish such additional information and reports as may be required.

Provided, however, that such attorney shall not be required to furnish the names and addresses of any subscribers nor the loss ratio.

The business affairs and assets of such organizations shall be subject to examination by the insurance commissioner. ('13 c. 464 § 7) [3366]

**3594. Exchange of contracts**—Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation have full power and authority to exchange insurance contracts of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred. ('13 c. 464 § 8) [3367]

**3595. Misdemeanor for failure to comply**—Any attorney who shall, except for the purpose of applying for certificate of authority as herein provided, exchange any contracts of indemnity of the kind and character specified in this act or directly or indirectly solicit or negotiate any applications for same without first complying with the foregoing provisions shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subjected to a fine of not less than one hundred dollars (\$100.00) nor more than one thousand dollars (\$1,000.00). ('13 c. 464 § 9) [3368]

**3596. Certificate of authority to be secured**—Each attorney by or through whom are issued any policies of or contracts for indemnity of the character referred to in this act shall procure from the insurance commissioner annually a certificate of authority stating that all the requirements of this act have been complied with, and upon such compliance and the payment of the fees required by this act the insurance commissioner shall issue such certificate. In case of a breach of any of the conditions imposed by the provisions of this act the insurance commissioner may revoke the certificate of authority issued hereunder. ('13 c. 464 § 10) [3369]

3597. **Annual license fee**—Such attorney, in lieu of all taxes, state, county and municipal, shall pay to the state with the filing of each annual report as an annual license fee 2 per cent of the gross premiums or deposits for the preceding calendar year, deducting all amounts returned to subscribers or credited to their accounts; and he shall pay a filing fee of \$2.00. ('13 c. 464 § 11) [3370]

3598. **Exchange of indemnity contracts**—Except as herein provided no law of this state shall apply to the exchange of such indemnity contracts. ('13 c. 464 § 12) [3371]

167-198, 208+659.

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INSURANCE ON STATE BUILDINGS AND PROPERTY

3599. **Public funds not to be expended for insurance on state property, except Stillwater prison**—No public funds shall be expended on account of any insurance upon state property against loss or damage by fire or tornado, nor shall any state officer or board contract for or incur any indebtedness against the state on account of any such insurance, except that the state board of control is authorized in its discretion to insure the state of Minnesota against loss by fire or tornado to the state prison at Stillwater, or the contents thereof, in any insurance companies licensed to do business in this state, in such an amount as such board may from time to time determine, and to pay the premiums therefor from the revolving fund of said institution. ('19 c. 256 § 1)

3600. **Money appropriated for expenditure**—Any and all moneys in the state treasury to the credit of the state insurance fund, so-called, and consisting of premiums, so-called, credited thereto under the provisions of chapter 549, Laws of 1913, as amended by chapter 99, Laws of 1915, are hereby appropriated for expenditure as hereinafter provided. ('19 c. 256 § 2)

**Explanatory note**—Laws 1913, c. 549, as amended by Laws 1915, c. 99, was repealed. See § 3603, herein.

3601. **Proceedings for adjustment of losses to state property**—In case any buildings or property of the state shall be damaged or destroyed by fire or tornado the state board of control shall, within thirty (30) days, ascertain and fix the amount of such loss and damage to the state, and file with the state treasurer a statement thereof, and the amount thereof as so determined shall be transferred from the funds specified in section 2 hereof and credited to the proper fund of the officer, board or state authority in whose control said buildings or property belong, to be used solely for the rebuilding or restoring of the property damaged. Upon request of the officer or board having charge of any building or property destroyed or damaged by fire or tornado, the state board of control shall cause the same to be rebuilt or repaired, and the cost and expense thereof shall be paid from the funds so transferred to the credit of such officer or board as provided for in this section. If the loss or damage as fixed by the state board of control is not sufficient to rebuild or replace the building destroyed or damaged, the officer or board having charge of such building shall report the fact to the legislature, stating the additional amount required for that purpose. ('19 c. 256 § 3)

3602. **Failure to keep property safe from fire loss non-feasance in office**—Every state officer, board or other authority having the control of any state buildings or property shall keep the same at all times as safe from fire loss as is reasonably possible. Failure

of any state officer, board or authority having control over any state property to keep the same as safe from fire loss as is reasonably possible, shall constitute non-feasance in office and shall be grounds for removal. ('19 c. 256 § 4)

3603. **Certain chapters repealed**—That chapter 549, Laws of 1913, as amended by chapter 99, Laws of 1915, and chapter 278, Laws of 1917, be and they are hereby repealed. ('19 c. 256 § 5)

FIRE INSURANCE RATING BUREAUS AND RATE REGULATION

3604. **Insurance commissioner authorized to make examination of rating bureaus**—The commissioner of insurance may address inquiries to any individual, association or bureau, which is or has been engaged in making rates or estimates for rates for fire insurance upon property in this state in relation to its organization, maintenance or operation, or any other matter connected with its transactions, and may require the filing of schedules, rates, forms, rules, regulations and other information, and it shall be the duty of every such individual, association or bureau, or some officer thereof, to promptly make such filing and reply to such inquiries in writing.

The commissioner of insurance shall have power to examine any such rating bureau as often as he deems it expedient to do so, and shall do so not less than once every three years. A report thereof shall be filed in his office. The commissioner of insurance may waive such examination upon the filing with him of a report of such examination made by some other insurance department or proper supervising officer within such three years. A statement with regard to such examination shall be made in the annual report of the commissioner of insurance. ('15 c. 101 § 1)

(160+664).

3605. **Discriminatory rates forbidden and written statements of variation required to be filed**—No fire insurance company or other insurer against the risk of fire or lightning, nor any rating bureau, shall fix or charge any rate for fire insurance upon property in this state which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards and having substantially the same degree of protection against fire.

Any company or other insurer which shall desire to make any variation from the bureau rate upon any class of risks may do so but shall file with the commissioner of insurance and with the bureau of which it is a member or to which it is a subscriber, a written statement of such variation, at least fifteen (15) days in advance of such variation taking effect, and such variation shall be uniform and applicable to all risks of essentially the same hazard in the class for which such variation is made. If any insurer grants a lower rate on any class of property than that fixed by the rating bureau of which it is a member or subscriber, or by the commissioner of insurance as provided by this act, such rate shall not be increased by such insurer until one year has elapsed, without the approval of the commissioner of insurance. Provided, that a declaration filed with the insurance commissioner by any insurance company of its intention to write insurance at a uniform variation of a certain per cent from the bureau rate, shall be a sufficient compliance with the requirements of this section. ('15 c. 101 § 2)

3606. **Fire insurance companies required to maintain or be a member of a rating bureau**—Composition

of same—Every fire insurance company or other insurer authorized to effect insurance against the risks of loss or damage by fire or lightning in this state shall maintain or be a member of a rating bureau. No such insurer shall be a member of more than one rating bureau for the purpose of rating the same risk.

A rating bureau may consist of one or more insurers, and when consisting of two or more insurers shall admit to membership any authorized insurer applying therefor. The expenses of the bureau shall be shared in proportion to the gross premiums received by each member during the preceding year in this state, to which may be added a reasonable annual fee of not to exceed fifty dollars. Each member shall have one vote.

Every rating bureau shall maintain an office within the United States.

Within sixty days after the passage of this act, every fire insurance company or other insurer aforesaid, shall notify the commissioner of insurance in writing of each rating bureau making rates upon property located within this state of which it is a member and shall thereafter annually on or before February 1st report to the commissioner of insurance in writing each such rating bureau of which it is a member, and during the year, file written notice of any other such rating bureau of which it shall become a member. ('15 c. 101 § 3)

**3607. Risks to be inspected**—Every rating bureau engaged in making rates or estimates for rates for fire insurance on property in this state shall inspect every risk especially rated by it upon schedule, and make a written survey of such risk, which shall be filed as a permanent record in the office of such bureau. A copy of such survey shall be furnished to the owner upon request. ('15 c. 101 § 4)

**3608. Rating agreements to be submitted for approval of insurance commissioner**—No fire insurance company or any other insurer and no rating bureau, or any representative of any fire insurance company or other insurer or rating bureau, shall enter into or act upon any agreement with regard to the making, fixing or collecting of any rate for fire insurance upon property within this state, unless in compliance with this act.

Any such agreement may be made and enforced, provided the same be in writing, and, prior to its taking effect, a copy thereof be filed with the commissioner of insurance and with each rating bureau of which any of the parties thereto shall be a member or subscriber.

The commissioner of insurance may, after due notice and hearing, upon complaint or upon his own motion, make an order disapproving any such agreement. No such agreement shall be in force, nor shall any act or rights be based thereon, after service of a copy of such order upon each of the parties to such agreement and upon each bureau with which such agreement is required to be filed. Service may be made by mail and shall be completed upon the expiration of a reasonable time for transmission fixed in such order. The action of the commissioner of insurance in making or refusing to make any such order shall be subject to review by the district court, as hereinafter provided. ('15 c. 101 § 5)

**3609. Commissioner to review rate fixed by bureau—Appeals**—The commissioner of insurance shall have power, on written complaint or upon his own motion, to review any rate fixed by any bureau for fire insurance upon property within this state, for the purpose

of determining whether the same is discriminatory or unjust. He shall have power to order the discrimination or unjust rate removed and fix and order a rate in lieu of the bureau rate found to be discriminatory or unjust and the rate so ordered and fixed shall become the bureau rate.

No action shall be taken by said commissioner of insurance unless upon a written complaint under the oath on information and belief of the person or persons interested, showing in substantial detail the ground for complaint with such data as will reasonably enable the commissioner of insurance to determine whether there is probable cause therefor, and no such action shall be taken nor shall there be any hearing thereon until a copy of said complaint and data shall have been sent by registered mail or special delivery to the insurance company or bureau concerned and such insurance company or bureau shall have at least ten days' notice of any hearing thereon.

Any person aggrieved by any such order or decision made by the commissioner of insurance may appeal therefrom to the district court of the county where the aggrieved party may reside within thirty (30) days from the making and filing of such order or decision by filing in the office of said commissioner a notice of such appeal in writing, and in such case the said commissioner shall within ten (10) days after the filing of such notice make and return to said district court a full and complete certified transcript of the findings and order appealed from, and of all papers relating thereto on file in his office, including such notice of appeal, and upon the filing of such certified transcript such appeal and all matters involved therein shall be brought on for trial upon the merits at the next term of said court after the filing of such transcript, unless otherwise ordered by the court; and upon such trial the findings of fact on which such order is based shall be prima facie evidence of the matters therein stated.

During the pendency of such proceedings upon review the order of the commissioner of insurance shall be suspended, but in event of final determination against any insurer, any overcharge by such insurer during review shall be refunded to the persons entitled thereto. ('15 c. 101 § 6)

**3610. Penalty for violation**—Any fire insurance company or other insurer or rating bureau or representative of any fire insurance company or other insurer or rating bureau guilty of a violation of any of the provisions of this act or orders or findings of the commissioner of insurance made hereunder, shall be punished by a fine of not less than \$100 nor more than \$5,000. In addition thereto the license of any fire insurance company, agent or broker guilty of such violation may be revoked or suspended by the commissioner of insurance. Any rating bureau examined by the commissioner of insurance under the provisions of this act shall pay to the commissioner of insurance for such examination the same fees required for examination of foreign fire insurance companies. ('15 c. 101 § 7)

**3611. Not to apply to county or township companies**—The provisions of this act shall not apply to county or township mutual insurance companies. ('15 c. 101 § 8)

**3612. Definitions**—The word "insurer" as used in this act means any insurance carrier authorized, by license issued by the department of insurance, to transact the business of workmen's compensation insurance

COMPENSATION INSURANCE BUREAU

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in this state. The word "insurance" as used in this act means workmen's compensation insurance. The word "board" means the compensation insurance board. ('21 c. 85 § 1)

The failure of the insured or its clerk to read the policy, when received, is not such negligence that will defeat a reformation of the policy. 166-295, 207+634.

**3613. Compensation insurance board—Membership—Qualifications, term of office, salary, and oath of member appointed by Governor**—There is hereby created a board to be known as the Compensation Insurance Board. Said board shall consist of the commissioner of insurance, one member of the industrial commission of Minnesota to be chosen by that commission, and a third person to be appointed by the Governor. The member of the industrial commission shall serve at the pleasure of that commission. The person appointed by the Governor shall be versed in the subject of workmen's compensation insurance and in the making of rates therefor. His term shall be for five years and his salary shall be fixed by the Governor at a sum not exceeding four thousand five hundred dollars per year. He shall take and file with the secretary of state the constitutional oath of office before entering upon the discharge of his duties. ('21, c. 85, § 2; amended '23, c. 263, § 1; '25, c. 405, § 1)

**3614. Same — Expenses — Quorum — Office — Sessions and investigations**—The members of the board, other than the person appointed by the Governor, shall serve without compensation other than that received in their regular position, except that they shall be paid from any moneys appropriated to the use of the Compensation Insurance Board their expenses actually and necessarily incurred in performing their duties under this act. The majority of said board shall constitute a quorum for the transaction of business and the performance of the duties of the board. The said board shall maintain an office at the State Capitol, but it may hold sessions or conduct investigations at any place in the state other than the Capitol when deemed necessary to facilitate the discharge of its duties. ('21, c. 85, § 3; amended '23, c. 263, § 2; '25, c. 405, § 2)

**3615. Organization — Secretary — Rules—Powers**—The board shall organize by electing one of its members chairman and another of its members secretary. The secretary shall keep full minutes of all hearings, transactions and proceedings by or before said board. The board shall have power to make all needful rules for the orderly performance of its duties, and to prescribe the procedure for the conduct of hearings and other proceedings before it. The board shall also have power to employ such persons as may be necessary for the proper discharge of its duties. ('21 c. 85 § 4)

**3616. Hearings — Subpoenas — Witnesses**—In all hearings before, or investigations conducted by the board, any member thereof shall have power to issue subpoenas requiring the attendance of witnesses and the production of books, records and papers, and shall have power to administer oaths. Any person who shall testify falsely in any material matter under consideration by the board shall be guilty of and punished for perjury. Subpoenas or other process issued by the board shall be served as a summons in the district court, in case any witness shall fail to obey summons to appear before the board or shall refuse to testify or answer any material question or to produce records, books, papers or documents when required so to do, such failure or refusal shall be reported to the attorney general, who shall thereupon institute proceedings in the proper district court to compel obedi-

ence to any summons or order of the board or to punish witnesses for any such neglect or refusal. ('21 c. 85 § 5)

**3617. Commission to appoint representative**—The board shall have power to appoint and authorize any person chosen by it to hold hearings, make investigations and examinations with reference to any subject over which the board has or may have jurisdiction. The person so appointed shall have all the powers in relation to the hearing, investigation or examination that such board would have if itself acting, but shall report in writing the result of such hearing, examination or investigation and any testimony taken by him to the board. ('21 c. 85 § 6)

**3618. Duties—Rates of insurance**—To provide for the solvency of insurers writing workmen's compensation insurance in this state and to secure reasonable rates, the board shall approve a minimum and adequate and reasonable rate for each classification under which such business is written. The board shall, in approving such rates make use of the experience which from time to time may be available, and of such other helpful information as may be obtainable. For the purpose of uniformity and equality the board shall, after consultation with insurers, approve a system of schedule merit and experience rating for use in writing of such business in this state. No system of schedule, merit or experience rating except the one so approved shall be used in this state. ('21 c. 85 § 7)

**3619. Board may require survey**—The board may at any time require a survey and report by the bureau herein provided for of any risk regarding which complaint may have been made. Its approval of any rate or classification may be withdrawn by the board upon ten days' notice to the parties interested. ('21 c. 85 § 8)

**3620. Board must approve classification**—No classification for compensation insurance purposes shall be effective until approved as correct by the board. No rule or regulation with reference to compensation risks filed by any insurer or by the bureau herein provided shall be effective until approved by such board. If it shall appear at any time that reasonable doubt on the part of the board as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to rate and classification to be established therefor. ('21 c. 85 § 9)

**3621. Board to review acts of insurers**—The board shall have power upon its own motion or upon the written complaint of any person having a direct interest, to review the acts of any insurer, bureau or agent subject to the provision of this act, and to make findings and orders requiring compliance with the provisions hereof. Such review before the board shall be upon not less than ten days' notice to the parties interested, and its findings or orders shall be made after a hearing before it, and in all cases shall be subject to summary review by the district court. During such court review the operation of the board's order shall be suspended, but in the event of final determination against an insurer, any overcharge made during the pendency of such proceedings shall be refunded to the person entitled thereto. All written complaints under this section shall be verified, and may be upon information and belief of the person complaining. A copy of such complaint shall be served upon the insurer, bureau, or person against whom the complaint is directed, and each of such parties in interest shall be entitled to at least ten days' notice of any hearing thereon. ('21 c. 85 § 10)

**3622. Insurers shall be members of bureau**—Every insurer transacting the business of workmen's compensation insurance in this state shall be a member of the bureau organized under this act to be maintained in this state for the following purposes:

1. To separate the industries of this state that are subject of workmen's compensation insurance into proper classes for compensation insurance purposes, to make inspections of compensation risks and to apply thereto the schedule, merit and experience rating system approved for use in this state; to establish charges and credits under such system and to make reports showing all facts affecting such risks as the subject of compensation insurance and for approving policies of compensation insurance as being written in conformity with classifications and rates previously promulgated by the bureau and approved by the board.

2. To assist the compensation insurance board and insurers in approving rates, determining hazards and other material facts in connection with compensation risks and to assist in promoting safety in the industries. ('21 c. 85 § 11)

**3623. Organization of bureau**—The bureau shall be organized by the insurers writing workmen's compensation insurance in this state within ninety days after the passage and publication of this act. The commissioner of insurance shall fix a time and place for the first meeting of representatives of such insurers to organize the bureau. Notice of such meeting shall be given to each insurer authorized to write workmen's compensation insurance in this state at least ten days before such meeting. The bureau shall adopt articles of association and by-laws for its government and for the government of its members. Such articles and by-laws and all amendments thereto shall be filed with and approved by the compensation insurance board and shall not be effective until so filed and approved. Such bureau shall admit to membership any insurer authorized to transact workmen's compensation insurance in this state. The charges and service of such bureau shall be fixed in the articles or by-laws and shall be equitable and non-discriminatory as between members. ('21 c. 85 § 12)

**3624. Expense, how paid**—Each member of such bureau shall pay an equitable and non-discriminatory share of the cost of operating the bureau. If the members of the bureau cannot agree upon an apportionment of cost, any member may, in writing, petition the compensation insurance board to establish a basis for apportioning such cost. If any member is aggrieved by an apportionment made by the bureau it may, in writing, petition the board for a review of such apportionment. The board shall, upon not less than five days' notice to each member of the bureau, hold a hearing upon any such petition, at which all members shall be entitled to be present and be heard. The board shall determine the matter and mail a copy of its decision to each member of the bureau. The decision of the board shall be final and binding upon all members of the bureau. ('21 c. 85 § 13)

**3625. Representation**—Each class of insurers, to-wit, stock companies, mutual companies and inter-insurers which are members of such bureau shall be represented in the bureau management and on committees as provided in the by-laws, but the participating and non-participating companies shall have equal representation on the governing or managing committee and also on the rating committee of the bureau. One-half the members of each committee shall be chosen by the participating companies, and one-half by the

non-participating companies. Each member company shall be entitled to one vote. In case of a tie vote upon any committee the compensation insurance board shall cast the deciding vote. ('21 c. 85 § 14)

**3626. License—Fee**—The bureau shall procure annually from the commissioner of insurance a license to carry on its business. The license year for such bureau shall be from March first to the last day of February succeeding. The bureau shall pay to the state, through the commissioner of insurance, an annual license fee of one hundred dollars, such fee to be paid at the time of filing application for license. The commissioner of insurance shall prescribe blanks and make needed regulations governing the licensing of the bureau. ('21 c. 85 § 15)

**3627. Annual statement**—The bureau shall annually on or before March first, file with the compensation insurance board a statement covering its activities for the year ending on the preceding thirty-first day of December. Such report shall cover its financial transactions and also other matters connected with its operation as required by the board. The board shall prescribe the form of such report. The bureau shall be subject to supervision and examination by the compensation insurance board or any examiner authorized by it. Examinations may be made as often as deemed expedient. The expense of such examination shall be paid by the bureau. ('21 c. 85 § 16)

**3628. Bureau shall make classification**—The bureau shall on behalf of all its members assign each compensation risk and subdivision thereof in this state to its proper classifications. Such determination as to the proper classification by the bureau shall be subject, however, to the approval of the compensation insurance board as herein provided. The bureau shall also on behalf of all members thereof inspect and make a written survey of each risk to which the system of schedule or merit rating approved for use in this state is applicable. It shall, on behalf of all the members thereof, file with the board its classification of risks and shall also keep on file at the office of the bureau, the written surveys of all risks inspected by it, which survey shall show the location and description of all items producing charges and credits, if any, and such other facts as are material in the writing of insurance thereon. It shall also file any subsequent proposed classification or later survey and all rules and regulations which do or may affect the writing of such risks. The bureau classification shall be binding upon all insurers. The board and also the bureau and its representatives shall give all information as to classifications, rates, surveys and other facts collected and intended for the common use of insurers subject to this act to all such insurers at the same time. A copy of the complete survey, together with the approved classification and rates based thereon and the effective date thereof, shall be furnished to the insurer of record as soon as approved. The approved classification and rates upon a specific risk shall also be furnished upon request to any other insurer upon the payment of a reasonable charge for such service. Every insurer shall promptly file with the bureau a copy of each payroll audit, which shall be checked by the bureau for correctness of classification and rate. The board may require the bureau to file with it any such copy, and may verify any payroll audit by a re-audit of the books of the employer or in such other manner as may to it appear most expedient. Upon written complaint stating facts sufficient to warrant action by it, the

board shall verify any payroll audit reported to it. ('21 c. 85 § 17)

Where the rate, agreed upon at \$1.06 per \$100 pay roll, is not warranted by the statute, the true legal rate may be established and applied to the reformed policy, even after the policy has expired by lapse of time. 166-295, 207+634.

**3629. Record—Shall furnish information—**The bureau shall keep a careful record of its proceedings. It shall furnish, upon his demand, to any employer upon whose workmen's compensation risk a survey has been made, full information as to such survey, including the method of the computation and a detailed description and location of all items producing charges or credits. The bureau shall also provide such means as may be approved by the board whereby any member or any employer whose risk has been inspected by it may be heard, either in person or by a representative, before the governing or rating committee or other proper representatives with reference to any matter affecting such risk. Any insurer or employer may appeal from a decision of the bureau to the board. The bureau shall also make rules governing appeals, which rules shall be filed with and approved by the board. The bureau shall file with the compensation insurance board, whenever it may call therefor, such information as it may have concerning any matter connected with its activities. ('21 c. 85 § 18)

**3630. Insurers shall not discriminate—**No insurer shall make or charge any rate for workmen's compensation insurance in this state which discriminates unfairly between risks or classes, or which discriminates unfairly between risks in the application of like charges and credits in the plan of schedule, merit or experience rating in use; and no insurer shall discriminate by granting to any employer insurance against other hazards at less than its regular rates for such insurance or otherwise. ('21 c. 85 § 19)

166-295, 207+634.

**3631. Rates shall be filed—**Every insurer writing workmen's compensation insurance in this state, shall, except as otherwise ordered by the board, file with the board its rates for such insurance and all additions thereto or changes therein. All rates so filed shall comply with the requirements of law and shall not be effective or used until approved as to such compliance by the board. A rate which is filed and approved shall not be changed until the substituted rate has been filed for at least fifteen days and has been approved by the board. ('21 c. 85 § 20)

166-295, 207+634.

**3632. Rates to be uniform—Exceptions—**No insurer shall write insurance at a rate other than that made and put into force by such bureau and approved as adequate and reasonable by the board; provided, that the bureau may reduce or increase a rate by the application to individual risks of the system of schedule, merit or experience rating which has been approved by the board. Such reduction or increase shall be set forth in the policy or by indorsement thereon. ('21 c. 85 § 21)

166-295, 207+634.

**3633. Duties of insurance commissioner—**The commissioner of insurance shall upon the request of the board require such insurers or their agents to file with him on such blanks as he may prescribe such reports as in the judgment of the board may be necessary for the purposes of this act; and such information when so filed shall be available for the use of the board. No information regarding the writings of any insurer

shall be made public by said board or said bureau or any of its employes except as required by law. ('21 c. 85 § 22)

**3634. Violations—Penalties—**Any insurer, rating bureau, agent or other representative or employe of any insurer or rating bureau failing to comply with or which is guilty of a violation of any of the provisions of this act, or of any order or ruling of the commissioner of insurance or of the compensation insurance board made hereunder, shall be punished by a fine of not less than fifty nor more than five hundred dollars. In addition thereto, the license of any insurer, agent or broker guilty of such violation may be revoked or suspended by the commissioner of insurance. ('21 c. 85 § 23)

#### FARMERS' MUTUAL COMPANIES

**3635. Town companies—Property insurable—**The incorporators of a town insurance company shall not be less than twenty-five in number, residing in towns adjoining that in which its principal place of business is situated, or separated by not more than one town therefrom, and owning in the aggregate movable property worth at least fifty thousand dollars. Every such company may insure, for a term not exceeding five years, farm property in any part of any county in which any of its incorporators reside: Provided, that it shall not operate in more than fifty towns in the aggregate at the same time. (1657) [3372]

Amendment of by-laws. Notice to member (63-420, 65+655).

**3636. Officers—**Every company so formed shall choose of their number not less than five (5) nor more than nine (9) directors to manage the affairs of such company, who shall hold their office for such period as may be fixed by the by-laws of the company not exceeding three (3) years, and until their successors are elected and qualified, and such directors shall choose one of their number president, one vice-president and one secretary; they shall also choose a treasurer, who may or may not be a member of said board, but shall be a member of the company. And the said treasurer shall give bonds to such company in such sum as the directors shall determine to be approved by said president and secretary, and such directors may authorize said treasurer to loan on first real estate securities such sums of money in his hands as they may determine, or authorize him to deposit any or all sums of money in his hands as such treasurer in, such bank or banks as they may designate. Provided, that the articles of incorporation of such company may provide that the president, vice-president, secretary and treasurer may be chosen by the direct vote of the members at the annual meeting. In such case the election of such persons as president, vice-president and secretary shall constitute them members of said board of directors, and the remaining members of said board shall be elected as above provided. ('75 c. 83 § 2, amended '97 c. 164 § 2; '01 c. 172 § 1; '05 c. 284 § 1) [3373]

**3637. Effect of application—Who may accept—**The president and secretary of such company may accept all applications and sign and issue policies agreeing in the name of the company to pay all losses and damages, not exceeding the sums named in the policies, sustained by reason of fire or lightning, for the term therein specified, and every application for insurance made to any authorized officer or agent, until refused by the proper officer shall be of the same force and effect as a regularly issued policy and contract of in-

insurance, and from the time of its receipt by an officer or agent, the property specified in such application shall be deemed insured in the same manner and to the same extent as if covered by a regular policy issued according to law and the regulations of the company: Provided, that there shall be no liability on such application against any company that has not at any annual or special meeting, by proper resolution, adopted the plan of making such applications of equal force and effect with regularly issued policies. (1658) [3374]

**3638. Report to commissioner—Cash premium—**The annual meeting shall be held before July 1 in each year, and the annual report shall then be read in full, and within thirty days thereafter filed with the commissioner. Before the delivery of any policy the company shall collect the regular cash premium and policy fee, and take the written agreement of the insured, of even date therewith, which shall be embodied in his application, to pay a pro rata share of losses or damages sustained by any member. The same shall be kept on file with the secretary. (1659) [3375]

**3639. Joint or partial risks—**Such town insurance companies may issue joint or partial risks in conjunction with adjoining companies of the same class, and in such case they are not confined to the towns in which they are otherwise authorized to do business; but no such insurance of a joint or partial risk shall be valid or binding upon the company insuring the same until approved by all such companies holding prior risks on the property so insured, and the total amount of such joint insurance on any one piece of property shall in no case exceed the total percentage of its value for which such property is insurable by such company. (1660) [3376]

**3640. Emergency fund—**The directors of any such company may collect by advance assessment and maintain in its treasury an emergency fund not exceeding two mills on a dollar of the total amount of insurance in force, to be used in payment of losses and for other purposes for which assessments may be used. (1661) [3377]

**3641. Losses — Notification — Agreement —**Every member sustaining loss or damage by fire or lightning shall immediately notify the secretary, who, if the claim exceeds three hundred dollars, may forthwith convene the directors. The directors shall appoint a committee of three members, of which the secretary shall be one, to ascertain the amount of such loss, with authority to examine witnesses, to whom the secretary is hereby authorized to administer oaths. Whenever the by-laws so provide, he may act in place of and with all the authority of such committee; and when the claim does not exceed three hundred dollars, the loss may be ascertained by the president and secretary, or either, with like authority. If the parties cannot agree upon the damages, the insured may apply to a judge of the district court of the county, who may appoint three disinterested persons, who shall make an award which shall be final, and deliver the same to the company. (1662) [3378]

**3642. Classification of property — Assessments—**Every such company may classify property insured under different rates, corresponding as nearly as possible to the greater or less risk from fire by reason of location or construction, and issue its policies in accordance with such differences. Whenever any loss shall be ascertained which exceeds in amount the cash funds of the company, the secretary, or in his absence the president shall convene the directors, who shall

levy an assessment upon each policyholder for the proportionate amount which he should pay to cover such excess; or the company may borrow not to exceed two mills on each dollar of insurance written by it and then in force, and from such fund pay such losses, and afterwards levy assessments to pay such loans. If the fund for the payment of expenses is insufficient, the amount of the deficiency may be added to any assessment. (1663) [3379]

**3643. Property insurable—**Every such company shall insure only dwellings and their contents, farm buildings and contents, livestock, hay and grain in the bin and stack, churches, school houses, country blacksmith shops and barns, and society and town halls. It shall not insure property within the limits of any city or village, except that located upon lands actually used for farming or gardening purposes. But whenever the dwelling house of any person insured is within the limits of a town where the company is authorized to do business, and the farm upon which such dwelling is situated is partly within and partly without such town, it may include in such insurance any outbuildings, hay, grain, stock, or other farm property on such farm outside such limits. (1664) [3380]

Insurance of standing grain against loss by hail unauthorized (56-240, 57+656). Hay in stack not on land described in policy held within policy (51-24, 52+979).

**3644. Non-resident members—Withdrawal—Notice—**Non-residents owning property in any town may become members with all rights except eligibility to office. Membership may be terminated at any time by giving written notice to the secretary and paying the withdrawing members' share of all existing claims. Or by the annulment of any policy by a majority of the directors and written notice thereof to the holder. In either case the secretary shall record the same in a separate book. (R. L. '05 § 1665, amended '07 c. 209) [3381]

161-476, 201+930, note under § 3660.

**3645. Farmers' mutual fire companies—**The provisions of sections 3635-3645 shall also apply to farmers' mutual fire insurance companies, save that its incorporators and members may reside and own insurable property, and its insurance be effected, anywhere in this state, upon property of like character. (1666) [3382]

#### TOWNSHIP MUTUAL COMPANIES. ORGANIZATION.

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**3646. Township mutual fire insurance companies—**It shall be lawful for any number of persons, not less than twenty-five (25), residing in adjoining towns in this state, who shall collectively own property worth at least fifty thousand dollars (\$50,000) to form themselves into a company or corporation for mutual insurance against loss or damage by fire or lightning. No such company shall operate in more than sixty (60) towns in the aggregate at the same time. Provided, that when any such company confines its operations to one county it may transact business in the whole thereof by so providing in its certificate of incorporation. ('09 c. 411 § 1, amended '15 c. 155 § 1; '23 c. 209 § 1) [3383]

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See R. L. '05 §§ 1657-1666, [3635-3645] which have been superseded in so far as they apply to town insurance companies.

Laws 1925, c. 22 reads as follows: "The corporate existence of any township mutual fire insurance company organized under chapter 83, General Laws, 1885, and acts amendatory thereof, which has heretofore attempted to renew or extend its corporate existence by adopting and filing with the commissioner of insurance a resolution

so providing, but which resolution was adopted at a meeting called and held without due and legal notice, is hereby legalized, confirmed and made effective as fully as if said action so attempted to be taken to renew and extend its corporate existence had been in all things regular and in conformity to law, provided, however, that the provisions of this act shall not apply to any action now pending in which any such renewal or extension is involved."

Laws 1925, c. 104 reads as follows: "Any township mutual fire insurance company which has heretofore attempted to extend or renew its corporate existence by filing a resolution so providing, with the Commissioner of Insurance, but such resolution was not filed within the period of corporate existence shall be deemed and considered to have extended and renewed its corporate existence to all intents and purposes and such attempted extension or renewal of the corporate existence is in all things legalized."

**3647. What certificate of incorporation must contain**—The persons who desire to form a township mutual fire insurance company as defined by this act shall make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, a certificate of incorporation which shall specify:

1. The name.
2. The location of the principal office.
3. The general nature of the business.
4. The territory in which it desires to transact business.
5. Who may become members.
6. Source from which the corporate funds shall be derived.
7. The class of property it desires to insure.
8. In what board its management shall be vested.
9. The date of its annual meeting.
10. The corporate existence.

It may also contain any other lawful provision defining and regulating the powers or business of the corporation, its officers, directors and members. ('09 c. 411 § 2) [3384]

**3648. To be approved by commissioner of insurance**—The certificate of every such corporation shall be presented to the commissioner of insurance for his approval and if he approve of the same he shall endorse thereon such approval and the certificate shall then be filed in his office and shall be recorded in a book kept therein for that purpose. Upon the approval of said certificate and the filing of the same with the commissioner the corporate organization of such incorporation shall be complete. ('09 c. 411 § 3) [3385]

**3649. Powers of such corporation**—Every corporation formed under the provisions of this chapter shall have power:

1. To have succession by its corporate name for the time stated in its certificate of incorporation.
2. To sue and be sued in any court.
3. To have and use a common seal and alter the same at pleasure.
4. To acquire by purchase or otherwise, and to hold, enjoy, improve, lease, encumber and convey all real personal property necessary for the purposes of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation.
5. To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards and committees, to fix their compensation and define their powers and duties.
6. To make and amend, consistently with law, by-laws providing for the management of its property and the regulation and government of its affairs.
7. To wind up and liquidate its business in the manner provided by law. ('09 c. 411 § 4) [3386]

Following *Illett v. North Star, etc., Ins. Co.*, 156 Minn. 123, 194 N. W. 1, and *Clark v. Rochester, etc., Co.* (Minn.), 201 N. W. 930, it is held that the mere failure to pay an

assessment levied against a member of a township mutual fire insurance company does not terminate the contract of insurance, and that to defeat a recovery the policy must be canceled. 162-293, 202+491.

**3650. Adoption of by-laws**—The first board of directors shall adopt by-laws which shall remain effective until and except as amended by the members at any regular or special meeting called therefor. ('09 c. 411 § 5) [3387]

**3651. By-laws to be filed with insurance commissioner**—A copy of the by-laws of every such corporation, certified to by the president and secretary of the corporation, shall be filed with the commissioner of insurance, and any amendment to the by-laws shall within a reasonable time after such amendment shall have been adopted by the members of the corporation, certified to by its president and secretary, be filed with the commissioner.

Within ninety (90) days after the passage of this act every township mutual insurance company doing business within this state shall cause a copy of its by-laws to be certified to by its president and secretary and shall file the same with the commissioner of insurance, and thereafter every amendment to the by-laws of any township mutual insurance company heretofore organized, duly certified to by its president and secretary, shall, within a reasonable time after its adoption, be filed in the office of the commissioner of insurance. ('09 c. 411 § 6) [3388]

**3652. Corporate existence not to exceed thirty years**—Every corporation organized pursuant to this act shall be for a period not exceeding thirty (30) years in the first instance, and the corporate existence of any township mutual fire insurance company organized under the provisions of this chapter or any prior act may be renewed from time to time for a further term not exceeding thirty (30) years, by adopting a resolution expressing such proposed renewal by a two-thirds (2/3) vote of all its members present and voting at any regular meeting of such corporation, or at any special meeting called for that purpose, the notice for which shall clearly specify the object of the meeting.

When any such resolution for renewal thereof, shall be adopted the same shall not take effect until a copy, duly certified to by the president and secretary of such corporation, under its corporate seal, if it have one, shall have been approved, filed and recorded in the same manner as is provided herein in case of the original certificate of incorporation.

Any township mutual fire insurance company which has heretofore attempted to extend or renew its corporate existence by filing a resolution so providing with the commissioner of insurance shall be deemed and considered to have extended and renewed its corporate existence to all intents and purposes as fully as though such action had been taken subsequent to the passage of this act and such attempted extension or renewal of corporate existence is in all things legalized. ('09 c. 411 § 7, amended '13 c. 80 § 1) [3389]

(17-228).

**3653. Corporate existence may be made perpetual**—When—The corporate existence of any township mutual fire insurance company heretofore or hereafter organized may be made perpetual by so providing in its articles of incorporation. ('17 c. 228 § 1)

**3654. Amendment of certificate**—The certificate of incorporation of any township mutual fire insurance company may be amended in respect to any matter which the original certificate of incorporation might lawfully have contained, or which is authorized by the

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provisions of this chapter, by the adoption of a resolution specifying the proposed amendment at the regular meeting or a special meeting called for that expressly stated purpose, by a majority vote of its members present and voting; or by a majority vote of its entire board of directors, within one year after having been thereby duly authorized by a specific resolution duly adopted at such meeting of the members, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary under the corporate seal of the company, if it have one, and approved, filed and recorded in the manner prescribed by this chapter for the approval, filing and recording of the original certificate. ('09 c. 411 § 8, amended '13 c. 80 § 2) [3390]

**3655. Change of location of principal place of business**—Any township mutual fire insurance company heretofore or hereafter organized under the laws of this state may at any regular annual meeting of its members, or at any special meeting called for that purpose, by a majority vote of those present, amend its certificate or articles of incorporation so that the business office of said company may be located in any town, or any city or village in any town in which said company is authorized to do business. ('09 c. 411 § 9) [3391]

**3656. Board of directors—Woman member may give proxy**—Every company shall choose of their members no less than five (5) and not more than nine (9) directors, to manage the affairs of the company, who shall hold their office for such period as may be fixed by the by-laws of the company, not exceeding three (3) years, and until their successors are elected and qualified, such directors shall choose one of their number as president, one as vice president, and one as secretary; they shall also choose a treasurer who may or may not be a member of said board, but must be a member of the company. The certificate or articles of incorporation of such company may provide that the president, vice president, secretary and treasurer may be chosen by the direct vote of the members of the company at the annual meeting.

In such case the election of such persons as president, vice president and secretary shall constitute them members of said board of directors, and the remaining members of said board shall be elected as above provided.

Every woman being a member of any such insurance company may be represented at any regular or special meeting of the members thereof by any person duly appointed in writing as her proxy, and such proxy so appointed shall have full power to represent such member as fully as if she were personally present at such meeting. ('09 c. 411 § 10) [3392]

**3657. Treasurer to give bonds**—The treasurer of such company shall give such bonds to the company in such sum as the directors shall determine, to be approved by the president and secretary. ('09 c. 411 § 11) [3393]

**3658. Investments and loans by township mutual fire insurance companies**—The directors may authorize such treasurer to invest any of its funds and accumulations in the bonds of the United States or of this State, or any county, city, town or village, or duly authorized school district therein, or in any municipal or civil division of any State and may loan upon improved unencumbered real property, in this State, worth at least twice the amount loaned thereon, not including buildings, unless insured by policies payable to and held by the security holder or authorize him to deposit any and all sums of money in his hands in such bank or

banks as they may designate. ('09, c. 411, § 12; amended '25, c. 142) [3394]

**3659. Limitations of company**—No township mutual fire insurance company heretofore organized and no company organized pursuant to this act shall insure any property outside of the limits of the town or towns in which such company is authorized by its certificate or articles of incorporation to transact business, except personal property temporarily outside of such authorized territory and, except as hereinafter further provided; nor shall any township mutual fire insurance company insure any property other than dwellings and their contents, farm buildings and their contents, livestock, farm machinery, automobiles, country store buildings, threshing machines, farm produce anywhere on the premises, churches, school houses, society and town halls, country blacksmith shops and their contents, parsonages and their contents, and the barns and contents used in connection therewith, buttermaker's dwelling houses and contents, and barns and contents used in connection therewith.

No such company shall insure any property within the limits of any city or village except that located upon lands actually used for farming or gardening purposes, but whenever the dwelling house of any person insured is within the limits of a town where the company is authorized to do business, and the farm on which such dwellings are situated is partly within and partly without such town, it may include in such insurance any outbuildings, farm produce, stock or other farm property on such farm outside of such limits; provided, however, any such company is hereby authorized to insure county fair buildings whether the same are situated either within or without the limits of a duly incorporated village or city.

No law relating to insurance companies now in force in this state shall apply to township mutual fire insurance companies unless it shall be expressly designated in such law that it is applicable to such companies. ('09 c. 411 § 13, amended '13 c. 80 § 3; '15 c. 107 § 1; '23 c. 338 § 1) [3395]

**3660. Termination of membership—Annulment and cancellation of policies**—Any member may terminate his membership in the company by giving written notice to the secretary and paying the withdrawing member's share of all existing claims. Non-residents owning property in any town where any such company is authorized to do business may become a member with all rights thereof except eligibility to office. The board of directors may, by a majority vote thereof, annul and cancel any policy after giving not less than ten days' written notice to the insured by registered mail to the last known address of the insured, and to any mortgagee to whom the policy is made payable. In case of annulment of any policy the action of the board of directors shall be recorded in the minutes of the meeting of the directors. ('09, c. 411, § 14; amended '27, c. 100, § 1) [3396]

The evidence failed to show a cancellation of plaintiff's policy of insurance in the manner prescribed. 161-476, 201+930.

**3660-1. Suspension or cancellation of policies for non-payment of premiums**—The secretary may, if the by-laws of the company so provide, suspend or cancel any policy for the non-payment of premium or assessment after giving not less than ten days' written notice to the insured by registered mail to the last known address of the insured, and to any mortgagee to whom the policy is made payable. ('27, c. 100, § 2)

**3661. Against fire or lightning only**—A township

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mutual fire insurance company shall insure only against loss or damage by fire or lightning and it shall not issue any policy for a term of more than five (5) years. ('09 c. 411 § 15) [3397]

3662. Advance assessments—The directors of any such company may collect by advance assessments and maintain in its treasury an emergency fund not exceeding two mills on a dollar of the total amount of insurance in force, to be used in payment of losses and for other purposes for which assessments may be used. ('09 c. 411 § 16) [3398]

3663. Joint or partial risks permissible—Such town insurance companies may issue joint or partial risks in conjunction with adjoining companies of the same class, and in such case they are not confined to the towns in which they are otherwise authorized to do business; but no such insurance of a joint or partial risk shall be valid or binding upon the company insuring the same until approved by all such companies holding prior risks on property so insured, and the total amount of such joint insurance on any one piece of property shall in no case exceed the total percentage of its value for which such property is insurable by such company. ('09 c. 411 § 17) [3399]

3663-1. Reinsurance—Township Mutual Fire Insurance companies may enter into reinsurance agreements with other Township Mutual Fire Insurance companies and reinsure a portion of any risk with said companies. In such cases they shall not be confined to the territory in which they are writing direct business. ('27, c. 271)

3664. President and secretary may accept applications—The president and secretary of such company may accept all applications and sign and issue policies, agreeing in the name of the company to pay all losses and damages, not exceeding the sums named in the policies, sustained by reason of fire or lightning, for the term therein specified, and every application for insurance made to any authorized officer or agent, until refused by the proper officer, shall be of the same force and effect as a regularly issued policy and contract of insurance, and from the time of its receipt by an officer or agent, the property specified in such application shall be deemed insured in the same manner and to the same extent as if covered by a regular policy issued according to law and the regulations of the company; provided, that there shall be no liability on such application against any company that has not at any annual or special meeting, by proper resolution, adopted the plan of making such applications of equal force and effect with regularly issued policies.

Before the delivery of any policy the company shall collect regular cash premium and policy fee and take the written agreement of the insured of even date therewith, which shall be embodied in his application to pay a pro rata share of losses or damages sustained by any member.

The same shall be kept on file with the secretary. ('09 c. 411 § 18) [3400]

Laws relating to use of standard forms not applicable (116-68, 133+163).

3665. Classification of property—Every such company may classify property insured under different rates, corresponding as nearly as possible to the greater or less risk from fire by reason of location or construction, and issue its policies in accordance with such differences. Whenever any loss shall be ascertained which exceeds in amount the cash funds of the company, the secretary, or in his absence, the president, shall convene the directors, who shall levy an assess-

ment upon each policyholder for the proportionate amount which he should pay to cover such excess; or the company may borrow not to exceed two mills on each dollar of insurance written by it and then in force and from such fund pay such losses, and afterwards levy assessments to pay such loans.

If the fund for the payment of expenses is insufficient the amount of the deficiency may be added to any assessment.

Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of any company so formed who shall wilfully neglect or refuse to perform the duties imposed upon them by law shall be liable in their individual capacity to the person sustaining such loss.

It shall be the duty of the secretary whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to his usual postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made, but such time shall not be less than sixty nor more than ninety days from the date of such notice, and every person designated to receive such money may demand and receive two per cent in addition to the amount due on such assessment as aforesaid, for his fees in receiving and paying over the same. ('09 c. 411 § 19) [3401]

161-476, 201+930, note under § 3660.

3666. Losses—Adjustment—Every member sustaining loss or damage by fire or lightning shall immediately notify the secretary, who, if the claim exceeds three hundred dollars, may forthwith convene the directors.

The directors shall appoint a committee of three members of whom the secretary shall be one, to ascertain the amount of such loss, with authority to examine witnesses, to whom the secretary is hereby authorized to administer oaths.

Whenever the by-laws so provide, he may act in place of and with all the authority of such committee; and when the claim does not exceed three hundred dollars, the loss may be ascertained by the president and secretary, or either, with like authority.

In case of failure of the parties to agree as to the amount of loss it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured, each choosing one, the third to be selected by the two so chosen.

The award, in writing, by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference, unless waived by the parties, shall be a condition precedent to any right of action in law or equity, to recover for such loss; but no person shall be chosen to act as referee against the objection of either party who has acted in like capacity within four months.

The referees shall have full authority to examine witnesses and determine all matters of dispute and shall make their award in writing to the president or secretary of such company. The said referees shall each be allowed the sum of \$5.00 per day for each day's service so rendered, and the sum of ten (10) cents per mile for every mile necessarily traveled in discharge of such duties, which shall be paid by the claimant, together with the fees of any witnesses that may have been called by the company, unless the award of such referees shall exceed the sum offered in liquidation of

such loss or damage, in which case said expenses shall be paid by the company. ('09, c. 411, § 20; amended '25, c. 56) [3402]

*The complaint averred that before suit defendant denied all liability for the loss. This sufficiently showed a waiver of arbitration, a condition precedent to suit. 166-74, 207+24.*

**3667. Annual meeting**—The annual meeting of every such company shall be held before July 1st in each year and the fiscal year of the company shall be from the first day of January to the thirty-first day of the following December, both dates inclusive.

The secretary shall prepare and read at the annual meeting a full report of the business of the company transacted during the previous fiscal year, and on or before February 1st, following the end of each fiscal year the president and secretary shall file with the commissioner of insurance a verified statement of the entire business and condition of the company, and which statement shall contain such data and information in reference to the business of the preceding fiscal year as shall be required by the commissioner of insurance.

The commissioner of insurance may at other times require any further statement he may deem necessary to be made relating to the business of the company. ('09 c. 411 § 21) [3403]

**3668. Fees to be paid to commissioner of insurance**—There shall be paid to the commissioner of insurance and by him accounted for and paid to the state of Minnesota the following fees:

1. For filing certificate of incorporation, \$2.00.
2. For filing annual statement, \$1.00.
3. For certificate of authority, annually, \$1.00.

('09 c. 411 § 22) [3404]

**3669. Existing companies may avail themselves of this act**—Any township mutual fire insurance company heretofore organized may exercise after the passage of this act all of the rights conferred thereby that are within the powers and privileges of its certificate or articles of incorporation, or it may be reincorporated hereunder.

But no such company already organized shall be required to reincorporate hereunder in order to avail itself of the privileges of this act.

Every township mutual fire insurance company now doing business in this state shall have the right to continue transacting such business until the first day of March succeeding the passage of this act, and if the commissioner of insurance is satisfied that the company is transacting its business in accordance with this act he shall, on the first day of each succeeding March issue a license to each company authorizing it to transact business until the first day of March following the date of such license. ('09 c. 411 § 23) [3405]

**3670. All companies to be governed by this act**—Except as herein provided all township mutual fire insurance companies heretofore or hereafter organized in this state shall be governed by this act and shall be exempt from all provisions of the insurance laws of this state not only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to such company unless it shall be expressly designated in such law that it is applicable to township mutual fire insurance companies. ('09 c. 411 § 24) [3406]

(137-210, 163+290.)  
167-198, 208+659.

**3671. Consolidation**—That two or more township mutual fire insurance companies of the same county, which have been or may hereafter be authorized to

transact the business of fire insurance exclusively upon farm property, within the same townships, or where one of said companies is authorized to and actually has transacted such insurance business in every town in which such other company is authorized to transact such business, may consolidate as a corporation in the manner provided in this act.

To effect such consolidation it shall be necessary:

First. That the board of directors or managing body of each of said corporations pass a resolution to the effect that such consolidation is advisable and containing the proposed name of the corporation, as consolidated, its principal office, and the names of its first board of directors and officers.

Second. That a special meeting of the policyholders of each of said corporations shall be held, a notice of which meeting shall be mailed to each of the policyholders thereof at least thirty (30) days prior to the holding thereof, and which notice shall embody the resolution adopted by said board of directors, as provided for in subdivision one (1).

Third. That a majority of the policyholders of each of said corporations present or represented at said special meetings shall by resolution approve and ratify the action of said directors, as provided for in subdivision one (1) hereof.

Fourth. That said proceedings and resolutions be filed with the commissioner of insurance of this state and approved of by him.

Fifth. Complete copies of said proceedings, certified to by the president and secretary of said respective corporations, shall be filed with the town clerk in each of the towns in which said company proposes to transact business.

When full copies of said proceedings have been filed with the commissioner of insurance, which copies shall be certified by the president and secretary of said respective corporations and duly verified by said officers, and approved of by him, the consolidation of said corporations shall be deemed to be complete, and the company so continuing said business shall be deemed to have fully assumed all of the obligations, liabilities and risks, and to be the owners of all the assets of the companies so consolidating.

If such consolidation is made under any new name, the filing of said proceedings and the approval of same by the commissioner of insurance shall be sufficient to constitute said consolidated company a corporation, with all the powers, privileges, and subject to all the limitations of a township mutual fire insurance company under the laws of this state. ('09 c. 411 § 25) [3407]

**3672. Examination by commissioner of insurance**—The commissioner of insurance whenever requested by five or more members shall make an examination of the affairs of any township mutual insurance company doing business within this state, and any such company so examined shall pay the actual expenses of the person making such examination.

Whenever, after examination, the commissioner of insurance is satisfied that any such company has failed to comply with any provisions of this law, or is exceeding its powers, or is not carrying out its contracts in good faith; or is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or its policyholders, he may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction and such court shall thereupon noti-

fy the officers of such company of a hearing, and, unless it shall then appear that some special and good reason exists why such company should not be closed, said company shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such company and shall proceed at once to take possession of the books, papers, moneys, and other assets of the company and shall forthwith, under the direction of the court, proceed to close the affairs of the company and to distribute its funds to those entitled thereto. ('09 c. 411 § 26) [3408]

**3673. Fraudulent statements**—Any person, officer or member who shall knowingly or wilfully make any false or fraudulent statement or representation in reference to any application for membership under this act, or any false or fraudulent statement as to the transaction or condition of the company of which he is a member or officer shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than ninety (90) days, in the discretion of the court.

Any officer of any such company, or employe thereof, who shall neglect or refuse to comply with, or who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than ninety (90) days in the discretion of the court. ('09 c. 411 § 27) [3409]

Amendment of by-laws. Notice to member (63-420, 65+655). Insurance of standing grain against loss by hail unauthorized (56-240, 57+656). Hay in stack not on hand described in policy held within policy (51-24, 52+979). Laws relating to use of standard form not applicable. (116-68, 133+163.)

**3674. Mutual insurance companies for insuring horses and cattle authorized**—It shall be lawful for any number of persons, not less than twenty-five, residing in adjoining towns in this state, who shall collectively own property worth at least fifty thousand dollars (\$50,000.00), to form themselves into a company or corporation for mutual insurance against loss by death of horses and cattle, but no such company shall operate in more than fifty towns in the aggregate at the same time. Provided, that where any such company confines its operations to one county, it may transact business in the whole thereof by so providing in its certificate of incorporation. Provided, further, companies may be organized on the mutual plan under this act for the purpose of insuring blooded or registered horses, cattle, hogs, sheep, or other livestock, and may do business in any ten adjoining counties of the state. ('17 c. 332 § 1, amended '21 c. 169 § 1)

**FARMERS AND TOWNSHIP REINSURANCE ASSOCIATIONS.**

**3675. Mutual re-insurance or guarantee associations**—Not less than six township mutual fire insurance companies or farmers' mutual fire insurance companies now doing business in this state may organize a mutual association for the purpose of insuring its members against losses occurring within any one calendar year exceeding one quarter of one per cent of the total amount of insurance in force. Any township mutual fire insurance company or farmers' mutual fire insurance company now or hereafter organized is eligible for membership in such association. (Ex. Sess. 19 c. 55 § 1, amended '21 c. 399 § 1)

**3676. Filing of articles or resolutions**—The incorporation of such association shall be effected by filing

with the commissioner of insurance and with the secretary of state a certificate of incorporation duly executed and acknowledged by the companies forming such association, said companies having been first duly authorized by resolution duly adopted at a regular annual meeting or at a special meeting called for that purpose, which certificate shall state in substance such facts as are required to be stated in certificates of incorporation by the general corporation laws of this state, and shall have first been approved by the commissioner of insurance. (Ex. Sess. '19 c. 55 § 2)

**3677. Members may withdraw**—Any member of such association may withdraw from membership upon giving ninety (90) days' notice of its intention so to do when such withdrawal has been authorized by a majority vote of its members present and voting at a regular meeting or a special meeting called for that purpose. Such withdrawal shall not in any way affect its liability to contribute for any losses or expenses which may have been incurred prior to the time of withdrawal. (Ex. Sess. '19 c. 55 § 3, amended '21 c. 399 § 2)

**3678. Corporate powers**—In addition to the powers hereby conferred, every such association shall have the corporate powers which are granted to corporations under the general corporation laws of this state. (Ex. Sess. '19 c. 55 § 4)

**3679. Selection of directors**—The directors of such association shall be chosen from the officers of its members and at its first meeting shall adopt by-laws which shall be filed with the commissioner of insurance and shall not be effective until approved by him. (Ex. Sess. '19 c. 55 § 5)

**3680. Perpetual existence authorized**—The corporate existence of any such association may be made perpetual by so providing in its articles of incorporation. (Ex. Sess. '19 c. 55 § 6)

**3681. Assessments to be paid**—Member companies of any such association shall on the first day of February of each year pay to the treasurer thereof an advance assessment to be fixed by the by-laws of such association, which association shall be based upon the amount of insurance of each of its member companies during the calendar year ending December 31st next preceding, and every such association may maintain as a fund for the payment of losses and expenses an amount not exceeding one-half of one mill on the total amount of insurance in force in its member companies. The individual members of the member companies shall be subject to assessment in case the funds of the member companies are insufficient to pay the assessment made by the association, to the same extent and in the same manner as though said assessment by the association was a loss by fire for which the member company was liable. (Ex. Sess. '19 c. 55 § 7)

**3682. Annual statement**—Every such association shall file with the commissioner of insurance an annual statement and procure a certificate of authority as required by law of township mutual fire insurance companies. (Ex. Sess. '19 c. 55 § 8)

**3683. Fees to be paid**—There shall be paid by such association to the commissioner of insurance, and by him accounted for to the state of Minnesota, the following fees:

- 1. For filing certificate of incorporation.....\$2.00
  - 2. For filing annual statement..... 1.00
  - 3. For certificate of authority annually..... 1.00
- (Ex. Sess. '19 c. 55 § 9)

**3684. Under supervision of insurance commissioner**—The certificate of incorporation and by-laws forms

3675  
31 - 178  
31 - 197  
3681

3681  
31 - 178  
3675

of contracts and policies adopted or issued by every such association, and the general conduct of its affairs, shall be subject to the general supervision and jurisdiction of the commissioner of insurance, and such commissioner, whenever requested by five or more members of such association, shall make an examination of the affairs thereof at the expense of such association. Whenever, after such examination, the commissioner is satisfied that any such association has violated the law, has exceeded its powers, is not carrying out its contracts in good faith, is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or its members, he may, after hearing duly had, suspend the license of such association and present the facts relative thereto to the attorney general, who shall, if the circumstances warrant, commence an action to enjoin said association from carrying on any further business and for the appointment of a receiver, who shall, under the direction of the court, proceed to close the affairs of such association and distribute its funds to those entitled thereto. (Ex. Sess. '19 c. 55 § 10)

#### MUTUAL MARINE INSURANCE COMPANIES.

**3685. Subscription liability fund**—Every mutual marine company, before issuing any policy, shall have an agreement duly executed by solvent subscribers to the amount of at least three hundred thousand dollars, substantially as follows: "We, the subscribers, severally agree to pay to the (name of company), on demand, the whole or such part of the amounts set opposite our names, respectively, as may be called from time to time for its use, to pay losses and expenses not otherwise provided for"; and such agreement, indorsed with the certificate of the president and a majority of the directors that such subscribers are known to them, and that they believe each to be solvent, shall be filed with and approved by the commissioner. (1679) [3425]

Requisites of organization. Nature of liability on subscription. What constitutes marine insurance business (87-59, 91+266; 90-383, 97+110). Policy held not to render holder liable as a member of a mutual company (87-392, 92+227). Liability of directors (97-340, 106+312).

**3686. Subscriptions to be kept good—Dividends**—Whenever, from death or other cause, a deficiency exists in the subscription fund, the same shall be made good by new subscriptions, certified in the same manner as the original. Subscribers shall be entitled to annual dividends of two per cent upon the amount of their subscriptions from the profits of the company, and shall also be reimbursed from future profits for all money they shall pay to the company for its uses under their agreement with interest thereon. (1680) [3426]

**3687. Net profits—Accumulations**—The net profits or dividend surplus of every such company shall be annually divided among the insured whose policies terminated during the year, in proportion to their contribution thereto. Such dividends shall be made only in scrip certificates payable out of the accumulated profits or surplus, and such accumulation shall be kept and invested as a separate fund in trust for the redemption of such certificates, and for losses and expenses, as herein provided. Until redeemed, such certificates shall be subject to future losses and expenses, and be reduced in case the redemption fund is drawn upon for payment of such losses and expenses, but no part of such fund shall be used for payment of losses or expenses, except when and to the extent that the cash

assets are insufficient therefor; and whenever any portion thereof is so used the outstanding certificates shall be reduced proportionately, so that such fund shall at all times equal the unredeemed certificates. The net income of the redemption fund shall be divided annually among the holders of its certificates, or it may make such certificates with a special rate of interest payable from the income of its invested funds. As such profits accumulate and are invested, subscriptions of an equal amount shall be cancelled. The maximum of accumulations and profits shall be three hundred thousand dollars, and all excess of profits beyond that amount shall be applied annually to the payment of the certificates in the order of their issue. The certificates shall be forthwith payable when the company ceases to issue policies, and the fund is no longer liable to be drawn upon for the payment of losses. (1681) [3427]

**3688. How governed—Liability of officers**—Every domestic mutual marine company shall be governed by the provisions applicable to mutual fire companies, and each subscriber to the subscription fund shall be a member during the term of his subscription and entitled to one vote. If a subscriber fails to pay his subscription or any assessment thereon, and it is shown that any director or officer knowingly certified falsely as to him, the person so certifying shall be liable for the amount thereof. If any such company is at any time liable for losses beyond the amount of its net assets, the president and directors shall be personally liable for all losses on insurance effected while the company remains in such condition. (1682) [3428]

#### MUTUAL HAIL, TORNADO AND CYCLONE COMPANIES

**3689. Conditions precedent to issue of policies**—No company for insurance against loss or damage by hail, tornadoes, cyclones and hurricanes, or any of said causes, shall issue any policy until at least two hundred thousand dollars of insurance, in not less than four hundred separate risks, upon property located in not less than ten counties, and upon not more than fifteen risks of one hundred and sixty acres each in any one township, have been actually subscribed for and entered on its books, and each subscriber has paid a membership fee of three dollars, for which duplicate receipts have been executed, conditioned for the return thereof at the end of one year if the company has not then completed its organization. Immediately thereafter one of said duplicates shall be delivered to the member, and the other, together with such fee, deposited in a solvent bank approved by the commissioner, where such fee shall remain until the company has been licensed to do business, not exceeding such year, when it shall be delivered to it; otherwise to the member. Such duplicate and a certificate of such deposit shall be filed with the commissioner within ninety days after such deposit.

Provided, however:

1. Those organized to insure creamery and cheese factory buildings, their contents and equipment, exclusively, may issue policies when not less than fifty thousand dollars, in not less than one hundred separate risks, upon such buildings and contents in this state, have been subscribed for and so entered. The name of every such company shall include the words: "Mutual Creamery Tornado Insurance Company," and it shall issue no policies except upon the class of risks aforesaid. (1667) [3413] (Amended '25, c. 115, § 1)

**3690. Limit of premiums and assessments**—The premium of every such company in its hail department shall not be less than two and one-half per cent per annum of the amount insured. In addition to the premium, every policyholder shall be liable to a ratable assessment for all losses and expenses incurred while a member, in a sum equal to such premium, but not exceeding in any one year five per cent of his insurance, if notified thereof within ninety days after the expiration or cancellation of his policy; or if such policy be for more than one year, within ninety days after the expiration of the year in which assessment is made thereunder. (1668) [3414]

(98-13, 107+555). (126-245, 148+305).

**3691. Notice and payments of assessments—Collection commission**—Whenever any assessment has been completed, the secretary shall immediately notify each member by mail, directed to his last known address, of the purpose and amount of such assessment and of his share thereof, and the person to whom and the time when such payment must be made, which shall not be less than thirty nor more than ninety days thereafter; and such person, if the by-laws so provide, may collect a commission of not more than 2 per cent of each amount in addition thereto. (R. L. '05 § 1669, amended '07 c. 471 § 1) [3415]

**3692. Officers—Compensation**—The officers shall perform such duties, receive such compensation, and give such bonds as shall be provided in the by-laws or fixed by the directors; but no salary, past or future, shall be increased except by majority vote of all members present and represented at an annual meeting, and no officer or director shall receive any commission. (1670) [3416]

**3693. Proxies**—No proxy shall be received unless dated and actually executed within the preceding thirty days, and filed with the secretary at least ten days before the meeting, nor if made to any director or officer. (1671) [3417]

**3694. Property insurable—Limitation on expenses**—No such company shall insure any other property than country churches and school houses, farm dwellings, mutual or co-operative creameries, cheese factories, barns and other buildings, and hay, grain and other farm products therein, or stored or growing on the premises, bedding, wearing apparel, printed books, pictures and frames, household furniture, family stores and provisions while therein or in the cellar beneath, farm implements, vehicles and machinery on or off the premises, threshing machines, or livestock thereon or running at large. No company, in its hail department, shall insure more than 3,200 acres in any one township; there shall be at least one-half mile between each risk assumed by such company, except that risks may be assumed which cover the growing crops upon not more than 320 acres of contiguous or immediately adjacent lands. No such company shall incur, lay out or expend, in any one calendar year, as and for the expenses of conducting such business, more than its application or survey fees and forty (40) per cent of its total premiums or assessments actually collected. But no company shall be required to limit its annual expenses to less than one thousand dollars (\$1,000). (R. L. '05, § 1672; amended '07, c. 471, § 2; '15, c. 106, § 1; '25, c. 32, § 1) [3418]

**3695. Reports—Winding up; powers of commissioner**—The commissioner shall demand a report of such any company whenever in his judgment the interest of the public or policyholders so require, and the

proper officers of the company shall make prompt reply to such demand, and answer fully all interrogations regarding its business methods, financial condition, and other matters pertaining to its business. If any officer having charge of the books and papers of such company shall fail to make such report promptly, or if the company carries on its business in a fraudulent, extravagant, or unsafe manner, so as not to afford its policyholders protection against loss or damage, or if it violates any provisions of this subdivision; or if its expenses other than the absolute payment of its losses shall in any one year exceed the limit prescribed in section 3694, as amended, being section 2 of this act, the commissioner shall revoke its license to do business in this state. And whenever the commissioner shall have reason to doubt the solvency of any such company, or to believe that it is doing fraudulent, extravagant or unsafe business, he may, at its expense, cause an examination of its books, records, papers and securities, and if upon such examination he shall find that it is not paying its legal obligations, or is conducting its business in a fraudulent, extravagant or unsafe manner, or is violating any provisions of law, he may bring an action in the district court of the county where the principal office of the company is located for the appointment of a receiver of such company and for the winding up of its affairs, and for such other order and relief as shall be equitable and proper under the circumstances. (R. L. '05 § 1673, amended '07 c. 471 § 3) [3419]

**3696. Guaranty surplus fund—Dividends**— [Repealed.]

This section is repealed by Laws 1927, c. 40. (98-13, 107+555).

**3697. Provisions of policy**—Every policy shall provide as follows: "In case of loss under this policy, and failure of the parties to agree as to the amount of such loss, it is mutually agreed that such amount shall be referred to three disinterested men, the company and the insured each choosing one out of three persons named by the other, the third being selected by such two. The written award of a majority of such referees shall be final and conclusive upon the parties as to amount of loss, and such reference, unless waived by the parties, shall be a condition precedent to any right of action to recover for such loss, and no suit for the recovery of any claim by virtue of this policy shall be sustained unless commenced within six months after the loss occurred;" and shall also provide the form, manner and length of notice to be given to the company by the insured of any loss sustained. (1675) [3421]

**3698. Transfer of risks and re-insurance**—Every company may transfer its risks to, or re-insure them in, any other domestic or foreign company at the time authorized to do such business in this state, on the mutual or stock plan, by a contract of transfer or re-insurance approved by the commissioner, and by a two-thirds vote of the members present or duly represented and voting at a meeting of such company. (1676) [3422]

**3699. Re-insurance and consolidation**—Any such mutual company may at any time re-insure its business in, and consolidate with, any domestic stock company organized wholly or partly for the same purpose, in the manner following:

1. By a two-thirds vote of its members or stockholders, respectively, present or duly represented and voting at any meeting; and each company shall adopt a resolution stating what mutual company proposes to

re-insure and consolidate, and with what stock company, and the terms and conditions thereof.

2. A copy of such resolution, and a certificate by the proper officers thereof, specifying the date of the meeting, the notice thereof, the number of members or stockholders, as the case may be, present and voting thereon, and the fact of its adopting such resolution, shall be filed by each company with the commissioner for his approval. (1677) [3423]

3700. Same—Upon such approval the commissioner shall issue to each company his certificate thereof, and they shall proceed to carry into effect the terms of such resolution; and such stock company shall thereupon acquire all the property of such mutual company, and become liable for all its contracts, but shall keep such property separate from its own for the protection of the members of such mutual company, until all its contracts have been discharged. (1678) [3424]

#### MUTUAL BURGLARY AND THEFT INSURANCE COMPANIES

3701. Formation or admission—Conditions—No mutual company for insuring against loss or damage from burglary or robbery, or attempt to commit the same, or against loss of money or securities in course of transportation by registered mail, shall be licensed to do, or shall do, any business except soliciting and receiving applications, until it shall have received at least five hundred bona fide applications for policies, if a domestic company; or, if a foreign company, shall have in force in the state where created at least five hundred policies; upon which, in either case, not less than twenty per cent of the premiums shall have been paid in cash, and the remainder in the form of written contracts, which shall constitute part of the assets, and which cash and contracts in either case shall aggregate at least fifty thousand dollars. (1683) [3429]

The jury found that the plaintiff Buell did not breach the condition of the policy, and that he was not negligent. It found that the Studebaker Company, which had custody of the auto for inspection and repair, was negligent. The evidence sustains the findings. 167-183, 208-819.

3702. Limitation—Reserve—No such company shall transact other business than that stated in § 3701, nor insure in this state other than banks, bankers, loan companies and municipal treasurers. Every such company shall set aside a reserve fund of fifty per cent of its premiums, in cash and contracts. No policyholder shall be liable, except by written contract for any assessment or claim other than membership fee and premium, which shall be paid in cash when the policy is issued. (1684) [3430]

#### TITLE INSURANCE COMPANIES

3703. Real estate title insurance companies—The capital stock of every real estate title insurance company shall not be less than \$200,000.00, and before issuing any policy or other contract of guaranty or insurance, it shall set apart and keep separate not less than two-fifths thereof, and not less than \$100,000.00 in any case as a guaranty fund, and invest the same according to law, and the securities in which said guaranty fund is invested shall be duly deposited with the commissioner of insurance for Minnesota, and his certificate thereof procured as provided by law. Such deposit shall be maintained unimpaired, and the principal of such fund shall be applied only to the payments of losses and expenses by reason of its guaranty

and insurance contracts, with the right to the company to collect the income thereof and to substitute other like securities of equal amount and value from time to time. After the investment of such portion of its capital stock as hereinbefore provided, and the deposit of the securities in its guaranty fund as aforesaid, the remainder of its capital stock may be invested in such securities, records, abstract plants and equipment as the board of directors of such company shall determine to be suitable for the transaction of its business, and in addition to the powers now possessed, such companies are authorized to make abstracts of title to real property for compensation. Two-fifths of every increase of capital shall be likewise set apart and added to such fund so that the same shall always be at least two-fifths of its entire capital, and it shall make no contract of guaranty or insurance when it is less. (R. L. § 1685, amended '15 c. 196 § 1) [3431]

Taxation of company engaged in trust, safety deposit, etc., business (64-101, 66-206).

3704. Distribution of assets to stockholders—Any corporation heretofore organized under the laws of this state, transacting both a title insurance and trust company business, which now or at any time hereafter has ceased to do new business by majority vote of its stockholders, or otherwise, and has not issued a policy of insurance for a period of ten years, and has fully executed or surrendered and been discharged from its trusts and has satisfied all obligations on account thereof and all other of its debts and obligations other than its contingent liability on its outstanding policies of insurance, may make distribution of its assets to stockholders by complying with the provisions of this act. ('11 c. 253 § 1) [3433]

3705. May petition district court—Any such corporation may petition the district court of the county of its principal place of business to ascertain and determine the legal nature and character of its liability on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge such liability. ('11 c. 253 § 2) [3434]

3706. Power of district court—Upon the presentation of such petition, the court shall fix a time and place for hearing thereon and order six weeks' published notice thereof, to be given and such other notice to parties interested as it may deem proper. At the time and place so fixed, the court shall hear the allegations and evidence of all parties interested, and if it shall appear to the satisfaction of the court that such corporation has ceased to do new business and has not issued a policy of insurance for a period of ten years, and has fully executed or surrendered and been discharged from its trusts and has satisfied all obligations on account thereof and all other of its debts and obligations other than its contingent liability on its outstanding policies of insurance, the court shall find and determine the legal nature and character of the liability of said corporation on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge such liability. Evidence as to the percentage of loss to the amount of insurance issued, sustained by other title insurance companies doing business in this state or elsewhere and evidence of the cost of re-insuring the holders of all outstanding policies of insurance shall be competent evidence at said hearing; the court may require such other and further evidence as to it may seem wise and proper. The court shall make and enter its order and decree upon said petition, authoriz-

ing and directing said corporation, upon depositing with the insurance commissioner securities of the character described in subdivisions 1, 2, 3, 4, 7 and 8 of section 3022 of the Revised Laws of the State of Minnesota for 1905, of the market value and in an amount equal to the amount so found and determined by the court to be deposited as aforesaid, to distribute to its stockholders such part of its other assets as its board of directors may, by resolution, from time to time determine. ('11 c. 253 § 3) [3435]

**Explanatory note**—For R. L. '05, § 3022, see § 7714, herein.

**3707. Certified copy to be filed with insurance commissioner**—Said corporation shall file with the insurance commissioner a certified copy of the order and decree of said court and shall deposit with said insurance commissioner securities of the character and amount specified in said order and receive therefor the receipt of said commissioner; thereupon it may distribute its other assets, or such part thereof as it may deem proper, to its stockholders. Such deposits of securities shall be maintained by said corporation unimpaired as a guaranty fund for creditors of said corporation and for the holders of all its policies of insurance and for the faithful discharge of all the duties and obligations of said corporation, with the right to collect the income thereof and to substitute from time to time other like authorized securities of equal amount and value. ('11 c 253 § 4) [3436]

**3708. Decree also to be filed with superintendent of banks**—Said corporation shall also file with the superintendent of banks a certified copy of the order and decree of said court and the receipt of the insurance commissioner to said corporation for the securities aforesaid; thereupon said superintendent of banks shall return to said corporation all securities which may have been by it theretofore deposited with him under any law of this state. ('11 c. 253 § 5) [3437]

**3709. Liability of corporation and stockholders**—The liability of such corporation, the liability of any stockholder therein upon any contract or obligation, whether of insurance or otherwise, and the right of the holder of any policy of insurance issued by said corporation, shall not be in any manner affected hereby. ('11 c. 253 § 6) [3438]

**FIDELITY AND SURETY COMPANIES**

**3710. Fidelity and surety companies**—No company for guaranteeing the fidelity of persons in fiduciary positions, public or private, or for acting as surety, shall transact any business in this state until it shall have satisfied the commissioner that it has complied with all the provisions of law relative to security prescribed for foreign life companies, so far as applicable, and obtained his certificate to that effect. Thereupon it shall be authorized to execute, as sole or joint surety, any bond, undertaking, or recognizance which, by any municipal or other law, or by the rules or regulations of any municipal or other board, body, organization, or officer, is required or permitted to be made, given, tendered or filed for the security or protection of any person, corporation or municipality, or any department thereof, or of any other organization whatever, conditioned for the doing or omitting of anything in such bond or other instrument specified or provided; and any and all courts, judges, officers and heads of departments, boards and municipalities, required or permitted to accept or approve of the sufficiency of any such bond or instrument, may in their discretion

accept the same, when executed, or the conditions thereof guaranteed solely or jointly by any such company, and the same shall be in all respects full compliance with every law or other provision for the execution or guaranty by one surety or by two or more sureties, or that sureties shall be residents or householders, or freeholders, or all or either. (1686) [3432]

163-333, 204+33.

The complaint did not show the action to be premature, and the answer did not raise that issue, but denied all liability upon the indemnity bond given to secure plaintiff from loss through the fraud or dishonesty of its cashier. 163-257, 203+969.

Proof of loss is a preliminary notice and not a pleading, and when it is substantially correct as to the total shortage the itemization of a wrong check as one of the items is not fatal. 163-280, 203+985.

Evidence sufficient to justify the jury in finding that defendant waived the provisions of the policy requiring the furnishing of proof of loss within a 90-day period. 163-280, 203+985.

Applies to mutual insurance companies which desire to write surety bonds covered by subdivision 6, § 3215, G. S. 1923. 167-198, 208+659.

Reformation of surety bond for mistake, fraud, etc. 210+66.

**PROVISIONS REGARDING FOREIGN COMPANIES**

**3711. Requirements — Certificates**—Any insurance company of another state, upon compliance with all laws governing such corporations in general, and with the foregoing provisions so far as applicable, and also with the following requirements, shall be admitted to do business in this state:

1. It shall deposit with the commissioner a certified copy of its charter or certificate of incorporation, and of its by-laws, and a statement showing its financial condition and business, verified by its president and secretary or other proper officers.

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

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

4. It shall appoint, as its agents in this state, residents thereof, and obtain from the commissioner a license to transact business therein. (1705) [3591]

**1. Service of process—Subd. 3**—Stipulation for service, how far irrevocable (87-260, 91+1115). (114-471, 131+828). Personal service on commissioner not exclusive of service on local agent under G. S. 1894, sec. 3158 (80-147, 82+1023; 90-146, 83+1118). Stipulation does not give situs in this state (72-383, 75+740).

**2. Certificates**—Act of commissioner in issuing does not conclude state. Quo warranto to test right of corporation to exercise corporate powers (39-538, 41+108).

**3. In general**—Premiums and assessments not collectible when statute not complied with (66-205, 68+1065; 74-325, 329, 77+207), but insured may recover from company (34-372, 25+943). Foreign company complying with statute has rights of domestic companies (74-139, 142, 76+1030). In action by foreign company not necessary to allege compliance with statute. Non-compliance a matter of defense (63-170, 65+351; 74-325, 77+207; 77-256, 259, 79+974). Restrictions on foreign companies to be enforced. No business can be done without compliance with statute (88-20, 25, 92+472; 94-86, 102+213). (133-11, 157+721).

165-95, 205+694; 166-285, 207+724.

3711  
222nw 901  
3713  
3711  
176m 143  
See 3713  
3711  
250nw 2  
3315

G. S. 1923, § 3319, by virtue of subdivision 2, § 3711, requires all such companies as engage in writing surety bonds to deposit securities as therein provided. 167-198, 208+659.

**3712. Service of garnishee process**—When garnishee process is served upon the commissioner of insurance, as attorney for any insurance company, no garnishee fee shall be paid to such commissioner. After the receipt of copy of such process the insurance company may demand of the attorney of the person making such garnishee the proper fees, and if such demand is not complied with before the day fixed for the disclosure of the garnishee, the proceeding may be dismissed. ('05 c. 229 § 7) [3250]

3713  
222nw 901  
3711

**3713. Appointment of insurance commissioner attorney for service of summons, process, notices and proofs of loss and agreement not to remove actions**—That before any corporation, association or company, issuing policies of insurance of any character, and not organized or existing pursuant to the laws of this state, is admitted to or authorized to transact the business of insurance in this state, it shall, by a duly executed instrument to be filed in the office of the insurance commissioner, constitute and appoint the insurance commissioner and his successor in office its true and lawful attorney, upon whom proofs of loss, any notice authorized or required by any contract with such company to be served on it, summonses and all lawful processes in any action or legal proceeding against it may be served, and that the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this state.

Said instrument shall contain a provision and agreement declaring that such company, association or corporation desires to transact the business of insurance in this state, and that it will accept a license therefor according to the laws of this state, and that it will not remove, or make application for removal, into any court of the United States any action or proceeding commenced in any court of this state upon a claim or cause of action arising out of any business or transaction done therein.

In case of the failure of any such insurance company to comply with any of the provisions of this act, or if it shall violate any of the conditions or agreements contained in the instrument filed as aforesaid, its right to transact the insurance business in this state shall cease, and it shall be the duty of the insurance commissioner to immediately declare its license revoked; and in case of such revocation, said company shall not be again licensed to transact business in this state for the period of one year from date of such revocation. ('11 c. 312 § 1) [3592]

(114-471, 131+628.)  
165-95, 205+694.

Unconstitutional. 160-285, 199+753.

**3714. Same to be filed with insurance commissioner**—Every foreign insurance company now transacting the business of insurance in this state shall, within sixty (60) days after the passage of this act, file with the insurance commissioner its written instrument, as provided in section one (1), otherwise the commissioner shall immediately revoke its license. ('11 c. 312 § 2) [3593]

**3715. Fees and appointment of additional clerk**—The insurance commissioner shall be entitled to charge and receive a fee of two dollars (\$2.00) for each notice, proof of loss, summons or other process served upon him under the provisions of this act, to be paid by the persons serving the same. The fees so collected

shall be paid into the state treasury, as is now provided by law for other fees collected by such insurance commissioner. The insurance commissioner is authorized to employ a clerk to carry out the provisions of this act at a salary of not to exceed twelve hundred dollars (\$1,200.00), which sum is hereby annually appropriated out of the revenue fund of the state. ('11 c. 312 § 3) [3594]

**3716. Deposit to be made with commissioner of insurance**—Such company of any foreign country, except fraternal beneficiary associations, shall not be admitted until, besides complying with the foregoing requirements, it has made a deposit with the commissioner of insurance of this state, or with the proper officer of some other of the United States, of a sum not less than the capital required of a like company under the provisions of this chapter, and such deposit shall be of the same class of securities and subject to the same limitations as is required for the deposit of domestic companies that must by law maintain a deposit.

Such deposit shall be in exclusive trust for all its policyholders and creditors in the United States, and for all purposes of the insurance laws shall be deemed its capital. (R. L. § 1706, amended '09 c. 478 § 1) [3595]

(102-15, 112+1050.)  
166-285, 207+724.

**3717. Securities to commissioner of insurance**—All securities, moneys, mortgages, certificates, bonds, notes, receipts, statements, records, and all papers relating thereto, which have been heretofore deposited with and received by the state treasurer pursuant to the laws governing deposits of foreign insurance companies, shall, upon the passage and approval of this act, be transferred and delivered to the commissioner of insurance of Minnesota, and it shall be his duty to receive and safely keep the same. (R. L. § 1706, amended '09 c. 478 § 2) [3596]

**3718. State treasurer to transfer securities**—The state treasurer is hereby authorized and directed to make all assignments and conveyances to the commissioner of insurance which may be necessary to complete a transfer of the securities as contemplated by this act. (R. L. § 1706, amended '09 c. 478 § 3) [3597]

**3719. Trustees appointed, when**—Any company of a foreign country may duly appoint one or more citizens of the United States, approved by the commissioner, to hold funds or other property for the benefit of its policyholders and creditors therein. A certified copy of their appointment, and of the instrument of trust, shall be filed with the commissioner, who shall have the same authority in the premises as in the case of the affairs of all companies. Such funds shall be invested in the same securities as required of other insurance companies, and, together with the deposits required, shall constitute the assets of such company in respect to its policyholders and creditors in the United States. (1707) [3598]

**3720. Method of insurance—War—Re-insurance**—No foreign company shall make its insurance contracts upon lives, property or interests in this state except through lawfully constituted and licensed resident agents, and whenever it effects re-insurance otherwise than through such agents the entire tax thereon shall be paid by the original company, and no reduction shall be made on account of such re-insurance. No policy of insurance issued to a citizen of this state shall be invalidated by the occurrence of hostilities

between any foreign country and the United States. (1708) [3599]

3721. Retaliatory provisions—Whenever, by the laws of any other state or country, any taxes, fines, deposits, penalties, licenses or fees, in addition to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents doing business in the state, are imposed on insurance companies of this state, and their agents doing business in such state or country, or whenever any conditions precedent to the right to do business in such state are imposed by the laws thereof, beyond those imposed upon such foreign companies by the laws of this state, the same taxes, fines, deposits, penalties, licenses, fees and conditions precedent, shall be imposed upon every similar insurance company of such state or country and their agents doing or applying to do business in this state, so long as such foreign laws remain in force. ('07 c. 420 § 1) [3600] (39-538, 41+108; 66-393, 69+141; 114-471, 131+628.)

3722. Insurance from unlicensed foreign companies —Whenever any person, firm or corporation desires to obtain insurance upon any property in this state in companies not authorized to do business therein, he or they shall give bond to the commissioner in such sum as he shall deem reasonable, with satisfactory resident sureties, conditioned that the obligors, on the expiration of a license to obtain such insurance, shall pay to the commissioner, for the use of the state, a tax of two per cent upon the gross premiums paid by such licensee. Thereupon the commissioner shall issue such license, good for one year, and all insurance procured thereunder shall be lawful and valid, and the provisions of all policies thereof shall be deemed in accordance, and construed as if identical in effect, with the standard policy prescribed in this chapter, and the insurers may enter the state to perform any act necessary or proper in the conduct of such business. Such bond may be enforced by the commissioner in his own name in any district court. The licensee shall file with the commissioner, on June 30 and December 31 annually, a verified statement of the aggregate premiums paid and returned premiums received on account of such insurance. (1649) [3331] 166-285, 207+724.

FIRE AND POLICE DEPARTMENT AID AND FIREMEN'S AND POLICEMEN'S RELIEF.

3723. Certificate of municipal officer—On or before October 31, annually, the clerk of every municipality having an organized fire department, or a partly paid or volunteer department, shall file with the commissioner his certificate stating such fact, the system of water supply in use in such department, the number of its organized companies, steam, hand or other engines, hook and ladder trucks, hose carts, and feet of hose in actual use, and such other facts as the commissioner may require. (1650) [3342] (15-68).

3724. Report of premiums—Certificate of commissioner—The commissioner shall include in the blank form furnished to each fire insurance company for its annual statement a list of all such municipalities, and each company shall report therein the amount of the gross direct premiums, less return premiums, received by it on all direct business during the preceding year, upon property located within the corporate limits of such municipalities, upon policies covering loss or damage by fire, lightning, loss or damage by water to

goods and premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires. Before July 1 following, the commissioner shall certify to the state auditor the name of each municipality which has had for not less than one year an organized fire department, and which has been so reported to him, and the amount of said gross direct premiums, less return premiums, upon property located within the corporate limits of such municipality, received by each fire company upon policies covering loss or damage by fire, lightning, loss or damage by water to goods and premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and taxes paid on account thereof in such year by each company. (R. L. '05 § 1651; G. S. '13 § 3343, amended '19 c. 397 § 1)

3725. Auditor's warrant—At the end of the fiscal year the state auditor shall issue and deliver to the treasurer of every such municipality his warrant for an amount equal to the total amount of the two per cent tax paid by insurance companies to the state of Minnesota upon premiums received under policies of the classes of insurance as indicated in section 3343, General Statutes 1913 [3724], as amended, and the same shall be paid out of the general revenue fund. (R. L. '05 § 1652; G. S. '13 § 3344, amended '19 c. 397 § 2)

3726. Special fund — Disbursements — Payments to relief associations—Such amount shall be kept as a special fund, and disbursed only for the following purposes:

(1) For the relief of sick, injured or disabled members of such fire department, their widows and orphans.

(2) For the equipment and maintenance of such department and for construction, acquisition or repair of buildings, rooms and premises for fire department use or otherwise; provided, that the treasurer of the association may and shall loan or invest the funds of such association in such properties or securities as shall be directed by the trustees or board of managers of the association, but the said trustees or board of managers shall not have authority to make any such loan or investment until after the same shall be approved at a regular meeting of the members of the association, and by a three-fourths vote of all the members present at said meeting; and, provided further, the treasurer of said association shall not be held responsible for any such use or investment of such funds, under the direction of said trustees or managers, but only for the safe keeping of the securities.

But if there shall be a duly incorporated fire department relief association in such municipality, organized with the consent of the governing body thereof, such amount shall be paid to the treasurer of said relief association, to be disbursed as hereinabove prescribed for municipalities, and as hereinafter provided for service pensions, or relief of sick, injured, or disabled, active or retired members of the fire department in such city, who are members of such relief associations. In case any fire department relief association or any trustee having any of said funds in its hands shall resign its trust in relation thereto, or shall be dissolved or shall have been heretofore or shall be hereafter removed as such trustee, the district court of the proper county may appoint a trustee or trustees of said funds, or cause such trust to be executed by its officer under its direction, or such court may direct that such trust funds be paid to the treasury of the proper municipality, and all funds so held in trust or so paid to any such

3726-28  
29 - 16f  
222nw 383  
3726  
33 - 177  
See 1919  
3726  
Et seq.  
34 - 53  
34 - 56  
34 - 79  
See 1442 29

3723Etseq.  
29 - 23  
3723Etseq.  
31 - 152  
3723-3752  
243nw 713  
3724-3726  
34 - 56  
1919-1920

treasurer shall be kept as a special fund and disbursed only for the purpose provided in this section. (R. L. '05, § 1653; amended '09, c. 237, § 1; '17, c. 207, § 1; '19, c. 326, § 1; '27, c. 373) [3345]

**3727. Annual report—Examination of books**—The secretary and treasurer of every such association shall annually prepare a detailed report of its receipts and expenditures for the preceding year, showing to whom and for what purpose the money has been paid and expended, and file it with the clerk of the municipality and a duplicate with the state auditor. No money shall be paid to such municipality until such report is so filed. No one serving as a substitute or on probation, nor any fireman in a municipality having such association who is not a member thereof, shall be deemed a fireman within the meaning of this subdivision. No treasurer of any such association shall enter upon his duties until he shall have given to the association a good and sufficient bond for the faithful discharge of his duty according to law. All the financial books and accounts of such association and municipality shall be subject at all times to examination by the public examiner, and he is hereby authorized and empowered to make such examination when complaint is duly made to him that the money, or any part thereof, paid under the provisions of this chapter to the treasurer of any municipality or relief association, has been or is being expended for an unauthorized purpose, shall so report to the governor, upon whose direction to the auditor no further warrants shall be issued to such municipality until the money so expended has been replaced. (1654) [3346]

(112-298, 127+1133.)

**3728. Service pension**—Every fire department relief association organized under any laws of this state, whenever its certificate of incorporation or by-laws so provide, may pay out of any funds received from the state, or other source, a service pension, in such amount, not exceeding forty dollars (\$40.00) per month, as hereinafter authorized, or as may be provided by its by-laws, to each of its members, who has heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty (50) years, and who has done, or hereafter shall do, active duty for twenty (20) years or more as a member of a volunteer paid, or partially paid and partially volunteer fire department in the municipality where such association exists, and who has been, or shall hereafter be, a member of such fire department relief association at least ten (10) years prior to such retirement, and who complies with such additional conditions as to age, service, and membership as may be prescribed by the certificate or by-laws of such association.

The amount of monthly pension which may be paid to such retired firemen may be increased by adding to the maximum above prescribed, an amount not exceeding two dollars per month for each year of active duty over twenty years of service before retirement, provided, however, that no such fire department relief association shall pay to any member thereof a pension in any greater amount than the sum of sixty dollars per month. No such pension shall be paid to any person while he remains a member of the fire department and no person receiving such pension shall be entitled to other relief from such association. No payments made or to be made by said association to any member on the pension roll shall be subject to judgment, garnishment or execution, or other legal process, and no person entitled to such payment shall have the right to assign the same, nor shall the association have the

authority to recognize any assignment or pay over any sum which has been assigned. (R. L. '05 § 1655, amended '07 c. 331 § 1; '17 c. 514 § 1) [3347]

**3729. Pensions for members of volunteer fire departments in certain cities and villages**—Pensions or financial aid shall be paid to each member of any regularly organized volunteer fire department existing in any city, village, borough or town in this state, excepting cities of the first class, who may after the passage of this act be permanently injured while in the performance of his duties as such fireman, and in the event of the death of such fireman so injured, financial aid shall be paid to his widow, and in certain cases to the guardian of his minor children under sixteen years of age as hereinafter specified out of the fund hereinafter provided. ('23 c. 179 § 1)

**3730. Schedule of aid allowed**—Schedule of aid allowed under this act is as follows:

(a) For total permanent disability there shall be paid to such injured fireman the sum of \$60 per month for and during his life.

(b) For partial permanent disability there shall be paid during life to such injured fireman monthly an amount sufficient to compensate him for loss in earning capacity sustained; provided, however, that the amount paid per month to any injured fireman under this subdivision shall not exceed thirty-five dollars (\$35.00).

(c) For death from any cause resulting to such fireman injured in the performance of his duties there shall be paid to his widow \$30.00 per month so long as she remains unmarried and in addition thereto \$10.00 per month for each child, of such fireman and such widow, under sixteen years of age; provided, no widow under the provisions of this subdivision shall receive more than \$60.00 per month.

(d) For death from any cause resulting to such fireman injured in the performance of his duties where his surviving spouse remarries, then and thereafter there shall be paid to her \$5.00 per month for each child of such fireman and such spouse, under sixteen years of age.

(e) For death from any cause resulting to such fireman injured in the performance of his duties where there is no surviving spouse at the time of his death, or such spouse thereafter dies, there shall be paid to the guardian of the children of the deceased fireman so injured \$10.00 per month for each of his children under the age of sixteen years. ('23 c. 179 § 2)

**3731. Duties of insurance commissioner**—The provisions of this act shall be administered by the commissioner of insurance, and he shall have power and it is made his duty to prescribe such forms and to adopt such rules and regulations for its proper administration as he may deem necessary. The form, manner of execution and filing of proofs of death or injury shall be prescribed by him, and he shall prepare a suitable number of such forms, which shall be sent on application to claimants. He shall also prepare and send to each volunteer fire department, on its application, a questionnaire, which shall include inquiries as to the name, date, and manner of organization of such fire department, the field of its operations, the number and the names of its members, and also inquiries and all other matters which may be deemed pertinent by him to the question of regularity of the organization of such volunteer fire department and the eligibility of its members to pensions or financial assistance hereunder. ('23 c. 179 § 3)

**3732. Fire departments may share in benefits—Duties of commissioner**—Within sixty (60) days after

the passage of this act each volunteer fire department in this state desiring that its members and their dependents shall share in the benefits of this act, shall obtain, execute and file with the commissioner of insurance the questionnaire above referred to. Thereafter each such fire department shall, through its proper officer, notify the commissioner of insurance on forms prepared by him for the purpose of any change in its membership or in its officers or in its purposes. If the commissioner of insurance finds that any volunteer fire department, seeking to comply with the provisions of this act, is a regularly organized volunteer fire department, in a town, borough, village or city of the class specified, he shall notify such fire department that he has found it subject to the provisions of this act, and that its members, as evidenced by the list on file in his office, and their dependents are entitled to pensions and financial assistance according to the terms thereof. ('23 c. 179 § 4)

**3733. Eligibility of members**—No member of a volunteer fire department nor his dependents shall be eligible to receive financial assistance or a pension hereunder unless at the time of the injury or death of such member his name appears on file in the office of the Commissioner of Insurance as a member of a regularly organized volunteer fire department in a town, village, borough or city of the class specified. No person who is sixty (60) years of age or over shall be eligible to receive payments under the provisions of this act. ('23 c. 179 § 5)

**3734. Assignments of claim not valid—Transfer a misdemeanor**—No assignment of any right or claim to the benefits herein provided for shall be valid, and any attempt to transfer any such right or claim, or any part thereof, shall be a misdemeanor and shall be punishable accordingly. ('23 c. 179 § 6)

**3735. Tax levy authorized—Proceeds to state treasurer**—The proper authorities of each city of the second, third and fourth classes, and of each village and town, in which is maintained a regularly organized volunteer fire department, shall annually vote a tax for the aid provided by this act in an amount equal to two dollars for each member of the volunteer fire department of such city, village or town, and annually after the collection of such tax, the proceeds thereof shall be transmitted by the proper authorities to the state treasurer and shall be accredited by him to a special fund to be known as the "Volunteer Firemen's Aid Fund" and the amount thereof is hereby annually appropriated to the commissioner of insurance for the purposes of this act and shall be disbursed by him in accordance with the provisions hereof. ('23 c. 179 § 7)

**3736. Not to affect workmen's compensation act**—This act shall not be construed as abridging, repealing or amending the laws of this state relating to fire department relief associations. Members of volunteer fire departments existing in cities, villages, boroughs or towns shall not be subject to the provisions of chapter 82, Laws 1921, as amended, commonly known as the Workmen's Compensation Act, nor shall they receive any benefit thereunder. ('23 c. 179 § 8)

**3737. City clerk's report to insurance commissioner**—The clerk of any city of the class named herein having an organized fire department shall on or before the 31st day of October in each year, make and file with the insurance commissioner his certificate, stating the existence of such department, the number of steam engines, hook and ladder trucks, hose carts, and number of feet of hose in actual use, the number of organized companies, and the system of water supply in use in such department, together with such other

facts as the insurance commissioner may require. ('07 c. 24 § 4) [3351]

**3738. Commissioner to report to auditor cities affected and premiums collected**—The insurance commissioner shall embody in his annual statement blank, a blank form, with the names of the cities thereon entitled to benefits under this act, and require the companies to report at the time of making their annual statements the amount of premiums received by them during the year ending December 31st in each (and) of the cities named in said blank, and thereafter and before the 1st day of July the insurance commissioner shall certify to the state auditor the names of the cities which have organized fire departments as reported to him under section 4 of this act, and the amount of premiums received by said companies in each of said cities, and the amount of tax paid in such year by said companies upon such premiums. ('07 c. 24 § 5) [3352]

Section 4 is § 3737, herein.

**3739. Auditor to deliver warrant to city**—The state auditor at the end of the fiscal year, shall issue and deliver to the treasurer of any such city his warrant upon the state treasurer for an amount equal to the total amount of the existing 2 per cent tax so paid by fire insurance companies upon the premiums by them received in any such city, as specified in said certificate of said insurance commissioner. ('07 c. 24 § 6) [3353]

**3740. Treasurer to pay warrant**—The state treasurer is hereby authorized and directed to and upon the presentation to him of the said warrant of the said auditor, he shall pay to the treasurer of any such city, out of the general revenue fund of this state, the amount in such warrant specified. ('07 c. 24 § 7) [3354]

**3741. Fund; how disbursed—Proceedings in case of incorporated relief association—Duties of officers—Ineligibles—Consent of council to future organization**—The amount so paid to any city under the provisions of this act shall be by it set aside as a special fund and may be appropriated and disbursed in the same manner that other funds belonging to such city are appropriated or disbursed, but only for the following purposes, viz.:

First—For the relief of sick, injured and disabled members of any fire department in such city, and their widows and orphans.

Second—For the payment of pensions pursuant to the provisions of sections 1 and 2 of this act.

Provided, that in case there exists or shall exist, a fire department relief association, duly organized or incorporated in any such city as aforesaid, shall be paid to the treasurer of such relief association instead of to the treasurer of such city.

But the secretary and treasurer of every such relief association shall prepare annually a report of all receipts and expenditures of such association for the previous year, showing for what purpose the money was paid and expended, and to whom, which report shall be filed in the office of the city clerk of the city in which such association is situated, and a duplicate of such report shall also be filed with the state auditor before any money shall be paid to any such relief association. The money paid to such relief association shall be expended only for the pensioning and relief of sick, injured, disabled and retired members of any fire department in any such city, and their widows and orphans, as authorized and permitted by this act.

For the purpose of this act no substitute fireman, or

any one serving on probation, or any fireman in a city having a relief association in its fire department who is not a member of such association, shall be deemed to be a fireman within the meaning of this act.

The term widow shall mean a woman who was the wife of the fireman or pensioner during the time he was an active fireman; provided, that she was married to him three or more years prior to the time when such fireman retires as a service pensioner.

The term widow shall not include the surviving wife who has deserted a fireman or pensioner, or who has not been dependent upon him for support, nor shall it include the surviving common law wife of such fireman or pensioner.

The treasurer of every such relief association, before entering upon the duties of his office, shall give a good and sufficient bond to said relief association conditioned for the faithful discharge of the duties of his office, and for the safekeeping and paying over, according to laws, of all moneys which come into his hands as such treasurer.

Provided, further, that no such moneys shall be paid to any such relief association hereafter organized, unless such organization is made with the consent of the council of the city to which such organization belongs. ('07 c. 24 § 8, amended '13 c. 318 § 2; '19 c. 523 § 2; '21 c. 216 § 1) [3355]

Sections 1 and 2 are §§ 3748, 3749, herein.

**3742. Exemption from garnishment—Assignments prohibited**—No payments made or to be made by said association to any member on the pension roll shall be subject to judgment, garnishment, or execution, or other legal process, and no person entitled to such payment shall have the right to assign the same, nor shall the association have the authority to recognize any assignment, or pay over any sum which has been assigned. ('07 c. 24 § 9) [3356]

**3743. Powers of association—Control, etc., of funds—Sources of funds—Tax levy for**—Said association, through its board of trustees and officers, shall have full charge, management, and control of said funds herein provided for; which said funds shall be derived from the following sources:

First—From interest, rents, gifts or money from other sources;

Second—From funds received from the State of Minnesota;

Third—All money raised by taxation as follows: The city council or other governing body of every city of said class in which a fireman's relief association exists as aforesaid, shall, each year at the time the tax levies for the support of the city are made, and in addition thereto, levy a tax of one-tenth of a mill on all the taxable property of the city. In any city of the first class having a fireman's relief association with assets less than \$300,000.00, such tax levy shall be increased to a rate not exceeding three-tenths of one mill on all taxable property of the city. The tax so levied shall be transmitted to the auditor of the county in which the city levying the tax is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof be enforced with and in like manner as state and county taxes are paid and the payment thereof enforced. The county treasurer of each county in which such tax is levied and collected, or the city treasurer, in case such tax is collected by him, in any city of the class covered by this act, shall pay over the same, together with all interest and penalties collected on account of the same when collected, and all interest paid thereon between the time of collection and the

time the same is paid over to the treasurer of the fireman's relief association. ('07, c. 24, § 10; amended '25, c. 201) [3357]

The provisions of chapter 252 of Laws 1919, are not inconsistent with the provisions of section 3357, Gen. St. 1913, and in no way repeal or modify the same. 161-103, 200+932.

Held to constitute a levy of one-tenth of a mill on the assessable value of all property subject thereto for the purpose stated in the act. 161-103, 200+932.

**3744. Public examiner; examination of associations, duties—Governor, when to act**—It shall be the duty of the public examiner to annually examine the books and accounts of the secretary and treasurer of each relief association receiving funds under the provisions of this act, and if he finds that the money or any part of it has been or is being expended for an unauthorized purpose, he shall report the same to the governor. The governor shall thereupon direct the state auditor not to issue any warrant for the benefit of such city, or to such relief association, until it shall be made to appear to the public examiner, who shall report the fact to the governor, that all money wrongfully expended has been replaced. And the governor may take such further action as the emergency may demand. ('07 c. 24 § 11) [3358]

**3745. Membership in police or fire department relief associations**—All employes, whether elective or appointive, and all officers in the service of any municipal police or fire department, telegraph, signal or alarm service, shall be entitled to membership in any incorporated police department relief association or fire department relief association that receives municipal or state aid in cities of fifty thousand (50,000) inhabitants or over, in which a separate bureau of police and fire alarm is provided by law and such applicants in said association shall at the time of joining be given credit only on the first application made under this act for the time of said actual service in any fire department or police department and signal service, as in this act provided, notwithstanding any rule, by-law, municipal charter provision or other provision to the contrary. ('19 c. 68 § 1)

**3746. Who shall be entitled to relief**—That the members of said bureau, except unassigned officers thereof, shall only be entitled to make application in the relief association connected with the department to which they have been assigned for duty in the office of the superintendent of said bureau on the 25th day of January, 1919. Such unassigned officers shall be eligible to membership in either of such associations. Credit for time earned shall be allowed only by the Police Benevolent Association for the service so previously spent in the police department, and the bureau, and by the Fire Department Relief Association for the service so previously spent in the fire department and the bureau. After joining said relief association, any transfer or assignment in said bureau of said employes shall not affect said membership in said relief associations. Any appointee to said bureau from and after the passage of this act shall only be entitled to join the Fire Department Relief Association in the event that he is filling a vacancy in the fire department service. ('19 c. 68 § 2)

**3747. Dual membership prohibited**—The members, employes and officers of said alarm, telegraph or signal service, shall not be entitled, however, to both associations at the same time. ('19 c. 68 § 3)

'17 c. 196 provides pension fund for salvage corps in cities other than first class.

**3748. Pensions and relief in cities of first class with paid fire department payable by firemen's relief associ-**

ations—Amounts payable—Persons entitled to receive—Army and navy service—Every firemen's relief association, now or hereafter organized in any city of this state having a paid fire department, and now or hereafter having a population of more than fifty thousand inhabitants which is now incorporated or which may hereafter be incorporated under Chapter 58, Revised Laws of Minnesota 1905, may pay out from any funds it may have heretofore received, or which it may hereafter receive, from the State of Minnesota, or any other source, pensions and relief money to any of its sick and disabled members, or for service pensions as hereinafter provided, in such amounts, and in such a manner, as its articles of incorporation and by-laws shall designate, not exceeding, however, the sum or sums hereinafter set forth; provided, however, that anyone who has served or is serving, on a paid municipal fire department shall be placed on the service pension roll, upon his making application for the same, when he has complied with the following conditions: He shall have done active duty for a period or periods, of time equal to 20 years or more; he shall have arrived at the age of 50 years or more; he shall have been, or shall be, entitled to be retired from the service on the fire department. When any member of any such fire department subsequent to his entry into the service of such fire department has served in the army, navy, or marine reserves or marine corps of the United States, or members of the United States army and navy reserves, in the World War of 1917, and 1918, or having during such World War entered the employment of the Government of the United States, and as an employe of the Government of the United States rendered fire prevention service during said war, and has returned after his honorable discharge from such service, to the said fire department, the period that he was in the service of the army, navy, or marine corps of the United States, or other employment herein specified, shall not be deducted from the period of active duty hereinbefore provided for, but shall be considered as a part and portion of his active duty in such fire department. The amount of monthly pension which may be paid to such retired firemen, who has retired prior to March 17, 1923, shall not exceed the sum of \$50.00 per month for twenty years of service before retirement, provided, that said monthly payments of \$50.00 may be increased by adding to the maximum above prescribed, an amount not exceeding \$2.00 per month for each year of active duty over 20 years of service before retirement; provided, however, that no such fire department relief association shall pay to any member thereof, who retired prior to March 19, 1923, a pension in any greater amount than the sum of seventy dollars per month. The amount of monthly pension which may be paid to such retired fireman who retired after the 17th day of March, 1923, shall not exceed the sum of \$50.00 per month for twenty (20) years of service before retirement, provided, that said monthly payments of \$50.00 may be increased by adding to the said monthly sum of \$50.00 per month an additional amount not exceeding the sum of \$2.80 per month for each year of active duty over 20 years of service before retirement and not more than 25 years of service; and an amount not exceeding the sum of \$3.20 per month for each year of active service before retirement over 25 years and not more than 30 years of service; and an amount not exceeding the sum of \$3.60 per month for each year of active service before retirement over 30 years and not more than 35 years of service; and an amount not exceeding the sum of \$4.00

per month for each year of active service over 35 years of service before retirement. No such pension shall be paid to any person while he remains a member of the fire department, and no person receiving such pension shall be entitled to other relief from such association. Provided, however, that this act shall be applicable only to such association as shall by a majority vote of all its members elect to come within the provisions hereof. ('07, c. 24, § 1; amended '19, c. 523, § 1; '21, c. 404, § 1; '23, c. 61, § 1; '25, c. 204, § 1) [3348]

**3749. Pensions for injuries or disabilities—Amounts**—The qualifications as to age and term of service, shall not apply to members of such fire department who make application for a pension on account of injuries or disabilities which unfit them for the duties of an active fireman, and such relief association shall pay a pension to such members or to the widows and orphans of deceased firemen or pensioners, in such sum and under such limitations and conditions as its Articles of Incorporation and By-Laws shall provide and permit. Provided, however, that the amount paid to any partially or totally disabled fireman who became such prior to March 17th, 1923, shall not exceed the sum of \$50.00 per month, and the amount paid to widows, or to orphans under the age of sixteen years of deceased firemen or pensioners, and to any partially or totally disabled fireman who became such subsequent to March 17th, 1923, shall not exceed the sum of \$75.00 per month; provided, that if any such orphan is insane, idiotic, or otherwise mentally or physically helpless, the pension referred to may be extended beyond the age of sixteen years and during the period of such disabilities. Provided, further, however, that all applications for a pension on account of such injuries or disabilities shall be made within sixty days after such applicant has ceased to be a member of the fire department. ('07, c. 24, § 2; amended '13, c. 318, § 1; '23, c. 61, § 2; '25, c. 205) [3349]

**3750. Reduction or increase in pensions**—Every such association shall at all times have and retain the right to reduce the amount of pensions and relief or to increase them whenever because of the amount of funds on hand or for other good reasons, such reduction or increase seems advisable or proper to such relief association, but said pension and relief shall not exceed the amount prescribed in sections 3348 and 3349, General Statutes 1913 (3748, 3749), as hereinbefore amended. Provided, however, that whenever and in all cases where any firemen's relief association shall have paid pensions or other benefits to members thereof under the terms and provisions of the by-laws of such association, such by-laws having been theretofore adopted, all steps taken, things done, money paid and expended, and all acts and proceedings had, done and performed, in connection with such payment, under the terms of such by-laws, are hereby legalized, validated, ratified, confirmed and made legal, valid and binding. ('07 c. 24 § 3, amended '23 c. 61 § 3) [3350]

**3751. Pension payments exempt from**—No payment made or to be made by any fire department relief association in a city of the first class under the provisions of section 3348, General Statutes 1913, as amended by chapter 523, Laws of 1919, and as amended by chapter 404, Laws 1921, and as amended by chapter 61, Laws 1923 (3748), to any member of the pension roll shall be subject to judgment, garnishment or execution or other legal process; and no person entitled to such payment shall have the right to assign the same, nor shall the association have the authority to recog-

nize any assignment or pay over any sum which has been assigned. ('23 c. 204.)

31 3752 — 320  
3752. **Payments validated**—That whenever and in all cases where any firemen's relief association in any city in this state having a population of more than fifty thousand (50,000) inhabitants, shall have paid pensions or other benefits to members thereof under the terms and provisions of the by-laws of such association, such by-laws having been theretofore adopted, all steps taken, things done, money paid and expended, and all acts and proceedings had, done and performed, in connection with such payment, under the terms of such by-laws, are hereby legalized, validated, ratified, confirmed and made legal, valid and binding. ('21 c. 526)

#### PENALTIES.

3753. **Complainant entitled to one-half fine, when**—The person, other than the insurance commissioner or his deputy, upon whose complaint a conviction is had for violation of the law prohibiting insurance in or by foreign companies not authorized to do business in this state, shall be entitled to one-half the fine recovered upon sentence therefor. (1711) [3602]

3754. **Unlawful guaranty**—Every director, officer or agent of an insurance company who officially or privately gives a guaranty to a policyholder thereof against an assessment for which he would otherwise be liable shall be guilty of a misdemeanor. (R. L. '05 § 1712; G. S. '13 § 3603, amended '15 c. 84 § 1)

3755. **Failure to appear before or obstructing commissioner**—Whoever, without justifiable cause, neglects, upon due summons, to appear and testify before the commissioner as provided in this chapter, or obstructs the commissioner or his deputy in his examination of an insurance company, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (R. L. '05 § 1713; G. S. '13 § 3604, amended '15 c. 84 § 2)

3756. **Issue of prohibited life policies**—Every officer or agent of a life insurance company who shall issue any policy in violation of any order or other prohibition by the commissioner, made pursuant to law, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (R. L. '05 § 1715; G. S. '13 § 3606, amended '15 c. 84 § 3)

3757. **When agent of insurer—Procuring premiums by fraud**—Every insurance agent or broker who acts for another in negotiating a contract of insurance by an insurance company shall be held to be the company's agent for the purpose of collecting or securing the premiums therefor, whatever conditions or stipulations may be contained in the contract or policy. Whenever any such agent or broker, by fraudulent representations, procures payment, or an obligation for the payment, of an insurance premium, he shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (R. L. '05 § 1716; G. S. '13 § 3607, amended '15 c. 84 § 4) (94-86, 102+213; 90-176, 108+861; 104-76, 116+221) (118-307, 149+293).

(127-217, 149+292, 154+749). (131-150).  
166-207, 207+307.

3758. **Unlawful acts of licensed person**—Every person licensed to procure insurance in an unlicensed foreign company, who fails to file the affidavit and statement required in such case, or who wilfully makes a false affidavit or statement, shall forfeit his license and be guilty, for the first offense, of a misdemeanor,

and for each subsequent offense of a gross misdemeanor. (R. L. '05 § 1717; G. S. '13 § 3608, amended '15 c. 84 § 5)

3759. **Unlawful procurement or use of proxy**—Every officer or agent of a domestic mutual insurance company who shall solicit, receive, procure to be obtained, or use a proxy vote in violation of any provision of law, shall be guilty of a gross misdemeanor. (1718) [3609]

3760. **False statements in applications**—Every solicitor, agent, examining physician, or other person who knowingly or wilfully makes a false or fraudulent statement in, or relative to, any application for insurance or membership, for any purpose whatsoever, shall be guilty of a gross misdemeanor. (1719) [3610]

167-53, 208+410.

3761. **Failure to make annual statement—Suspension of license**—The license and authority of any insurance company licensed and authorized to do business in this state, which neglects to file its annual statement in the form prescribed and within the time specified by law, may, in the discretion of the commissioner of insurance, be suspended during such time when such company may be so in default. Any company which shall write any new business in this state while its license is so suspended and after it shall have been notified by the commissioner of insurance by a notice mailed to the home office of such company that its license has been suspended, shall forfeit to the state the sum of twenty-five dollars for each contract of insurance entered into by it after being so notified that its license and authority have been so suspended. Such notification shall be mailed by registered letter and shall be deemed to have been received by the company at its home office in the usual course of the mails. Any insurance company wilfully making a false annual or other required statement shall forfeit five hundred dollars to the state. Either or both of the aforesaid forfeitures may be recovered in a civil action brought by and in the name of the state and the money recovered shall be paid into the state treasury. No action shall be brought for the recovery of a penalty accruing prior to the passage of this act by reason of the failure of any company to file its annual statement within the time specified by law. (R. L. '05 § 1720; G. S. '13 § 3611, amended '19 c. 449 § 1)

3762. **Violations of chapter**—Every company, and every officer and agent of any company, making, issuing, delivering or tendering any policy of insurance of any kind, or directing any of the same to be done, in wilful violation of any of the provisions of law, for a first offense, shall be guilty of a misdemeanor, and for each subsequent offense, of a gross misdemeanor; and, in addition to all other penalties prescribed by law, every company issuing any such policy shall be disqualified from doing any insurance business in this state until the payment of all fines imposed, and for one year thereafter. (1721) [3612]

3763. **Failure to make report or comply with law**—Every officer and agent of any insurance company, required by any provision of this chapter to make any report or perform any act, who shall neglect or refuse to comply with such requirement, and every agent, solicitor or collector of such corporation in this state who fails or neglects to procure from the commissioner a certificate of authority to do such business, or who fails or refuses to comply with, or violates, any provision of the insurance law, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent

offense of a gross misdemeanor. (R. L. '05 § 1722; G. S. '13 § 3613, amended '15 c. 84 § 6)

**3764. Other violations**—Whoever violates any provision of the insurance law, where the nature of the offense is not specifically designated herein, shall be guilty, for the first offense, of a misdemeanor, and for such subsequent offense of a gross misdemeanor. (R. L. '05 § 1723; G. S. '13 § 3614, amended '15 c. 84 § 7)

**3765. Persons guilty of felonious homicide prohibited from taking proceeds under life policy or certificate of membership**—No person who feloniously takes or causes or procures another so to take the life of another shall inherit from such person or receive any interest in the estate of the decedent as surviving spouse, or take by devise or legacy from him any portion of his estate, and no beneficiary of any policy of insurance, or certificate of membership issued by any benevolent association or organization, payable upon the death or disability of any person, who in like manner takes or causes or procures to be taken the life upon which such policy or certificate is issued, or who causes or procures a disability of such person, shall take the proceeds of such policy or certificate; but in every instance mentioned in this act, all benefits that would accrue to any such person upon the death or disability of the person whose life is thus taken or who is thus disabled, shall become subject to distribution among the other heirs of such deceased person according to the law of descent and distribution in this state, in case of death, and in case of disability the benefits thereunder shall be paid to the disabled person.

Provided, however, that an insurance company shall be discharged of all liability under a policy issued by it upon payment of the proceeds in accordance with the terms thereof, unless before such payment the company shall have knowledge that such beneficiary has taken or procured to be taken the life upon which such policy or certificate is issued, or that such beneficiary has caused or procured a disability of the person upon whose life such policy or certificate is issued. ('17 c. 353 § 1)

**3766. Rebate on insurance contracts prohibited**—No insurance company or association, however constituted or entitled, doing business in this state, nor any officer, agent, sub-agent, broker, solicitor, employe, intermediary, or representative thereof, shall make or permit any advantage or distinction in favor of any insured individual, firm, corporation or association, with respect to the amount of premium named in, or to be paid on, any policy of insurance, or shall offer to pay or allow, directly or indirectly, or by means of any device or artifice, as inducements to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other profit to accrue thereon, or any valuable consideration or inducement not specified in the policy contract of insur-

ance, or give, sell or purchase, offer to give, sell or purchase, as inducement to insure or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association, partnership or individual or any dividends or profits accrued or to accrue thereon, or anything of value whatsoever, not specified in the policy. ('09 c. 427 § 1) [3615]

**3767. Insured prohibited from receiving rebates**—No person shall receive or accept from any such company or association, or from any of its officers, agents, sub-agents, brokers, solicitors, employes, intermediaries or representatives, or any other person, any such rebate of premium payable on the policy, or any special favor or advantage in the dividends or other financial profits accrued, or to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance. No person shall be excused from testifying, or from producing any books, papers, contracts, agreements or documents at the trial of any other person, co-partnership, association or company charged with violation of any provision of this section, on the ground that such testimony or evidence may tend to incriminate; but no person shall be prosecuted for any act, concerning which he shall be compelled to so testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying. ('09 c. 427 § 2) [3616]

**3768. Application of act**—The provisions of this act shall not apply to any policy or policies procured by officers, agents, sub-agents, brokers, employes, intermediaries or representatives wholly and solely upon property of which they are respectively the owner at the time of procuring such policy or policies, where such officers, agents, sub-agents, brokers, employes, intermediaries or representatives are, and have been for more than six months prior to the issuing of such policy or policies, regularly employed by, or connected with, the company or association issuing said policy or policies; and any life insurance company doing business in this state may issue industrial policies of life or endowment insurance with or without annuities with special rates of premiums less than the usual rates of premiums for such policies to members of labor organizations, lodges, beneficial societies, or similar organizations, or employes of one employer, who through their secretary, or employer may take out insurance in an aggregate of not less than fifty members, and pay their premiums through such secretary or employer. ('09 c. 427 § 3) [3617]

**3769. Penalty for violation**—Any company, association or individual violating any provisions of this act, whether such violation be in the giving or accepting of anything herein prohibited, shall be punished by a fine of not less than \$60 nor more than \$200. ('09 c. 427 § 4) [3618]