

CHAPTER 437—S. F. No. 446.

An Act in relation to the establishment and maintenance of Safety Funds (Guaranty Surplus and Special Reserve Funds) by companies transacting fire insurance business and fixing the rights of policy holders in and to such funds and the uses to which the same may be applied.

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

Guaranty surplus and special reserve fund.—Section 1. 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 guarantee 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.

Action of stockholders to be filed with insurance commissioner.—Sec. 2. 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.

Dividends.—Sec. 3. 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; 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, 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.

Commissioner to make examination.—Sec. 4. 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, equal its capital stock, the commission 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, 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.

Investment of guaranty surplus.—Sec. 5. 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.

Investment of special reserve fund.—Sec. 6. 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.

Items to be considered in estimating profit.—Sec. 7. 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, 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 poli-

cies having more than one year to run from the date of policy, and shall be known as the reinsurance 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 since the last preceding cash dividend. And the balance shall constitute the net surplus of the company, any portion of which is subject to an equal division between the said funds as is herein provided.

When claims exceed guaranty surplus and capital stock.—

Sec. 8. Whenever the claims upon such company shall exceed the amount of its capital stock and of the guaranty surplus fund provided for by this chapter, 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 reinsurance 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 policy holders 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 policy holders 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 policy holders, 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 company for unearned premiums, as so certified by such insurance 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, 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; *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. 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 policy holders. *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, 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.

Directors to call upon stockholders to make up impairment.

- Sec. 9. 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 that is permitted by law to a company possessing the same amount of capital irrespective of the fund herein provided for.

Statement to be printed on policy.—Sec. 10. 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.

Approved April 22, 1909.

CHAPTER 438—S. F. No. 471.

An Act to authorize the Secretary of State to enter into a contract on behalf of the State of Minnesota for the printing and publishing of the supreme court reports.

WHEREAS, The present contract for the printing and publishing of the supreme court reports and furnishing the same to the state and for sale will expire on October 1st, 1909; now, therefore, Be it enacted by the Legislature of the State of Minnesota:

Secretary of state to enter into contract for publishing supreme court reports—Conditions.—Section 1. That the secretary