

## CHAPTER 71

FOREIGN COMPANIES; LLOYDS; MUTUAL COMPANIES; HAIL INSURANCE;  
FIDELITY AND SURETY COMPANIES

NOTE: Sections 71.01 to 71.06 (L. 1915, c. 101) relate to fire insurance rating bureaus and were repealed by L. 1947, c. 120 s. 17; sections 71.07 to 71.15 (L. 1913, c. 464) to reciprocal contracts; sections 71.16 to 71.24 (L. 1895, c. 175, ss. 76 to 84, as amended) to requirements imposed upon foreign companies; sections 71.25, 71.26 (L. 1893, c. 44; L. 1895, c. 175, s. 85; and L. 1913, c. 534) relate to Lloyds plan for mutual companies; sections 71.27 to 71.29 (L. 1895, c. 175, s. 36) to mutual companies; section 71.30 to hail insurance; and section 71.31 (L. 1895, c. 175, s. 36) to fidelity and surety companies.

**71.01 FIRE INSURANCE RATING BUREAUS; EXAMINATION.**

Repealed by L. 1947 c. 120 s. 17.

**71.02 DISCRIMINATORY RATES FORBIDDEN; WRITTEN STATEMENTS OF VARIATION FILED.**

Repealed by L. 1947 c. 120 s. 17.

**71.03 FIRE INSURANCE COMPANIES MEMBERS OF RATING BUREAU.**

Repealed by L. 1947 c. 120 s. 17.

**71.04 RISKS INSPECTED.**

Repealed by L. 1947 c. 120 s. 17.

**71.05 RATING AGREEMENTS SUBMITTED FOR APPROVAL TO COMMISSIONER.**

Repealed by L. 1947 c. 120 s. 17.

**71.06 COMMISSIONER TO REVIEW RATE FIXED BY BUREAU; APPEALS; APPLICATION.**

Repealed by L. 1947 c. 120 s. 17.

**71.18 COMMISSIONER APPOINTED ATTORNEY FOR SERVICE OF PROCESS.**

Statute requiring a foreign insurance company to stipulate not to remove a cause from state to federal court before it can receive a license, and providing for the cancellation of the license upon breach of the stipulation contravenes the federal constitution and is void, and such a stipulation may not be demanded. *State ex rel v Wells*, 160 M 285, 199 NW 753.

This district court did not acquire jurisdiction over the defendants by delivery of the summons to the public examiner, while the cause of action arose in a foreign country and bore no relation to the subject matter of L. 1917 c. 429. *Dragon Motor v Storrow*, 165 M 95, 205 NW 694.

Where a foreign company doing business in this state has complied with sections 71.16 and 71.18, service of summons upon the insurance commissioner is not limited to actions which arise out of business transacted in this state or with residents thereof. *Enger v Midland National*, 176 M 143, 222 NW 901.

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Constitutional problems arising from service of process on foreign corporations. 19 MLR 375.

### 71.23 RETALIATORY PROVISIONS.

Section 71.23 does not require that Minnesota retaliate against Texas companies on account of the tax imposed by the laws of Texas for the support and maintenance of the state insurance commission as a fire insurance commission maintenance tax; the rating bureau tax in Minnesota being equal to that assessed in Texas. OAG Dec. 16, 1946 (254-C).

### 71.24 INSURANCE FROM UNLICENSED FOREIGN COMPANIES.

When it appears that a foreign insurance company had not complied with any of the requirements of our state statutes, Minnesota courts will not lend their aid to enforce a contract of insurance indemnifying a Minnesota citizen, although the policy was issued in another state upon written application sent by mail from this state to the home office in another state. *Bothwell v Buckbee, Mears Co.*, 166 M 285, 207 NW 724.

### 71.31 FIDELITY AND SURETY COMPANIES.

Actions on fidelity or surety bonds. *Farmers & Merchants v National Surety*, 163 M 257, 203 NW 969; *Ceylon Co. v. Fidelity & Deposit Co.*, 163 M 280, 203 NW 985; *Cary v National Surety*, 190 M 185, 251 NW 123; *Indemnity Co. v. McClure*, 191 M 576, 254 NW 913; *Farmers Cooperative v Lloyd*, 194 M 569, 261 NW 191.

To qualify to write bonds of suretyship mutual companies must comply with the provisions of section 60.34. *State ex rel v Wells*, 167 M 198, 208 NW 659.

While equity as a general rule will not extend relief to one who, through his own negligence, has sustained injury, yet a different rule applies to insurance contracts where the agent, in preparing the application, is the cause of the injury. *Central State Bank v Royal Indemnity Co.*, 167 M 494, 210 NW 66.

The treasurer's bond covered "and direct loss sustained" through failure "to perform faithfully and honestly" the duties of his office "and account for all funds and property" of the corporation coming into his hands. As the treasurer properly did what the bond required of him, he could not be held liable for failure of the bank. *Lamberton v National Surety*, 177 M 575, 225 NW 724.

Fidelity bonds issued by compensated bonding companies are now regarded as policies of insurance, in substance, and are governed for the most part by the law of insurance rather than the law of suretyship. *Hayfield Elevator v New Amsterdam*, 203 M 522, 282 NW 265.

Where the insurance is to indemnify the insured against loss through fraudulent and dishonest acts of his employee in connection with the duties of his employment, the insurance covers all losses due to such acts committed during the coverage term, whether discovered during that time or afterwards. Where there is doubt as to the interpretation of the policy contract, it is construed in favor of the insured. *State Bank v American Surety*, 206 M 137, 288 NW 7.

The bond of suretyship, having been drawn by the attorneys, officers and agents of the surety company, is, when fairly and reasonably susceptible to more than one construction, construed most favorably to the insured. *American Surety v Pauly*, 18 SC 552.

Bonds and renewals as constituting separate or continuing contracts. 13 MLR 514.

Construction of the words "faithfully and honestly" as used in a fidelity bond. 13 MLR 742.

Suretyship and the statute of frauds. 31 MLR 1.

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FOREIGN COMPANIES 71.32

## **71.32 CERTAIN STATE PROPERTY INSURED BY CONSERVATOR OF RURAL CREDIT; STATE PRISON ALSO INSURED.**

The university may insure property against fire, theft, and similar, but has no authority to purchase insurance against public liability. OAG Nov. 4, 1929 (249-B-17); OAG May 1, 1931 (618-A-9).

Except as the statute excepts the state prison properties, and in certain circumstances the property under control of the conservator of rural credit, section 71.32 prohibits purchase of insurance on state property insuring against fire and tornado. OAG June 6, 1945 (980-A-8).