CHAPTER 66

MUTUAL COMPANIES

NOTE: The origin of our present law regulating mutual companies is L. 1895, c. 175. Except as to township mutuals earlier laws such as L. 1858, c. 55, and L. 1881, c. 91, were entirely superseded by the 1895 act.

66.01 MEMBERSHIP; MEETINGS; NOTICE.

Prior to the use of the union mortgage clause, the customary method of indemnifying the mortgagee was to make the policy payable to the mortgagee in case of loss. The union clause is contractual in origin and carried over into the standard policies. In the instant case the vendor is not protected by a union mortgage clause, and his rights are subject to any defenses the insurance company may have against the insured. Langborne v Capital Fire Co., 44 F. Supp. 739.

Insurance companies conducting their activities across state lines are within the regulating power of Congress under the commerce clause. United States v South Eastern Underwriters, 64 SC 1162, 322 US 533.

66.02 PREMIUMS; CONTINGENT LIABILITY.

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. To defeat a recovery the policy must be canceled as provided by statute. Kvale v Farmers Mutual, 160 M 293, 202 NW 491.

66.06 PROVISIONS AS TO POLICIES LAPSING.

Section 66.06 applies only to mutual fire insurance companies. 1944 OAG 142, Aug. 3, 1944 (253-A).

66.07 ASSESSMENTS.

The insured is not entitled to notice of intention to make an assessment for additional premium. Dwinnell v Felt, 90 M 9, 95 NW 579.

Where a life insurance company has in its possession or under its control money belonging to the insured, which the policy provides shall be applied in reduction of dues and assessments, before the company can be heard to declare a forfeiture for the nonpayment of dues, it must account for and so apply such money. Ibs v Hartford Life, 119 M 113, 137 NW 289.

66.08 Guaranty Fund.

In an action by the receivers of an insolvent mutual insurance company to recover the amounts of their respective subscriptions to a fund which the company with their knowledge represented to be its paid-up capital, the directors are estopped from denying their liability to the extent of their respective subscriptions for the claims of creditors, whose policies were issued to and accepted by them in reliance upon such representations. Dwinnell v Mpls. F & M, 97 M 340, 106 NW 312.

66.13 DIVIDENDS.

In his application for policy the insured elected to have the insurer apply his dividends to an interest-bearing savings fund. The insurer had no right to apply

the dividends to any other purpose, not even to continue the policy in force when in danger of forfeiture. Elton v N. W. Nat'l, 192 M 116, 255 NW 857.

66.15 KINDS OF BUSINESS AUTHORIZED.

Public policy does not require an omnibus coverage under an automobile liability policy without any restrictive endorsement. Mutual insurance companies should be accorded reasonable discretion as to risks they will assume, if they do not violate the basic principal of mutuality. Wolf v Employees Mutual, 40 F. Supp. 635.

66.27 MUTUAL EMPLOYERS' LIABILITY ASSOCIATION.

Employer's liability policy is a liability policy as distinguished from an indemnity policy. Oehme v Johnson, 181 M 138, 231 NW 817; Trandum v Trandum, 187 M 327, 245 NW 380.

66.42 MUTUAL HAIL, TORNADO, AND CYCLONE COMPANIES; POLICIES ISSUED.

Amended by L. 1947, c. 468 s. 1.

66.51 MUTUAL BURGLARY AND THEFT INSURANCE COMPANIES.

Robbery policy which insures against losses occasioned by "an overt felonious act committed in the presence" of a custodian and of which he is "actually cognizant at the time" allows recovery where custodian was standing inside a tavern within partial vision of truck ("presence") and saw the thieves before they completely removed from his range of vision ("actual cognizance"). London v Maryland Casualty, 210 M 581, 299 NW 193.

66.55 FOREIGN ASSOCIATIONS.

A foreign insurance corporation, duly authorized to do business in this state went out of business, transferring its business and obligations to defendant who is not so authorized. One of the obligations assumed by the defendant is the stipulation contained in the instrument theretofore filed by its assignors in the office of the insurance commissioner, that the service of the summons upon the insurance commissioner in an action on an insurance contract, subjects defendant to jurisdiction of the courts of the state. Braunstein v Fraternal Union, 133 M 8, 157 NW 721.