

CHAPTER 410—S. F. No. 259.

An Act limiting the time within which writs of certiorari may be issued and served, and providing for surety for costs and for taxation of costs in such cases.

Be it enacted by the Legislature of the state of Minnesota:

Writ of certiorari to be issued within sixty days.—Section 1. No writ of certiorari shall be issued, to correct any proceeding, unless such writ shall be issued within sixty days after the party applying for such writ shall have received due notice of the proceeding sought to be reviewed thereby.

Service.—Sec. 2. Such writ must also be served upon the adverse party within said period of sixty days.

Endorsement.—Sec. 3. Each writ of certiorari in a civil case shall be indorsed by some responsible person as surety for costs.

Prevailing party entitled to costs.—Sec. 4. The party prevailing on a writ of certiorari in any proceeding of a civil nature shall be entitled to his costs against the adverse party; and in case such writ shall appear to have been brought for the purpose of delay or vexation, the court may award double costs to the prevailing party.

Dismissal.—Sec. 5. If any writ of certiorari shall hereafter be issued contrary to any provision of this act, or shall not be served upon the adverse party within said period of sixty days, the party against which the same is so issued may have the same dismissed on motion and affidavit showing the facts and shall be entitled to his costs and disbursements the same as in other civil actions.

Sec. 6. This act shall take effect and be in force from and after its passage.

Approved April 22, 1909.

CHAPTER 411—H. F. No. 268.

An Act to provide for the organization and regulation of township mutual fire insurance companies transacting the business of insurance and repealing all laws in conflict with the provisions of this act.

Be it enacted by the Legislature of the State of Minnesota:

Formation of mutual insurance companies.—Section 1. 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 (\$50,000.00) dollars, 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 fifty (50) towns in the aggregate at the same time.

What certificate of incorporation must contain.—Sec. 2. 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.

To be approved by commissioner of insurance.—Sec. 3. 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.

Powers of such corporation.—Sec. 4. 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 and 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.

Adoption of by-laws.—Sec. 5. 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.

By-laws to be filed with commissioner of insurance.—Sec. 6. 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.

Corporation existence not to exceed thirty years.—Sec. 7. Every corporation organized pursuant to this act shall be for a period not exceeding thirty (30) years in the first instance, and 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-third (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 shall be adopted the same shall not take effect until a copy thereof, 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.

Amendment of certificate.—Sec. 8. The certificate of incorporation may be amended in respect to any matter which the original certificate of incorporation might lawfully have contained 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 for the approval, filing and recording of the original certificate.

Within ninety (90) days after the passage of this act every township mutual fire insurance company heretofore organized shall cause to be made and filed with the commissioner of insurance a certified copy of its articles of incorporation and all amendments thereto, which copy shall be certified to by the officer with whom the same has been filed and the said certified copy shall be filed with the commissioner of insurance and recorded in a book kept for that purpose, and thereafter all amendments to any certificate of incorporation, or articles of incorporation, of any township mutual fire insurance company, organized under the law of this state, either before or after the passage of this act, shall be presented to the commissioner of insurance for his approval and, if the same be approved, it shall be filed in his office and recorded in a book kept for that purpose, and all said amendments shall be effective from and after the date of their approval and filing.

Change of location of principal place of business.—Sec. 9. 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.

Board of directors—Woman member may give proxy.—Sec. 10. 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.

Treasurer to give bonds.—Sec. 11. 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.

Loan of money on hand.—Sec. 12. The 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 and all sums of money in his hands in such bank or banks as they may designate.

Limitations of company.—Sec. 13. 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 as hereinafter provided; nor shall any township mutual fire insurance company insure any property other than dwellings and their contents, farm buildings and their contents, live stock, farm machinery, hay, grain in the bin or stack, churches, schoolhouses, society and town halls, country blacksmith shops and their contents, parsonages and their contents, and the barns and contents used in connection therewith, butter-makers' 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 dwelling is situated is partly within and partly without such town, it may include in such insurance any out buildings, hay, grain, stock or other farm property on such farm outside of such limits.

Termination of membership.—Sec. 14. 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 by giving written notice of the cancellation to the member holding such policy.

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.

Against fire or lightning only.—Sec. 15. A township 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.

Advance assessments.—Sec. 16. 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.

Joint or partial risks permissible.—Sec. 17. 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.

President and secretary may accept applications.—Sec. 18. 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 em-

bodied 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.

Classification of property.—Sec. 19. 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 policy-holder 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 willfully 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 post-office 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.

Losses; how adjusted.—Sec. 20. 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 ascer-

tained 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 \$2.00 per day for each day's service so rendered, and the sum of five (5c) 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.

Annual meeting.—Sec. 21. 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.

Fees to be paid to commissioner of insurance.—Sec. 22. 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.

Existing companies may avail themselves of this act.—Sec.

23. 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 re-incorporated hereunder.

But no such company already organized shall be required to re-incorporate 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.

All companies to be governed by this act.—Sec. 24. 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.

Consolidation.—Sec. 25. 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 policy holders of each of said corporations shall be held, a notice of which meeting

shall be mailed to each of the policy holders 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 policy holders 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.

Examination by commissioner of insurance.—Sec. 26. 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 policy holders, 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 notify 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.

Fraudulent statements.—Sec. 27. 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.

Sec. 28. All acts and parts of acts inconsistent with this act are hereby repealed.

Sec. 29. This act shall take effect and be in force from and after its passage.

Approved April 22, 1909.

CHAPTER 412—S. F. No. 321.

An Act to amend section 38, chapter 344, of the General Laws of the State of Minnesota for 1905, as amended by chapter 469 of the General Laws of 1907, relating to mink, muskrat and beaver.

Be it enacted by the Legislature of the State of Minnesota:

Destruction of beavers prohibited.—Section 1. That section 38, chapter 344, General Laws of Minnesota for 1905, as amended by chapter 469 of the General Laws of 1907 be, and the same is hereby amended so as to read as follows:

“Section 38. Mink, muskrat and beaver—No person shall take, catch or kill any beaver at any time or any mink or muskrat between the fifteenth day of April and the fifteenth day of November following, and no person shall molest, injure or de-