

tutions: The State Prison, the State Reformatory for Men, the State Training School for Boys, the School for the Feeble-minded, State hospitals and asylums for the insane, the State School for the Blind, the State School for the Deaf, the State Public School for Dependent Children, the State Epileptic Colony, the State Hospital for Indigent, Crippled and Deformed Children, the State Hospital for Inebriates, the Home School for Girls, and the State Reformatory for Women. The Director shall have power and authority to determine all matters relating to the unified and continuous development of all of the foregoing institutions and of such other institutions, the supervision of which may, from time to time, be vested in the Director. It is the intent of this Act that there be vested in the Director all of the powers, functions, and authority now vested in the State Board of Control relative to State institutions, *except the State Sanatorium for Consumptives.*

It shall be the duty of the several directors to actively cooperate, each with the other, in establishing an efficient working relationship relative to the care and supervision of individuals both prior to and after departure from institutions herein above mentioned.

Approved April 22, 1943.

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#### CHAPTER 571—H. F. No. 1153.

*An act providing for the rehabilitation, liquidation, conservation, and dissolution of delinquent insurers.*

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

**Section 1. Application of act.**—This act applies to all corporations, associations, societies, orders, partnerships, individuals, and aggregations of individuals, including specifically but not exclusively, reciprocals, inter-insurance exchanges, fraternal beneficiary associations, and township mutual fire insurance companies, to which any section of the insurance laws of this state is applicable, which are subject to examination or supervision under any section of the insurance laws of this state or under this act, or which are doing or attempting to do or representing that they are doing the business of insurance in this state, or which are in process of organization for the purpose of or intending to do such business therein.

**Sec. 2. Definitions.**—Subdivision 1. Unless the language or context clearly indicates that a different meaning is intended, the

words, terms, and phrases defined in subdivisions 2, 3, and 4, for the purpose of this act, shall be given the meanings subjoined to them.

Subd. 2. "Insurer" includes all corporations, associations, societies, orders, partnerships, individuals, and aggregations of individuals named in section 1 which are engaged in the business of insurance as principal.

Subd. 3. "Commissioner" means the commissioner of insurance.

Subd. 4. "Assets" includes all property, deposits, and funds, including special and trust funds.

Sec. 3. **Rehabilitation of domestic insurers.**—The commissioner may apply, in accordance with the provisions of section 22 of this act, for an order directing him to rehabilitate a domestic insurer on one or more of the following grounds; that such insurer

- (a) Is insolvent,
- (b) Has refused to permit the examination of its books, papers, accounts or affairs by the commissioner or his deputy or his examiners,
- (c) Has neglected or refused to observe an order of the commissioner to make good within the time and to the extent prescribed by law any deficiency, whenever its capital or reserves shall have become impaired,
- (d) Has, by contract, of reinsurance or otherwise, transferred or attempted to transfer substantially its entire property or business, or entered into any transaction the effect of which is to merge substantially its entire property or business in the property or business of any other insurer, without having first complied with the provisions of sections 3336 and 3337, Mason's Minnesota Statutes of 1927, or obtained the approval of the commerce commission pursuant to the provisions of section 53-30, Mason's Minnesota Statutes of 1927.
- (e) Is found, after an examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public,
- (f) Has wilfully violated its charter or any law of the state,
- (g) Has an officer who has refused to be examined under oath, touching its affairs,
- (h) Has ceased to transact business for a period of five years,

(i) Has commenced or attempted to commence or prosecute any action or proceeding to liquidate its business or affairs, or to dissolve its corporate charter, or to procure the appointment of a receiver, custodian, or sequestrator under any law except this chapter,

(j) Has been the subject of an application for the appointment of a receiver, custodian, or sequestrator of the insurer or its property, or if a receiver, custodian or sequestrator, is appointed by a federal court or such appointment is imminent,

(k) Has consented to such an order through a majority of its directors, stockholders, or members, or

(l) Has not organized or obtained a certificate authorizing it to commence the transaction of its business as provided by law.

**Sec. 4. Order to rehabilitate.**—An order to rehabilitate a domestic insurer shall direct the commissioner forthwith to take possession of the property of such insurer and to conduct the business thereof, and to take such steps toward the removal of the causes and conditions which have made such proceeding necessary as the court directs.

**Sec. 5. Commissioner may apply for order of liquidation.**—At any time the commissioner deems that further efforts to rehabilitate such insurer will be futile, he may apply to the court for an order of liquidation.

**Sec. 6. Grounds for liquidation.**—The commissioner may apply, in accordance with section 22 of this act, for an order directing him to liquidate the business of a domestic insurer upon one or more of the grounds specified in section 3, regardless of whether or not there has been a prior order directing him to rehabilitate such insurer.

**Sec. 7. Commissioner to take possession of property.**—Subdivision 1. An order to liquidate the business of a domestic insurer shall direct the commissioner forthwith to take possession of the property of such insurer, liquidate its business, and deal with the property and business of such insurer in his own name as commissioner, or in the name of the insurer, as the court directs, and to give notice to all creditors who may have claims against such insurer to present the same within a specified time.

Subd. 2. The commissioner shall be vested by operation of law with the title to all of the property, contracts, and rights of action of such insurer as of the date of the order to liquidate. The filing for record of a certified copy of such order in the office of the register of deeds of the county in which the order is obtained shall

impart the same notice that a deed, bill of sale or other evidence of title duly filed or recorded by such insurer imparts. The rights and liabilities of any such insurer and of its creditors, policyholders, stockholders, members, and other persons interested in its estate shall, unless otherwise directed by the court, be fixed as of the date of the entry of such order in the office of the clerk of the district court of the county wherein obtained.

**Sec. 8. May apply to court for order of termination.**—The commissioner, or any interested person after due notice to the commissioner, may apply to the court for an order terminating the rehabilitation or liquidation of an insurer and permitting such insurer to resume possession of its property and conduct its business. Such order shall be granted if, after hearing, the court determines that the purposes of the proceeding have been accomplished.

**Sec. 9. Grounds for conserving assets.**—The commissioner may apply, in accordance with the provisions of this act, for an order directing him to conserve the assets within the state of a foreign insurer upon one or more of the grounds specified in section 3, clauses (a), (b), (c), (d), (e), (f), and (g), or upon the ground that such foreign insurer has been placed in the hands of a receiver, or has had its property sequestered in any other country or state.

**Sec. 10. Commissioner to take possession.**—An order to conserve the assets of a foreign insurer shall direct the commissioner forthwith to take possession of the property of such insurer and conserve the same, subject to the further direction of the court. The rights and duties of the commissioner with reference to such insurer and its assets, shall be those heretofore exercised by and imposed upon receivers of foreign corporations in this state.

**Sec. 11. Uniformity of rehabilitation.**—The purpose of sections 11 to 20, inclusive is to promote uniformity in the rehabilitation, reorganization, or liquidation of insurers doing business in more than one state. It is intended that such sections shall be liberally construed to the end that as far as possible the assets of such insurers shall be equally and uniformly conserved in all states and that claimants against such insurers shall receive equal and uniform treatment irrespective of places of their residence or of the acts or contracts upon which their claims are based.

**Sec. 12. What is reciprocal state.**—For the purposes of sections 11 to 20, inclusive, a "reciprocal state" is hereby defined to mean a state wherein

(a) It is provided by law that the insurance department or other administrative agency of the state shall conduct or wind

up the affairs of delinquent insurers under judicial supervision and shall be vested with title to all of the assets of any domestic insurer therein against which a delinquency proceeding has been commenced, and

(b) In substance and affect the provisions of sections 11 to 20, inclusive, are in force.

**Sec. 13. Order shall apply to the administration by the commissioner.**—In addition to and notwithstanding any other provisions of law, sections 11 to 20, inclusive, shall apply to the administration by the commissioner of the affairs of delinquent domestic insurers with respect to matters affecting or related to reciprocal states and shall also apply to matters affecting or related to this state in the administration by the commissioner of the affairs of delinquent insurers domiciled in reciprocal states and authorized to transact business in this state.

**Sec. 14. Claims to be filed in this state.**—In a proceeding for the rehabilitation, reorganization, or liquidation of a domestic insurer begun in this state, claimants who reside, or whose claims are based upon acts of or contracts with such insurer, in a reciprocal state, shall file their claims in this state pursuant to the laws of this state, but may prove their claims in such reciprocal state. The court in charge of the proceeding in this state shall, if necessary, appoint one or more referees before whom such claims may be proved in such reciprocal state.

**Sec. 15. Preference laws not recognized.**—In such proceeding against a domestic insurer no law of such reciprocal state regulating and providing for preferences against the general assets of such insurer shall be recognized with respect to the distribution of assets of such insurer regardless of where they may be located; provided the claimants against such insurer in such reciprocal state shall be entitled to receive all preferences allowed by the laws of this state to residents of this state or to claimants against such insurer in this state.

**Sec. 16. Purpose of special deposits.**—The purposes of special deposits of delinquent domestic insurers made in reciprocal states or of bonds given in lieu of deposits in such states shall be recognized where legal. The commissioner shall apply to courts of competent jurisdiction in reciprocal states for permission to administer such deposits or the proceeds of such bonds in accordance with such purposes and give the security for faithful performance required by such courts.

**Sec. 17. Secured and unsecured creditors.**—In the liquidation of the general assets of delinquent domestic insurers, unsecured creditors shall be preferred to secured creditors to the ex-

tent necessary to equalize the advantage gained by virtue of such security. The following shall be treated as secured claims for the purpose of this section.

- (a) Claims secured by adequate process of law or by lien;
- (b) Claims secured individually by deposit or money, securities or other property; by money, securities or other property held in escrow or in trust; or by bond;
- (c) Claims secured generally by deposit or bond to secure the payment of claims of a particular class, but this provision does not include claims which are secured by deposit or bond for the benefit of all claimants of the company within the United States;
- (d) Claims which have been filed with a receiver or liquidator not ancillary to the proceeding in this state.

Any or all of the above shall be treated as unsecured claims, provided all rights to the specific security have been surrendered or the assets in the possession of a non-ancillary receiver or liquidator have been transferred to the commissioner.

**Sec. 18. Title to assets.**—When a proceeding for rehabilitation, reorganization, or liquidation is commenced in a reciprocal state against an insurer domiciled in such state and doing business in this state, title to all of the assets of such insurer, except special deposits, as hereinafter provided, then located in this state shall vest in the insurance supervisory or other administrative agency of such reciprocal state. Thereafter no action or proceeding against such insurer or such assets, except such special deposits, shall be commenced or continued in the courts of this state unless initiated, or consented to, by such insurance supervisory or other administrative agency of such reciprocal state.

**Sec. 19. Special deposits.**—Except where it is expressly contrary to the terms of a special deposit or of a bond made in lieu of a deposit in this state of a delinquent insurer domiciled in a reciprocal state, on proper application depositaries shall be directed by a court of competent jurisdiction of this state to transfer the deposit or the proceeds of any bond given in lieu of deposit and all rights thereunder to the insurance supervisory or other administrative agency of the reciprocal state provided that such insurance supervisory or other administrative agency gives proper security for the faithful administration of such funds in accordance with the terms of the trust.

**Sec. 20. General assets.**—The general assets, located in this state, of a delinquent insurer domiciled in a reciprocal state shall be administered by the insurance supervisory or other administra-

tive agency of such reciprocal state as if such assets were located in such reciprocal state.

**Sec. 21. Order for dissolution.**—The commissioner may apply for an order dissolving the corporate existence of a domestic insurer;

(a) Upon his application for an order of liquidation of the business of such insurer, or at any time after such an order has been granted; or

(b) Upon the grounds specified in section 3, subsections (a) and (1) of this act, regardless of whether an order of rehabilitation is sought or has been obtained.

**Sec. 22. Proceedings commenced by application to the District Court.**—The commissioner shall commence any proceeding under this act by an application to the district court of the county in which the principal office of the insurer involved is located, if a domestic insurer, and in the district court of Ramsey county in all other cases, for an order directing such insurer to show cause why the commissioner should not have the relief prayed for. On the return of such order to show cause, and after a full hearing, which shall be held by the court without delay, such court shall either deny the application or grant the same together with such other relief as the nature of the case and the interests of policyholders, creditors, stockholders, members, or the public may require.

**Sec. 23. Process to be served upon insurer.**—The order to show cause and the papers upon which the same is made in any proceeding under this act shall be served upon the insurer named in such order in the manner provided by law for the service of civil process. Reciprocals and interinsurance exchanges and their attorneys in fact shall be served in the manner provided by Mason's Minnesota Statutes of 1927, Section 3590.

**Sec. 24. Temporary injunction may be granted.**—When it appears by the application for the order to show cause referred to in Section 23 hereof that the commissioner is entitled to the relief demanded, a temporary injunction may be granted restraining the insurer named in the application, its officers, directors, stockholders, members, trustees, agents, servants, employees, policyholders, attorneys, managers, and all other persons, from the transaction of its business or the waste or disposition of its property until the further order of the court. Such injunction may be granted at the time of commencing the proceeding or at any time afterwards during the pendency thereof, and during the pendency of the proceeding the court may issue such other injunctions or orders

as may be deemed necessary to prevent interference with the commissioner or the proceeding, or waste of the assets of the insurer, or the prosecution of any actions, or the obtaining of preferences, judgments, attachments, or other liens or the making of any levy against the insurer or against its assets or any part thereof. Such injunctions shall be granted only upon motion or order to show cause but the insurer and other persons named in this section may be restrained by order until the decision of the court or judge granting or refusing the same. Any such injunction shall be granted upon it appearing satisfactorily to the judge, by affidavit, that sufficient grounds exist therefor. A copy of the affidavit must be served with the injunction.

**Sec. 25. Offices may be removed to St. Paul, Minnesota.**—At any time after the commencement of a proceeding under this act, the commissioner may with the approval of the court remove the principal office of the insurer to the city of St. Paul, Minnesota. In the event of such removal, the court may, upon the application of the commissioner, direct the clerk of the district court of the county wherein such proceeding was commenced, to transmit all papers filed with such clerk to the clerk of the district court of Ramsey county, and the proceeding shall thereafter be conducted as though commenced in Ramsey county.

**Sec. 26. Commissioner may make rules.**—For the purpose of giving effect to this act, the commissioner shall have the power, subject to the approval of the court, to make and prescribe such rules and regulations as to him seem necessary and proper.

**Sec. 27. Commissioner may appoint special deputy.**—For the purposes of this act, the commissioner may appoint special deputy commissioners of insurance as his agents, employ such clerks and assistants as are necessary, and give each of such persons such powers to assist him as he deems advisable. The compensation of such special deputies, clerks, and assistants and all expenses of conducting any proceeding under this act shall be fixed by the commissioner, subject to the approval of the court, and, on certificate of the commissioner, be paid out of the funds or assets of the insurer involved.

**Sec. 28. Powers and duties of commissioner and deputies.**—**Subdivision 1.** In the discharge of the duties imposed by this act the commissioner, his deputy, or any special deputy appointed pursuant hereto, shall have power to administer oaths and affirmations, take deposition, certify to official acts, and issue subpoenas to compel the attendance of witnesses and the production of books, papers, correspondence, memoranda, and other records deemed necessary as evidence in connection with a disputed claim or the administration of the act.

Subd. 2. In case of contumacy by, or refusal to obey a subpoena issued to any person, any court of this state within the jurisdiction of which the inquiry is carried on or within the jurisdiction of which said person guilty of contumacy or refusal to obey is found or resides or transacts business, upon application by the commissioner, his deputy, or special deputy, shall have jurisdiction to issue to such person an order requiring such person to appear before the commissioner, or his deputy, there to produce evidence if so ordered or there to give testimony touching the matter under investigation or in question; and any failure to obey such order of the court may be punished by said court as a contempt thereof.

Sec. 29. **Evidence.**—No person shall be excused from attending and testifying or from producing books, papers, correspondence, memoranda, and other records before the commissioner or his deputy, or special deputy or in obedience to the subpoena of the commissioner, his deputy, or special deputy, on the grounds that the testimony or evidence, documentary or otherwise, required of him may tend to incriminate him or subject him to a penalty or forfeiture; but no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination to testify or produce evidence, documentary or otherwise, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

Sec. 30. **Deposit of funds.**—The moneys collected by the commissioner in a proceeding under this act shall be from time to time deposited in one or more state or national banks, savings banks, or trust companies, and in the case of the insolvency or the voluntary or involuntary liquidation of the depository, such deposits shall be entitled to priority of payment on an equality with any other priority given by the banking law. Such money may be deposited in a national bank or trust company as a trust fund.

Sec. 31. **Liens—when created.**—Any transfer of, or lien upon, the property of an insurer made or created within three months prior to the granting of an order to show cause under this act with intent to give to any creditor, or of enabling him to obtain, a greater percentage of his debt than any other creditor of the same class which is accepted by such creditor having reasonable cause to believe that such a preference will occur, is voidable.

Sec. 32. **Officers directly liable in certain cases.**—Each director, officer, employee, stockholder, member, or other person acting knowingly on behalf of such insurer concerned in making any transfer or creating any lien made voidable by Section 31, is

personally liable therefor and is bound to account to the commissioner as liquidator.

**Sec. 33. Commissioner may avoid transfers.**—The commissioner as liquidator may avoid any transfer of, or lien upon, the property of an insurer which any creditor, stockholder, or member of such insurer might have avoided and receive the property so transferred, or its value, from the person to whom it was transferred unless he was a bona fide holder for value prior to the date of the entry of the order of liquidation.

**Sec. 34. Wages to have priority.**—All wages actually owing to employees of an insurer, against whom a proceeding under this act is commenced, for services rendered within three months prior to the commencement of such proceeding, not exceeding \$300.00 to an employee, shall be paid prior to the payment of other debts or claims and, subject to the direction of the court, as soon as possible after the proceedings have been commenced. Sufficient funds shall be reserved at all times for the expenses of administration.

**Sec. 35. Mutual debits and credits.**—In all cases of mutual debits or mutual credits between the insurer and another person, such credits and debits shall be set-off and the balance only allowed or paid. No set-off shall be allowed in favor of any such person, where:

(a) The obligation of the insurer to such person would not then entitle him to share as a claimant in the assets of such insurer; or

(b) The obligation of the insurer to such person was purchased by or transferred to such person with a view of its being used as a set-off; or

(c) The obligation of such person is to pay an assessment levied against the members of a mutual insurer or to pay a balance upon a subscription to the capital stock of a stock corporation insurer.

**Sec. 36. Commissioner may dispose of assets.**—The commissioner may, subject to the approval of the court:

(a) Sell or otherwise dispose of the real and personal property, or any part thereof, of an insurer against whom a proceeding has been brought under this act.

(b) Sell or compound all doubtful or uncollectible debts or claims owed by or owing to such insurer, including claims based upon an assessment levied against a member of a mutual insurer; provided, that when the amount of any such debt or claim owed by or owing to such insurer does not exceed \$200.00, the commis-

sioner may compromise or compound the same upon such terms as he deems for the best interest of such insurer without obtaining the approval of the court.

**Sec. 37. May borrow money.**—For the purpose of facilitating the rehabilitation, liquidation, conservation, or dissolution provided for by this act, the commissioner may, subject to the approval of the court, borrow money and execute, acknowledge, and deliver notes or other evidences of indebtedness therefor and secure the repayment of the same by the mortgage, pledge, assignment, transfer in trust, or hypothecation of any or all of the property of an insurer against whom a proceeding has been brought under this act, and the commissioner, subject to the approval of the court, may take any and all other action necessary and proper to consummate any such loans and provide for the repayment thereof. The commissioner shall be under no obligation personally or in his official capacity as commissioner of insurance to repay any loan made pursuant to this section.

**Sec. 38. Commissioner to make report to court within the year.**—Within one year from the date of the entry of an order of rehabilitation or liquidation of a domestic mutual insurer in the office of the clerk of the district court of the county in which such insurer had its principal office, the commissioner shall make a report to the court setting forth:

- (a) The reasonable value of the assets of such insurer;
- (b) Its probable liabilities; and
- (c) The probable necessary assessment, if any, to pay all allowed claims in full.

Upon the basis of such report, including amendments thereof, the court may levy assessments against all members of such insurer against whom the board of directors of such insurer might have levied an assessment upon the date of the issuance of the order to show cause in the special proceeding pending against such insurer. Such assessments shall cover the excess of the probable liabilities over the reasonable value of the assets, together with the cost of collection and the probable percentage of uncollectibility thereof, but the total of all such assessments against any member shall not exceed the maximum amount fixed in the contract of that member.

The court may thereupon issue an order directing each member of such insurer, if he does not pay the amount assessed against him to the commissioner on or before a day to be specified in the order, to show cause in the special proceeding pending against such insurer why he should not be held liable to pay such assessments.

together with the costs set forth in this section, and why the commissioner should not have judgment therefor. The commissioner shall cause a notice of such order setting forth a brief summary of the contents of such order to be served on each member in such manner as the court directs.

On the return day of such order to show cause (a) if such member does not appear and serve verified objections upon the commissioner, the court shall make its order adjudging that such member is liable for the amount of such assessment together with \$10.00 costs, and that the commissioner may have judgment against such member thereof; (b) if such member appears and serves verified objections upon the commissioner there shall be a full hearing of the matter by the court. After such hearing, the court shall make its order either negating the liability of such member to pay the assessment or affirming his liability to pay the whole or some part thereof together with \$10.00 costs and necessary disbursements incurred at the hearing, and directing that the commissioner in the latter case may have judgment therefor.

A judgment upon any such order shall have the same force and effect as a judgment in an original action brought in the court in which the special proceeding is pending, and be entered, docketed, and appealed from, as is such a judgment.

**Sec. 39. Insolvent insurer—procedure.**—If upon the granting of an order for the liquidation of a domestic insurer, or at any time thereafter during such liquidation proceeding, it shall appear that the insurer is not solvent, the court shall, after such notice and hearing as it deems proper, make an order declaring such insurer to be insolvent. Thereupon, regardless of any prior notice which may have been given to creditors, the commissioner shall notify all persons who have claims against such insurer and who have not filed proper proofs thereof, to present the same to him at the place specified in such notice within four months after the date of the entry of such order, or some longer time if so directed by the court. The last day for the filing of proofs of claim shall be specified in the notice. Such notice shall be given in a manner determined by the court.

No claim or demand shall be received or allowed after the expiration of the time so limited, except by permission of the court for good cause shown, and upon notice to the commissioner, but in no case unless presented within 18 months from the date of the order of liquidation and before final settlement.

**Sec. 40. Proof of claim.**—A proof of claim shall consist of a verified written statement, signed by the claimant, setting forth the claim, the consideration therefor, the securities held therefor, if

any, the payments made thereon, if any, and that the sum claimed is justly owing from the insurer to the claimant. When a claim is founded upon a written instrument such instrument, unless lost or destroyed, shall be filed with the proof of claim. If such instrument is lost or destroyed a statement of such fact and of the circumstances of such loss or destruction shall be filed under oath with the claim.

**Sec. 41. To make list of policy holders.**—Upon the liquidation of any domestic insurer which has issued policies insuring the lives of persons, the commissioner shall, within 30 days after the last date set for the filing of claims, make a list of the persons who have not filed proofs of claim with him to whom, it appears to his entire satisfaction from the books of the insurer, there are owing amounts on such policies, and set opposite the name of each such person the amount so owing to him. Each person whose name appears upon such list shall be deemed to have duly filed prior to the last day set for the filing of claims a proof of claim for the amount set opposite his name on the list.

**Sec. 42. Contingent claims not to share in distribution—exceptions.**—No contingent claim shall share in the distribution of the assets of an insurer which has been adjudicated to be insolvent by an order made pursuant to section 42 except such claim shall be considered, if properly presented, and may be allowed to share where such claim becomes absolute against the insurer on or before the last day fixed for the filing of proofs of claim against the assets of such insurer or there is a surplus and the liquidation is thereafter conducted upon the basis that such insurer is solvent.

**Sec. 43. Secured claims.**—Where an insurer is adjudicated to be insolvent by an order made pursuant to section 42, any person having a cause of action against an assured of such insurer, which is the subject of indemnity under a liability policy issued by such insurer, or the assured in any such case, shall have the right to file a claim in the liquidation proceeding, even though such claim is a contingent one and such claim may be allowed, provided:

(a) That it may be reasonably inferred from the proof presented upon such claim that a judgment could be obtained upon such cause of action against such insured;

(b) That suitable proof be furnished that no further valid claims against such insurer arising out of such causes of action other than those already presented can be made unless, for good cause shown, the court in which the proceeding is pending shall otherwise direct; provided that no such claim filed by the assured or proof furnished by him in support thereof shall be received in evidence against him or his insurer in any action against him or

his insurer upon such cause of action, nor shall the filing of any such claim or proof thereof by such assured be construed as a violation of any of the terms or conditions of said policy;

(c) That the total liability of such insurer to all claimants arising out of the same act of its assured shall be no greater than its total liability would be were it not in liquidation.

(d) That no judgment taken by default, or by collusion, against such an assured be considered as evidence in the liquidation proceeding either of the liability of such assured to such person upon such cause of action or of the amount of damages to which such person is therein entitled.

**Sec. 44. Amount of claim allowed.**—No claim of any secured claimant shall be allowed at a sum greater than the difference between the value of the security and the amount for which the claim is allowed, and then only subject to the provisions of section 17 of this act, unless the claimant surrenders his security to the commissioner in which event the claim shall be allowed in the full amount for which valued.

**Sec. 45. Dividends may be paid.**—Subdivision 1. Any time after the last day fixed for the filing of proofs of claim in the liquidation of a domestic insurer, the court may, upon the application of the commissioner, authorize him to declare out of the funds remaining in his hands, after the payment of expenses, one or more dividends. Such order shall specify what claims, if any, are entitled to priority of payment and direct the manner in which dividends shall be paid.

Subd. 2. Where there has been no adjudication of insolvency, the commissioner shall pay all allowed claims in full and distribute the balance of the assets remaining in his hands in accordance with the direction of the court. The commissioner shall not be chargeable to a claimant who failed to file a proper proof of claim before such distribution was made for any assets so distributed.

**Sec. 46. Unclaimed dividends to be paid into court.**—The commissioner shall pay to the court, in which the liquidation proceedings were held for the benefit of claimants, all dividends remaining unclaimed or unpaid in his hands for six months after the final order of distribution and, thereafter, such dividends shall be subject to the provisions of section 7306, Mason's Minnesota Statutes of 1927.

**Sec. 47. Orders made upon petition of commissioner.**—No order, judgment, or decree providing for an accounting or enjoining, restraining, or interfering with the prosecution of the business of any domestic insurer to which any provision of this act

is applicable, or for the appointment of a temporary or permanent receiver thereof, shall be made or granted otherwise than upon the petition of the commissioner as provided in this act except in an action by a judgment creditor in proceedings supplementary to execution after notice has been served upon the commissioner of such judgment at least 30 days prior to the filing of a petition for that purpose.

*Sec. 48. Not to amend existing laws.—None of the provisions of this act shall be considered an amendment of existing laws as to the examination of township mutual fire insurance companies.*

Approved April 22, 1943.

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CHAPTER 572—H. F. No. 1194.

(AMENDING SECTION 128.31 MINNESOTA STATUTES 1941.)

*An act relating to vocational education and amending Laws 1941, Chapter 169, Article IX, Section 31.*

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

Section 1. **Law amended.**—Laws 1941, Chapter 169, Article IX, Section 31, is hereby amended to read as follows:

Section 31. **Vocational aid—rules governing disbursement.**—Whenever any school district shall have established a vocational school, department, or classes in accordance with the rules and regulations established by the state board for vocational education and the plan for vocational education adopted by that board and approved by the United States office of education or other federal agency to which its functions are assigned, the state board for vocational education shall reimburse such school district for its expenditures for salaries and necessary travel of vocational teachers from federal funds and may supplement such federal funds with such state aid as it may deem desirable under such rules as it may adopt, provided, however, that the total reimbursement from federal and state funds combined shall in no case exceed three-fourths of the salaries and necessary travel expenses of such vocational teachers, and provided, further, that in the event of such funds not being sufficient to make such reimbursement in full, the state board for vocational education shall prorate the respective amounts available to the various districts entitled to receive reimbursement, except that for the program for training of in-school youth for