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GENERAL STATUTES OF MINNESOTA

SUPPLEMENT 1917

CONTAINING THE AMENDMENTS TO THE GENERAL STATUTES
AND OTHER LAWS OF A GENERAL AND PERMANENT
NATURE, ENACTED BY THE LEGISLATURE
IN 1915, 1916, AND 1917

WITH NOTES OF ALL APPLICABLE DECISIONS

COMPILED BY

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1918

proximation to the care, support and education that they would be entitled to receive if born of lawful marriage, which purpose is hereby acknowledged and declared to be the duty of the state; and also to secure from the fathers of such children repayment of public moneys necessarily expended in connection with their birth. ('17 c. 210 § 1)

3225 (e). Records private—All records of court proceedings in cases of alleged illegitimacy shall be withheld from inspection by, and copies thereof shall not be furnished to, persons other than the parties in interest and their attorneys, except upon order of the court. ('17 c. 210 § 1)

[3225—]1. **Partial invalidity of act**—The provisions of this act are severable one from another and in their application to the persons and interests affected thereby. The judicial declaration of the invalidity of any provision, or the application thereof, shall not affect the validity of any other provision, or the application thereof. ('17 c. 210 § 2)

CHAPTER 18

PUBLIC EXAMINER

3236. Subpœnas, witnesses, etc.—

Cited (131-116, 154+750).

CHAPTER 19

INSURANCE

INSURANCE COMMISSIONER

3243. Use of contingent fund—The contingent fund appropriated for the use of the department of insurance may be expended by the commissioner of insurance as he may deem for the best interest of said department. ('11 c. 386 § 4, amended '15 c. 208 § 1)

3245. Same—Examination of companies—Powers of commissioner—At least once in every two years, the commissioner of insurance shall personally, or by his deputy, actuary, examiners or other salaried employé of his office, visit each domestic insurance company, other than township mutual fire insurance companies, and carefully examine its affairs for the purpose of ascertaining its financial condition and ability to fulfill its obligations, and if it be complying with all the provisions of law. He may also make such examination at any other time that he shall have reason to believe that such company is in an unsound condition, or that it is not conducting its business according to the provisions of law. He may also personally or by his deputy, actuary, examiners or other salaried employé of his office whenever he shall deem it necessary, make an appraisal of any or all of the company's assets. The commissioner, or person making the examination by his direction shall have free access to all books and papers of any company, and of the books and papers of any of its agents, that may relate to its business, and may summon and examine under oath of its directors, officers, agents, trustees, or other persons, in relation to its affairs and condition. The commissioner of insurance may in like manner, whenever he deems it necessary, make an examination of the affairs or an appraisal of any or all of the assets of any insurance company admitted, or applying for admission to do business under the laws of this state.

In the case of foreign insurance companies admitted or applying for admission to do business in this state, the insurance commissioner may, in his discretion, accept the report of examination made by the commissioner of insurance or corresponding officer of the state in which such company has its home office, in lieu of making the examination of such company authorized by the laws of this state. ('11 c. 386 § 6, amended '15 c. 208 § 2)

3246. Same—Fees for examination—Expenses—When any such visitation, examination or appraisal is made by the insurance commissioner, his deputy, actuary or chief examiner, the company so examined, except township mutual fire insurance companies, and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them, upon the mutual plan, shall pay a fee to the said department of insurance of \$15.00 per day for each and every day necessarily occupied by such person, and each one thereof in making said examination, or in making an appraisal of any of the assets of said company. When such visitation, examination or appraisal is made, or engaged in, by any other person regularly employed in the said department of insurance and receiving a salary from the State of Minnesota, the company so examined, except township mutual fire insurance companies and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm or any one or more of them, upon the mutual plan, shall pay as fees to the said department of insurance the sum of \$10.00 per day, for each and every day necessarily occupied by such other person, and each one thereof, in making or assisting to make, the examination, or in making an appraisal of any of the assets of said company. In addition to the fees mentioned herein the company so examined shall also pay to the department of insurance the necessary expenses of any such person or persons so engaged in connection with any such examination or appraisal. All of which fees and expenses shall be accounted for and turned into the treasury of the State of Minnesota. In case of the examination of township mutual fire insurance companies, and companies organized exclusively to write insurance against loss or damage by cyclone, tornado and wind storm, or any one or more of them upon the mutual plan, the actual expenses only thereof shall be charged. The necessary expenses of any such person or persons so engaged in connection with any such examination or appraisal shall be repaid by the state treasurer to any such person or persons so engaged in connection with said examination or appraisal upon vouchers of the same, on condition that such expenses shall have been previously charged to such company so examined and the full amount thereof by it paid into the state treasury. ('11 c. 384 § 7, amended '15 c. 208 § 3)

3247. Same—Professional insurance actuary, when and how appointed—Appraisal—Compensation—The commissioner of insurance may, when he shall deem it necessary, appoint any experienced and competent professional insurance actuary to personally make or conduct or assist in making or conducting an examination of any insurance company admitted, or applying for admission, to do business in this state, on condition that he, the commissioner of insurance, shall have previously filed with the secretary of state during the last immediately preceding month of January or July, as the case may be, or within thirty days from the passage of this act, a written declaration designating such person, by name and address, as a consulting actuary of the Minnesota department of insurance. And in such case, the commissioner of insurance shall fix a reasonable compensation for such examiner on a per diem basis for the actual time employed in making or conducting or assisting to make or conduct such examination, and which, including expenses of any necessary appraisal or clerical assistance, shall be charged to the company so examined. And the compensation for such examiner, appraisal or clerical assistance, together with the amount of his necessary expenses actually incurred in connection with such examination, shall, upon proper vouchers therefor, be paid to him by the state on condition that same shall have previously been charged to such company and by it paid into the state treasury.

The Commissioner of Insurance, when he shall deem it necessary, may ap-

point any competent person to make an appraisal of any or all of the assets of any such company, at a compensation of not exceeding ten dollars (\$10.00) per day and necessary expenses incurred in connection therewith, which compensation and expenses shall be paid to the department of insurance by such company and by it accounted for and turned into the treasury of the State of Minnesota; and which compensation and expenses shall be repaid by the state treasurer to any person so appointed upon proper vouchers of the same on condition that such fees and expenses shall have previously been charged to such company and the full amount thereof by it paid into the state treasury. ('11 c. 386 § 8, amended '15 c. 208 § 4)

3252. Same—Existing policies—Duties of commissioner as to future policies—Within thirty days after the passage of this act each officer, board of control, board of regents, agent or agency of the state of any kind, having in charge any public buildings or property of any kind whatsoever belonging to the state shall report to the commissioner of insurance of the state each policy of insurance which shall be then in force upon any property of any kind belonging to the state, showing in said report the property covered by such insurance, date of expiration of policy, rate of insurance, and amount paid.

Upon August 1st, 1913, and annually thereafter, the commissioner of insurance of the state shall provide for the insurance by the state of all state property not exceeding 33 per cent of the value on fireproof buildings nor 66 per cent on non-fireproof buildings. First, he shall determine the insurable value of each item of property and shall fix the rate of premium which in his opinion is the average rate charged by responsible fire and tornado insurance companies doing business in this state and issuing insurance policies upon property of similar kind and exposed to risk of fire or tornado in like manner.

He shall then ascertain the amount of insurance in force upon all state property and provide for such additional insurance as is necessary.

He shall certify to the state treasurer the amount of insurance upon such property to be carried by the state and order the state treasurer to credit to an account which shall be kept by the treasurer and known as the state insurance account, an amount which shall be equal to the premium as fixed by the commissioner of insurance, and the amount so credited by the state treasurer to the state insurance account shall be debited by the state treasurer to that account which shall be kept upon his books with the proper officer, agent, or board of trustees or regents which may have such public buildings and property in its charge, and the amount so debited by the state treasurer to said officer, agent or board shall be deducted by him from any funds which may be in his hands, or which may thereafter come into his hands and payable to said officer, agent or board of trustees or regents for insurance on state property.

The state commissioner of insurance shall not cause any policies to be cancelled which may be in effect on August 1st, 1913, but shall provide for the insurance of buildings and property as hereinbefore stated, increasing the amount of state insurance at such times as the policies existing on August 1st, 1913, may from time to time expire so as to maintain at all times the amount of insurance required by the provisions of this act. (Amended '15 c. 99 § 1)

GENERAL PROVISIONS

3257. Insurance defined—Unlawful contracts—Contracts deemed made in this state—Insurance is any agreement whereby one party, for a consideration, undertakes to indemnify another to a specified amount against loss or damage from specified causes, or to do some act of value to the assured in case of such loss or damage. It shall be unlawful for any person, firm or corporation to solicit or make or aid in the soliciting or making of any contract of insurance not authorized by the laws of this state. All contracts of insurance on property, lives or interests in this state, shall be deemed to be made in this state. (Amended '17 c. 308 § 1)

3258. [Superseded.]

See § [3258—]2.

[3258—]1. Corporations authorized to transact business in other states and foreign countries—Classification of purposes, etc.—Insurance corporations shall be authorized to transact in any state or territory in the United States, in the Dominion of Canada, and in foreign countries, when specified in their charters or certificates of incorporation, any of the following kinds of business, upon the stock plan, or upon the mutual plan when the formation of such mutual companies is otherwise authorized by law:

1. To insure against loss or damage to property on land and against loss of rents and rental values, lease-holds of buildings, use and occupancy and direct or consequential loss or damage caused by change of temperature resulting from the destruction of refrigerating or cooling apparatus, or any of its connections, by fire, lightning, windstorm, tornado, cyclone, earthquake, hail, frost or snow and loss or damage to property by explosion, whether fire ensues or not, except explosions on risks specified in subdivision 3 of this section, also against loss or damage by water to any goods or premises arising from the breakage or leakage of sprinklers, pumps or other apparatus erected for extinguishing fires, and of water pipes, and against accidental injury to such sprinklers, pumps or other apparatus.

2. To insure vessels, freights, goods, wares, merchandise, species, bullion, jewels, profits, commissions, bank notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with marine risks and risks of transportation and navigation, including the risks of lake, river, canal and inland transportation and navigation.

3. To insure steam boilers and pipes, fly-wheels, engines and machinery connected therewith or operated thereby, against explosion and accident, and against loss or damage to persons or property resulting therefrom, and against loss of use and occupancy caused thereby; and to make inspection of and to issue certificates of inspection upon such boilers, pipes, fly-wheels, engines and machinery.

4. To make contracts of life and endowment insurance, to grant, purchase, or dispose of annuities or endowments of any kind, and to insure against accidents to or sickness of the assured.

5. To insure against loss or damage by the sickness, bodily injury or death by accident of the assured, or of any other person employed by or for whose injury or death the assured is responsible.

6. To guarantee the fidelity of persons in fiduciary positions, public or private, or to act as surety on official and other bonds, and for the performance of official or other obligations.

7. To insure owners and others interested in real estate against loss or damage, by reason of defective titles, incumbrances, or otherwise.

8. To insure against loss or damage by breakage of glass, located or in transit.

9. To insure against loss by burglary, theft or forgery.

10. To insure against loss from the death of domestic animals and to furnish veterinary service.

11. To guarantee merchants and those engaged in business, and giving credit, from loss by reason of giving credit to those dealing with them; this shall be known as credit insurance.

12. To insure against loss or damage to automobiles or other vehicles and their contents, by collision, fire, burglary or theft, and other perils of operation, and against liability for damage to persons, or property of others by collision with such vehicles, and to insure against any loss or hazard incident to the ownership, operation or use of motor or other vehicles.

13. To insure against liability for loss or damage to the property of another caused by the insured or by those for whom the insured is responsible.

14. To insure against any loss or damage resulting from accident or injury suffered by any person, occurring in the practice of medicine, or surgery or in the dispensing of drugs or medicine, for which loss or damage the insured may be legally liable.

15. To make contracts providing that upon the death of the assured, a funeral benefit will be paid or a funeral service furnished, the aggregate amount or value of which shall not exceed \$150 upon any one life.

The paid up capital stock of every such corporation authorized to transact the kinds of business enumerated in subdivisions 1 to 15 of this section shall not be less than specified below:

- Subdivision 1, \$100,000.
- Subdivision 2, \$100,000.
- Subdivision 3, \$100,000.
- Subdivision 4, \$100,000.
- Subdivision 5, \$100,000.
- Subdivision 6, \$250,000, and a surplus constantly maintained of at least \$50,000.
- Subdivision 7, \$200,000.
- Subdivision 8, \$100,000.
- Subdivision 9, \$100,000.
- Subdivision 10, \$100,000.
- Subdivision 11, \$100,000.
- Subdivision 12, \$100,000.
- Subdivision 13, \$100,000.
- Subdivision 14, \$100,000.
- Subdivision 15, \$10,000.

Companies organized to transact the business specified in Subdivision 15 shall be subject to all the provisions of law relating to legal reserve life insurance companies, except that the deposit with the commissioner of insurance shall be \$10,000 and that such company shall have secured at least one hundred applications, upon one hundred separate lives, for insurance aggregating at least \$10,000. Such companies shall issue only nonparticipating policies, which shall be construed as industrial policies.

Any such corporation having a paid up capital stock of not less than \$200,000 and a surplus of not less than \$50,000 constantly maintained may, when authorized by its articles of incorporation, transact any or all of the kinds of business specified in subdivisions 1 to 15 inclusive, excepting those specified in subdivisions 1, 2, 4, 6 and 15.

Any such corporation having a paid up capital stock of not less than \$200,000, may transact the kinds of business specified in subdivisions 1, 2 and 12 of this section.

Any such corporation having a paid up capital stock of not less than \$200,000, and authorized to transact the kinds of business specified in subdivision 4 of this section may also transact the kinds of business specified in subdivision 5.

Any such corporation, having a paid-up capital stock of not less than \$250,000, and a surplus of not less than \$50,000 constantly maintained, when authorized to transact the kinds of business specified in subdivision 6, may also transact the kinds of business specified in subdivisions 7, 8, 9, 10, 11, 12, 13 and 14. ('15 c. 138 § 1)

16. The charter or certificate of incorporation of any insurance corporation organized under any general or special law may be amended in respect to any matter which an original certificate of a corporation of the same kind may lawfully have contained by the adoption of a resolution specifying the proposed amendment and by the approval, filing, recording and publication of the same in the manner prescribed by the general laws of this state relating to amendments to certificates of incorporation. ('15 c. 138 § 1, amended '17 c. 29 § 1)

[3258—]2. Retaliatory provisions against other states, etc.—Repeal—Whenever the laws of any other state, territory or country prohibit the organization of or do not provide for the organization of or the licensing in such state, territory or country of a class or kind of insurance companies or associations organized under the laws of this state and authorized to transact the business of insurance in this state, then companies or associations of the same

kind or class of such other state, territory or country shall not be licensed to do business in this state.

This provision shall not apply to companies or associations organized under the laws of another state now licensed to do business in this state.

No insurance company or association or fraternal beneficiary association, not specifically exempted therefrom by law, shall transact the business of insurance in this state unless it shall hold a license therefor from the commissioner of insurance.

Chapter 418 of the laws of 1913 [3258] is hereby repealed. ('15 c. 138 § 2)

[3258—]3. **Certain corporations permitted to insure against loss or damage to property from explosion, bombardment or acts of war**—Any domestic insurance corporation having corporate power to transact any of the kinds of business described in subdivision 1 of section 1 of chapter 138, General Laws of Minnesota for 1915 [3258—1], is hereby granted corporate power and authority to insure, and is authorized to insure against loss or damage to property resulting from explosion, bombardment or acts of war or occasioned by or resulting from a state of war between the United States and any foreign state or nation or between any two or more foreign states or nations; and any foreign insurance corporation duly licensed to transact in this state any of the kinds of business specified in said subdivision 1 of section 1 of chapter 138, Laws of 1915 [3258—1], is hereby authorized to insure in this state against the risks hereinabove specified, provided such foreign corporation has corporate authority so to do under the law of its creation. ('17 c. 276 § 1)

[3258—]4. **Same—Form of policy**—No policy insuring against any such loss or damage shall be issued or delivered in this state until the form thereof has been filed with the commissioner of insurance and approved by him. ('17 c. 276 § 2)

PUBLIC SUPERVISION

3273. **Commissioner's report to include what**—The annual report of the commissioner shall include a statement of the receipts and expenditures of his department, a statement of the financial condition and business transactions of the several insurance companies doing business in the state, as disclosed by official examinations and by their annual statements, the condition of the receiverships of insolvent companies, and such other information as he thinks proper. (Amended '15 c. 81 § 1)

PROVISIONS COMMON TO ALL COMPANIES

3297. [Repealed.]

See § [3601—]21.

3300. **Misrepresentation by applicant**—

123-453, 144+218, Ann. Cas. 1915A, 458.

Contractor's statement in application for insurance of risks under Workmen's Compensation Act that he did not operate a "steam railroad, switch, or side track," followed by the policy, was a material misrepresentation, where, unknown to insurer, he used a "dinky" steam locomotive on temporary tracks (162+894). Insurance, \Leftrightarrow 285½, New, vol. 15 Key-No. Series.

In an action on an accident policy, the provisions of this section, and not those of § 3467, control, the policy having been written, and the death claimed to be accidental having occurred, prior to the going into effect of 1913 c. 156 (post, §§ 3522-3535); § 3527 providing what shall be the effect of a false statement in an application for an accident policy (134-192, 158+967). Insurance, \Leftrightarrow 250(1).

3302. **Taxation—Salvage corps**—Every domestic and foreign company, except town and farmers' mutual fire insurance companies, and domestic mutual fire insurance companies, shall pay to the state treasurer on or before March 1, annually, a sum equal to 2 per cent of the "gross" premiums less return premiums "on all direct business" received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year. In the case of every domestic company such sums shall be in lieu of all other taxes except those upon real property owned by it in this state, which shall be taxed the same as like property of individuals, and in the case of every foreign company such sums shall be in lieu of all other taxes, except those upon real

and personal property owned by it in this state, which shall be taxed the same as like property of individuals, and except that in addition thereto, every foreign fire company doing business in any city wherein a salvage corps has been established pursuant to law for which such company or its agents for it are not otherwise subject to taxation shall at the same time pay to the treasurer of the duly authorized board of underwriters therein a tax equal to 2 per cent of the gross amount of premiums received by it, or for it, in such city, which shall be used by such board for the equipment and maintenance of such corps.

The provisions of this section shall not apply to any domestic mutual company insuring its members against loss or damage by tornado, hail or cyclone, or loss of live stock from disease or accident, which pays as salary and compensation to any one officer or member in any year no more than the aggregate sum of one thousand dollars (\$1,000) nor to domestic companies organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them upon the mutual plan, which pay as salary and compensation to any one officer or member in any one year no more than the aggregate sum of two thousand dollars (\$2,000). (Amended '07 c. 321; '15 c. 184 § 1)

An insurance company held to be a "town and farmers' mutual insurance company," within the exception in this section, and hence not subject to the 2 per cent. tax on premiums (150-384, 153+594). Taxation, [§ 230](#).

CERTAIN MUTUAL COMPANIES

3307. Assessments, when and how made—Relief—Whenever the net assets of any mutual insurance company are insufficient for the payment of incurred losses and expenses above its reinsurance reserve, as provided by law, it shall make an assessment for the amount required ratably upon its members liable thereto. The order for assessment shall be duly entered upon its records, with a statement of its condition at the date thereof, including all cash assets, deposit notes, and contingent amount liable to such assessment, the amount of the assessment, and the particular losses or other liabilities for which it is made. Such record shall be signed by each director voting for the order before any part of the assessment is collected, and any person liable thereto may inspect and take a copy thereof.

Provided, that the commissioner of insurance may by written order relieve such company from an assessment or other proceedings to restore such assets during the time fixed in such order, when such deficiency does not exceed ten (10) per cent of its admitted assets. (Amended '15 c. 354)

Decree for assessment (121-221, 141+117). Insurance, [§ 71\(2\)](#).

Credit on assessment (121-221, 141+117). Insurance, [§ 71\(3\)](#).

A mutual hail and cyclone insurance company is required to make assessments for loss and expenses upon all members liable thereto, pro rata, and assessments which levy a greater rate on members in one locality than those in another cannot be enforced (126-245, 148+305). Insurance, [§ 191](#).

3308. Same—Guaranty fund—

Validity of notice of assessment (121-221, 141+117). Insurance, [§ 71\(2\)](#).

STOCK COMPANIES

3313. Capital, when paid in—Funds, how invested—The capital of every stock company shall be paid in full in cash within six months from the date of its certificate of incorporation, and thereupon a majority of the directors shall certify under oath to the commissioner that such payment in cash has been made by the stockholders for their respective shares, and is held as the capital of the company, and until then no policy shall be issued. Except as otherwise provided by law, the funds of every domestic company shall be invested in, or loaned upon, one or more of the following kinds of securities or property, and under the restrictions and conditions herein specified, viz.:

1. Bonds or treasury notes of the United States, national or state bank

stock, interest bearing bonds or certificates of indebtedness at market value of this or any other state, or of any city, town, or county in this or any other state, or of the Dominion of Canada or any province thereof, having legal authority to issue the same, at market value, subject in every case to the same limitations and restrictions, according to the last assessment for taxation, which exist in this state upon issue of securities by such or like municipalities at the date of the investment.

2. Notes or bonds, approved by the commissioner, secured by first mortgage on improved real estate in this or any other state, worth at least twice the amount loaned thereon, not including buildings unless insured by policies payable to and held by the security holder.

3. Stock or bonds at market value, approved by the commissioner, upon which stock interest or dividends of not less than three per cent have been regularly paid for three years immediately preceding the investment, of any public service corporation incorporated by or under the laws of the United States, or any state, or the Dominion of Canada, or any province thereof.

4. Insurance policies, issued by itself, to an amount not exceeding the net or reserve value thereof.

5. Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses as defined in Section 4435, Revised Laws of Minnesota for 1913. At the time of investing in such notes the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security. The insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes. The amount invested in the securities mentioned in this subdivision shall not at any time exceed twenty-five per cent of the capital stock of the company.

6. Loans on pledge of any such securities, but not exceeding eighty per cent of the market value of stocks and ninety-five per cent of the market value of bonds specified in subds. 1 and 3; and in all loans reserving the right at any time to declare the indebtedness due and payable when in excess of such proportion or upon depreciation of security. (1635) (Amended '15 c. 82 § 1)

FIRE INSURANCE COMPANIES

3318. Standard policy—

In proceedings to appraise losses under this section, the parties are entitled to be heard and to present evidence as in common-law arbitrations, and the competency of the appraisers is to be determined by the rules of such cases. Where a policy contains a provision as to appraising losses required by this section, and the appraisal is initiated, and one party refuses to recognize the appraiser appointed by the other on the ground that he is incompetent, the burden is upon such party to show such incompetency. The mere fact that appraisers are not experts in the line of business to which such matters pertain is not alone sufficient to sustain a charge of incompetency (125-374, 147+242, 52 L. R. A. [N. S.] 496). Insurance, ⚡570. Vacation of award of referees for inadequacy (121-160, 141+104). Insurance, ⚡574(4).

[3321—]1. Rating bureaus, etc.—Power of commissioner—Examination and report—The commissioner of insurance may address inquiries to any individual, association or bureau, which is or has been engaged in making rates or estimates for rates for fire insurance upon property in this state, in relation to its organization, maintenance or operation, or any other matter connected with its transactions, and may require the filing of schedules, rates, forms, rules, regulations and other information, and it shall be the duty of every such individual, association or bureau, or some officer thereof, to promptly make such filing and reply to such inquiries in writing.

The commissioner of insurance shall have power to examine any such rating bureau as often as he deems it expedient to do so, and shall do so not less than once every three years. A report thereof shall be filed in his office. The

commissioner of insurance may waive such examination upon the filing with him of a report of such examination made by some other insurance department or proper supervising officer within such three years. A statement with regard to such examination shall be made in the annual report of the commissioner of insurance. ('15 c. 101 § 1)

[3321—]2. Same—Discriminatory rates forbidden—Variation from bureau rate, etc.—No fire insurance company or other insurer against the risk of fire or lightning, nor any rating bureau, shall fix or charge any rate for fire insurance upon property in this state which discriminates unfairly between risks in the application of like charges and credits, or which discriminates unfairly between risks of essentially the same hazards and having substantially the same degree of protection against fire.

Any company or other insurer which shall desire to make any variation from the bureau rate upon any class of risks may do so but shall file with the commissioner of insurance and with the bureau of which it is a member or to which it is a subscriber, a written statement of such variation, at least fifteen (15) days in advance of such variation taking effect, and such variation shall be uniform and applicable to all risks of essentially the same hazard in the class for which such variation is made. If any insurer grants a lower rate on any class of property than that fixed by the rating bureau of which it is a member or subscriber, or by the Commissioner of Insurance as provided by this act, such rate shall not be increased by such insurer until one year has elapsed, without the approval of the Commissioner of Insurance. Provided that a declaration filed with the Insurance Commissioner by any insurance company of its intention to write insurance at a uniform variation of a certain per cent from the bureau rate, shall be a sufficient compliance with the requirements of this section. ('15 c. 101 § 2)

The holder of a fire policy in the Minnesota standard form, who makes a payment for a vacancy permit according to the rates prescribed by a rating board under this act is not entitled to recover the amount so paid, though his policy was issued before the passage of this act, the policy containing a provision that it should be void if the premises became vacant and remain so for 30 days without the assent of the insurer (135-483, 160+664). Insurance, 198(1).

[3321—]3. Same—Insurance company to maintain or be member of rating bureau—Bureau, how constituted, etc.—Every fire insurance company or other insurer authorized to effect insurance against the risks of loss or damage by fire or lightning in this state shall maintain or be a member of a rating bureau. No such insurer shall be a member of more than one rating bureau for the purpose of rating the same risk.

A rating bureau may consist of one or more insurers, and when consisting of two or more insurers shall admit to membership any authorized insurer applying therefor. The expenses of the bureau shall be shared in proportion to the gross premiums received by each member during the preceding year in this state, to which may be added a reasonable annual fee of not to exceed Fifty Dollars. Each member shall have one vote.

Every rating bureau shall maintain an office within the United States.

Within sixty days after the passage of this act, every fire insurance company or other insurer aforesaid, shall notify the Commissioner of Insurance in writing of each rating bureau making rates upon property located within this state of which it is a member and shall thereafter annually on or before February 1st report to the Commissioner of Insurance in writing each such rating bureau of which it is a member, and during the year, file written notice of any other such rating bureau of which it shall become a member. ('15 c. 101 § 3)

[3321—]4. Same—Duties of bureau—Inspection and survey of risks—Every rating bureau engaged in making rates or estimates for rates for fire insurance on property in this state shall inspect every risk specifically rated by it upon schedule, and make a written survey of such risk, which shall be filed as a permanent record in the office of such bureau. A copy of such survey shall be furnished to the owner upon request. ('15 c. 101 § 4)

[3321—]5. **Same—Agreements not in compliance with act forbidden—Submission to commissioner—Order of disapproval—Service—**No fire insurance company or any other insurer and, no rating bureau, or any representative of any fire insurance company or other insurer or rating bureau, shall enter into or act upon any agreement with regard to the making, fixing or collecting of any rate for fire insurance upon property within this state, unless in compliance with this act.

Any such agreement may be made and enforced, provided the same be in writing, and, prior to its taking effect, a copy thereof be filed with the commissioner of insurance and with each rating bureau of which any of the parties thereto shall be a member or subscriber.

The commissioner of insurance may, after due notice and hearing, upon complaint or upon his own motion, make an order disapproving any such agreement. No such agreement shall be in force, nor shall any act or rights be based thereon, after service of a copy of such order upon each of the parties to such agreement and upon each bureau with which such agreement is required to be filed. Service may be made by mail and shall be completed upon the expiration of a reasonable time for transmission fixed in such order. The action of the commissioner of insurance in making or refusing to make any such order shall be subject to review by the District Court, as hereinafter provided. ('15 c. 101 § 5)

[3321—]6. **Same—Review of rates—Power of commissioner—Complaint—Appeal, etc.—**The commissioner of insurance shall have power, on written complaint or upon his own motion, to review any rate fixed by any bureau for fire insurance upon property within this state, for the purpose of determining whether the same is discriminatory or unjust. He shall have power to order the discrimination or unjust rate removed and fix and order a rate in lieu of the bureau rate found to be discriminatory or unjust and the rate so ordered and fixed shall become the bureau rate.

No action shall be taken by said commissioner of insurance unless upon a written complaint under the oath on information and belief of the person or persons interested, showing in substantial detail the ground for complaint with such data as will reasonably enable the commissioner of insurance to determine whether there is probable cause therefor, and no such action shall be taken nor shall there be any hearing thereon until a copy of said complaint and data shall have been sent by registered mail or special delivery to the insurance company or bureau concerned and such insurance company or bureau shall have at least ten days' notice of any hearing thereon.

Any person aggrieved by any such order or decision made by the commissioner of insurance may appeal therefrom to the district court of the county where the aggrieved party may reside within thirty (30) days from the making and filing of such order or decision by filing in the office of said commissioner a notice of such appeal in writing, and in such case the said commissioner shall within ten (10) days after the filing of such notice make and return to said district court a full and complete certified transcript of the findings and order appealed from, and of all papers relating thereto on file in his office, including such notice of appeal, and upon the filing of such certified transcript such appeal and all matters involved therein shall be brought on for trial upon the merits at the next term of said court after the filing of such transcript, unless otherwise ordered by the court; and upon such trial the findings of fact on which such order is based shall be prima facie evidence of the matters therein stated.

During the pendency of such proceedings upon review the order of the commissioner of insurance shall be suspended but in event of final determination against any insurer any overcharge by such insurer during such review shall be refunded to the persons entitled thereto. ('15 c. 101 § 6)

[3321—]7. **Same—Penalties for violation—**Any fire insurance company or other insurer or rating bureau or representative of any fire insurance company or other insurer or rating bureau guilty of a violation of any of the pro-

visions of this act or orders or findings of the commissioner of insurance made hereunder, shall be punished by a fine of not less than \$100 nor more than \$5,000. In addition thereto the license of any fire insurance company, agent or broker guilty of such violation may be revoked or suspended by the commissioner of insurance. Any rating bureau examined by the commissioner of insurance under the provisions of this act shall pay to the commissioner of insurance for such examination the same fees required for examinations of foreign fire insurance companies. ('15 c. 101 § 7)

[3321—]8. Same—Not to apply to certain companies—The provisions of this act shall not apply to county or township, mutual insurance companies. ('15 c. 101 § 8)

3322. Whole amount collectible—Co-insurance, etc.—

Cited (131-19, 154+515; 161+217).

3325. Adjustment—Reference—

Cited (125-512, 147+651).

An insurance company held to have waived its right to arbitration, so that insured was entitled to maintain an action to recover damages for failure to replace a building burned, without first having resorted to arbitration (125-518, 145+376). Insurance, Ⓒ612(3).

FIRE DEPARTMENT AID

3345. Disposition of such funds—Relief association—Such amount shall be kept as a special fund, and disbursed only for the following purposes:

(1) For the relief of sick, injured, or disabled members of such fire department, their widows and orphans.

(2) For the equipment and maintenance of such department.

But if there shall be a duly incorporated fire department relief association in such municipality, organized with the consent of the governing body thereof, such amount shall be paid to the treasurer of said relief association, to be disbursed as hereinabove prescribed for municipalities, and as hereinafter provided for service pensions, or relief of sick, injured, or disabled, active or retired members of the fire department in such city who are members of such relief association. In case any fire department relief association or any trustee having any of said funds in its hands shall resign its trust in relation thereto, or shall be dissolved or shall have been heretofore or shall be hereafter removed as such trustee, the district court of the proper county may appoint a trustee or trustees of said funds, or cause such trust to be executed by its officers under its direction, or such court may direct that such trust funds be paid to the treasurer of the proper municipality, and all funds so held in trust or so paid to any such treasurer shall be kept as a special fund and disbursed only for the purposes provided in this section. (Amended '17 c. 207 § 1)

As between the state and members of the fire department the pension is a gratuity; and the state may take it away, except so far as it has accrued, without affecting a vested right or violating the constitution (125-174, 145+1075, Ann. Cas. 1915C, 749). Constitutional Law, Ⓒ102(2); Municipal Corporations, Ⓒ176(3).

3347. Service pensions—Every fire department relief association organized under any laws of this state, whenever its certificate of incorporation or by-laws so provide, may pay out of any funds received from the state, or other source, a service pension, in such amount, not exceeding forty dollars (\$40.00) per month, as hereinafter authorized, or as may be provided by its by-laws, to each of its members, who have heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty (50) years, and who has done, or hereafter shall do, active duty for twenty (20) years, or more as a member of a volunteer paid, or partially paid and partially volunteer fire department in the municipality where such association exists, and who has been, or shall hereafter be, a member of such fire department relief association at least ten (10) years prior to such retirement, and who complies with such additional conditions as to age, service, and membership as may be prescribed by the certificate or by-laws of such association.

The amount of monthly pension which may be paid to such retired fire-

men may be increased by adding to the maximum above prescribed, an amount not exceeding two dollars per month for each year of active duty over twenty years of service before retirement, provided, however, that no such fire department relief association shall pay to any member thereof a pension in any greater amount than the sum of sixty dollars per month. No such pension shall be paid to any person while he remains a member of the fire department, and no person receiving such pension shall be entitled to other relief from such association. No payments made or to be made by said association to any member on the pension roll shall be subject to judgment, garnishment or execution, or other legal process, and no person entitled to such payment shall have the right to assign the same, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned. (Amended '17 c. 514 § 1)

3348. Fireman's relief associations in cities having 50,000 inhabitants—Pensions—

Where a member of the Minneapolis Fire Department Relief Association is determined by the association to be disabled, within the meaning of the constitution and by-laws of such association, such member obtains a vested legal right to such benefit, of which he cannot be deprived except by due process of law (124-381, 145+35, 50 L. R. A. [N. S.] 1018). Constitutional Law, ↪102(2).

A determination by such association that a member has fully recovered from a disability is not conclusive, where the member had no notice and was not offered an opportunity to be heard upon the question. The rights of the parties in such case are not analogous to and controlled by the principles of law applicable to mutual benefit societies (124-381, 145+35, L. R. A. [N. S.] 1018). Municipal Corporations, ↪187.

3349. Same—Pension for injuries or disabilities—

This section, with § 3355, as amended, is not unconstitutional, as class legislation, because based upon an arbitrary distinction between wives of common-law marriages and wives of ceremonial marriages (126-332, 148+279). Constitutional Law, ↪208(3).

Where, prior to the passage of 1913 c. 318, the defendant denied liability to plaintiff, but upon action brought such liability was found by the court and judgment directed accordingly prior to such passage, and was entered afterwards, such judgment will not be enforced in proceedings by contempt, where the widow was the pensioner's common-law wife (126-332, 148+279). Contempt, ↪21.

Under this section, as amended, the widow of a fireman, otherwise entitled to the pension, who was his common-law wife, is not entitled thereto (126-332, 148+279). Municipal Corporations, ↪200.

3355. Same—Disposition of fund—Relief association, etc.—

This section, as amended, is not unconstitutional, as class legislation, because based upon an arbitrary distinction between widows of common-law marriages and widows of ceremonial marriages (126-332, 148+279). Constitutional Law, ↪208(3).

Where, prior to the passage of 1913 c. 318, the defendant denied liability to plaintiff, but upon action brought such liability was found by the court and judgment directed accordingly prior to such passage, and was entered afterwards, such judgment will not be enforced in proceedings by contempt, where the widow was the pensioner's common-law wife (126-332, 148+279). Contempt, ↪21.

A finding, evidentiary in character, in the absence of a specific assignment, is held a sufficient finding that plaintiff was not dependent upon her husband for support within this section. That the widow had separated from her husband, and was obtaining a living from an immoral occupation, does not prevent her from receiving a pension under 1907 c. 24, and the defendant's articles and by-laws. 1913 c. 318, defining the term "widow," as used in 1907 c. 24, was intended to apply as of that date to widows then receiving pensions as well as widows who might thereafter claim them (125-174, 145+1075, Ann. Cas. 1915C, 749). Municipal Corporations, ↪200.

Under this section, as amended, the wife of a fireman, otherwise entitled to the pension, who was his common-law wife, is not entitled hereto (126-332, 148+279). Municipal Corporations, ↪200.

[3358—]1. Fund for pensioning disabled fire insurance patrolmen, etc., in certain cities, etc., having 50,000 inhabitants—Board of trustees—That in all cities, villages, or incorporated towns whose population exceeds 50,000, having a paid fire insurance patrol, a fund shall be created by the board of underwriters of such cities, villages, or towns, for the pensioning of disabled fire insurance patrolmen and the widows and children of deceased patrolmen; to authorize the retirement from service and the pensioning of members of the fire insurance patrol, and for other purposes connected therewith. Such fund shall be controlled and managed by the board of trustees composed of the president, secretary, treasurer, and the superintendent or chief officer of

the fire insurance patrol of the board of underwriters of such city, village, or town, under the name of "The board of trustees of the patrolmen's pension fund." The said board shall elect from their number a president, secretary and treasurer. ('17 c. 196 § 1)

[3358—]2. **Same—Powers and duties of board—Assessments—Duty of treasurer of board of underwriters**—The said board of trustees shall have exclusive control and management of all money donated, paid or assessed for the relief or pensioning of disabled, superannuated and retired members of the fire insurance patrol, their widows and minor children, and shall assess each member of the fire insurance patrol not to exceed one per cent (1%) of the salary of such members, to be deducted and withheld from the monthly pay of each member so assessed. And the treasurer of the board of underwriters of such city, village, or town, shall annually set aside and pay to the treasurer of said board of trustees not to exceed four per cent (4%) of all moneys paid to him by insurance companies for the support of said fire insurance patrol for the first eight (8) years after the passage of this bill, and not to exceed two per cent (2%) of said moneys thereafter, the same to be placed by the treasurer of the board of trustees to the credit of such fund, subject to the order of such board of trustees.

The said board shall make all needful rules and regulations for its government in the discharge of its duties; shall hear and decide all applications for relief or pensions under this act and its decisions on such applications shall be final and conclusive and not subject to review or reversal except by the board of trustees. The said board of trustees shall cause to be kept a record of all its meetings and proceedings. ('17 c. 196 § 2)

[3358—]3. **Same—Rewards, etc., to be paid into pension fund**—All rewards in moneys, fees, gifts and emoluments that shall be paid or given for or on account of extraordinary services by said fire insurance patrol or any member thereof (except when allowed to be retained by such member, or given to endow a medal or other permanent or competitive award) shall be paid into said pension fund. ('17 c. 196 § 3)

[3358—]4. **Same—Investment of funds**—The said board of trustees may invest such funds or any part thereof, in the name of the board of trustees of the patrolmen's pension fund in such interest-bearing securities as may be approved by the said board of trustees, and all such securities shall be deposited with the treasurer and shall be subject to the order of said board of trustees. ('17 c. 196 § 4)

[3358—]5. **Same—Retirement of injured patrolmen—Monthly payments**—If any member of the fire insurance patrol of such city, village, or town, shall, while in the performance of his duty, become and be found upon examination by a medical officer, ordered by said board of trustees, to be physically or mentally permanently disabled by reason of service in such department so as to render necessary his retirement from service in said fire insurance patrol, said board of trustees shall retire such member from service in such fire insurance patrol. Upon such retirement, the said board of trustees shall order the payment to said disabled member of said fire insurance patrol, monthly, from such pension fund a sum not to exceed sixty dollars per month. ('17 c. 196 § 5)

[3358—]6. **Same—Payments in case of death**—If any member of such fire insurance patrol, shall, while in the performance of his duty, be killed or die, as the result of any injury received in the line of duty, or of any disease contracted by reason of his occupation, or if any member of such fire insurance patrol shall die from any cause while in said service, or during retirement, or after retirement, after twenty-two years' service, as hereinafter provided, and shall leave a widow or children under sixteen years of age, surviving, said board of trustees shall direct the payment from said pension fund of the following sum monthly, to wit:

To such widow, while unmarried, \$30.00; to the guardian of such minor child or children, \$6.00 for each of said children, until it, or they, reach the age of sixteen years. Provided, that there shall not be paid to a family of a

deceased member a total pension exceeding one-half of the monthly salary of said deceased member at the time of his decease, or, if a retired member, a sum not exceeding one-half the amount of the monthly salary of such retired member at the date of his retirement.

If, at any time, there shall not be sufficient money in such pension fund to pay each person entitled to the benefits thereof, the full amount per month as hereinbefore provided, then, and in that event, an equal percentage of such monthly payments shall be made to each beneficiary thereof until the said fund shall be replenished to warrant the payment in full to each of said persons. ('17 c. 196 § 6)

[3358—]7. **Same—Relief or retirement—Pensions—Light duties, etc.**—Any member of the fire insurance patrol of any city, village, or town, after becoming fifty years of age, and having served twenty-two years, or more, in such fire insurance patrol, of which the last two years shall be continuous, may make application to be relieved from such fire insurance patrol, or if he shall be discharged from such fire insurance patrol, the said board of trustees shall order and direct that such person shall be paid a monthly pension, not to exceed sixty dollars per month. And the said board, upon the recommendation of the superintendent or chief officer of the patrol provided for in this act, shall have the power to assign members of the fire insurance patrol, retired or drawing pensions under this act, to the performance of light duties in said fire insurance patrol. After the decease of such member, his widow, or minor child or children, under sixteen years of age, if any surviving, shall be entitled to the pension provided for in this act. But nothing in this or any other section of this act shall warrant the payment of any annuity to any widow of a deceased member of such fire insurance patrol after she shall have remarried. ('17 c. 196 § 7)

[3358—]8. **Same—Present and future members**—This act shall apply to all persons who are now, or shall hereafter become members of such fire insurance patrol, and all such persons shall be eligible to the benefits secured by this act. ('17 c. 196 § 8)

[3358—]9. **Same—Duties of treasurer—Bond**—The treasurer of the board of trustees shall be the custodian of said pension fund and shall secure and safely keep the same subject to the control and direction of the board, and shall keep his books and accounts concerning said fund in such manner as shall be prescribed by the board of trustees; and the said books and accounts shall always be subject to the inspection of the board of trustees or any member thereof. The treasurer shall, within ten (10) days after his election, or appointment, execute a bond to the board of underwriters, with good and sufficient security in such penal sum as the board shall direct, to be approved by the board of trustees. Conditions, for the faithful performance of the duties of his office and that he will safely keep, hold and truly account for all moneys and property which may come into his hands as such treasurer, and that upon the expiration of his term of office, he will surrender and turn over to his successor all unexpended moneys and all property which may have come into his hands as treasurer of such fund. Such bond shall be filed in the office of the board of underwriters, and in case of a breach of the same, or the conditions thereof, suit may be brought on the same in the name of such board of underwriters for the use of such board or of any person or persons injured by such breach. ('17 c. 196 § 9)

[3358—]10. **Same—Moneys, how paid—Warrants—Interest**—All moneys ordered to be paid from said pension fund to any person or persons shall be paid by the treasurer of said board only upon warrants signed by the president of the board, and countersigned by the secretary thereof, and no warrant shall be drawn except by order of the board of trustees and duly entered in the records of the proceedings of the board. In case the said pension fund, or any part thereof, shall, by order of said board of trustees or otherwise, be deposited in any bank, or loaned, all interest on money which may be paid or agreed to be paid on account of any such loan or deposit shall belong to and constitute a part of such fund. Provided, that nothing herein contained

shall be construed as authorizing said treasurer to loan or deposit such fund, or any part of such fund, unless so authorized by the board of trustees. ('17 c. 196 § 10)

[3358—]11. **Same—Report to board of underwriters**—The board of trustees shall make report to the board of underwriters, of such city, village, or town of the condition of such pension fund, as of the first day of June, of each and every year, at the annual meeting of said board of underwriters. ('17 c. 196 § 11)

[3358—]12. **Same—Exemption from civil process, etc.**—No portion of said pension fund shall either before or after its order of distribution by such board to such disabled members of said fire insurance patrol, or to the widow or guardian of such minor child or children of deceased or retired member of such fire insurance patrol, be held, seized, taken, subjected to, or detained, or levied on by virtue of any attachment, execution, injunction, writ interlocutory, or other order or decree, or any process or proceeding whatever issued of or by any court of this state for the payment or satisfaction in whole or in part of any debt, damages, claim, demand, or judgment against such member or his widow, or the guardian of said minor child or children of any deceased member, but the said fund shall be sacredly held, kept secure, and distributed for the purpose of pensioning the persons named in this act and for no other purpose whatever. ('17 c. 196 § 12)

INDEMNITY CONTRACTS

3362. **Declaration to be filed with commissioner**—Such subscribers so contracting among themselves shall through their attorney file with the insurance commissioner of this state a declaration verified by the oath of such attorney, setting forth:

(a) The name or title of the office at which such subscribers propose to exchange such indemnity contracts. Said name or title shall not be so similar to any other name or title previously adopted by a similar organization or by any insurance corporation or association as in the opinion of the insurance commissioner is calculated to result in confusion or deception.

(b) The kind or kinds of insurance to be affected or exchanged.

(c) A copy of the form of policy contract or agreement under or by which such insurance is to be affected or exchanged.

(d) A copy of the form of power of attorney or other authority of such attorney under which such insurance is to be effected or exchanged.

(e) The location of the office or offices from which such contracts or agreements are to be issued.

(f) That applications have been made for indemnity upon at least one hundred separate risks aggregating not less than one and one-half million (\$1,500,000.00) dollars, as represented by executed contracts or bona fide applications, to become concurrently effective, or, in case of liability or compensation insurance, covering a total pay roll of not less than one and one-half million (\$1,500,000.00) dollars.

(g) That there is on deposit with such attorney and available for the payment of losses a sum of not less than twenty-five thousand (\$25,000.00) dollars.

Provided, however, that in case of employers' liability or workmen's compensation insurance all subscribers shall be engaged in the same class of business and have an annual pay roll in Minnesota of not less than four million (\$4,000,000.00) dollars and a deposit with such attorney and available for the payment of losses of not less than one hundred thousand (\$100,000.00) dollars.

Provided further, that in the case of automobile liability insurance, covering damage to persons or property of others, the subscribers to such contracts shall have on deposit with such attorney and available for the payment of losses not less than one hundred thousand (\$100,000.00) dollars. (Amended '17 c. 352 § 1)

3365. Same—Reserve to be maintained—Revocation of license—There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to fifty per cent of the net annual deposits collected and credited to the accounts of the subscribers on policies in force having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscribers' agreements, for expenses. Said sum shall at no time be less than twenty-five thousand (\$25,000.00) dollars, and if at any time fifty per cent of the deposits so collected and credited shall not equal that amount, then the subscribers shall make up any deficiency.

In case of the failure of any such reciprocal or inter-insurance exchange to comply with any of the provisions of this act, it shall be the duty of the insurance commissioner to immediately declare its license revoked, and in case of such revocation, said reciprocal or inter-insurance exchange shall not be again licensed to transact business in this state for the period of one year from the date of such revocation. (Amended '17 c. 352 § 2)

TOWN AND FARMERS' MUTUAL COMPANIES

3383. Township mutual fire insurance companies, etc.—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.

Provided, that where any such company confines its operations to one county it may transact business in the whole thereof by so providing in its certificate of incorporation. (Amended '15 c. 155 § 1)

3395. Same—Property insurable—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 personal property temporarily outside of such authorized territory and except as hereinafter further 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, automobiles, country store buildings, threshing machines, farm produce anywhere on the premises, churches, school houses, 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 dwellings are situated is partly within and partly without such town, it may include in such insurance any outbuildings, farm produce, stock or other farm property on such farm outside of such limits.

No law relating to insurance companies now in force in this state shall apply to township mutual fire insurance companies unless it shall be expressly designated in such law that it is applicable to such companies. ('09 c. 411 § 13, amended '13 c. 80 § 3; '15 c. 107 § 1)

[3412—]1. Township mutual fire insurance companies may have perpetual existence—The corporate existence of any township mutual fire insurance company heretofore or hereafter organized may be made perpetual by so providing in its articles of incorporation. ('17 c. 228 § 1)

[3412—]2. **Township mutual companies to insure against death of horses and cattle**—It shall be lawful for any number of persons, not less than twenty-five, residing in adjoining towns in this state, who shall collectively own property worth at least fifty thousand dollars (\$50,000.00), to form themselves into a company or corporation for mutual insurance against loss by death of horses and cattle, but no such company shall operate in more than fifty towns in the aggregate at the same time. Provided, that where any such company confines its operations to one county, it may transact business in the whole thereof by so providing in its certificate of incorporation. ('17 c. 332 § 1)

[3412—]3. **Same—How organized, etc.**—Every such company shall be organized in the same manner as is now provided by law for the organization of township mutual fire insurance companies and shall be subject to all laws relating to such companies and possessed of similar powers, but it shall not have power to insure against loss or damage other than by death of horses or cattle. ('17 c. 332 § 2)

MUTUAL HAIL, TORNADO, ETC., COMPANIES

3414. **Limit of premiums and assessments—**

A mutual hail and cyclone insurance company is required to make assessments for loss and expenses upon all members liable thereto, pro rata, and assessments which levy a greater rate on members in one locality than those in another cannot be enforced (126-245, 148+305). Insurance, ↪191.

3418. **What property insured—Limit of expenses**—No such company shall insure any other property than country churches and school houses, farm dwellings, barns, and other buildings, and hay, grain and other farm products therein, or stored or growing on the premises, bedding, wearing apparel, printed books, pictures and frames, household furniture, family stores and provisions while therein or in the cellar beneath, farm implements, vehicles and machinery on or off the premises, threshing machines, or live stock thereon or running at large. No company, in its hail department, shall insure more than 3,200 acres in any one township; there shall be at least one-half mile between each risk assumed by such company, except that risks may be assumed which cover the growing crops upon not more than 320 acres of contiguous or immediately adjacent lands. No such company shall incur, lay out or expend, in any one calendar year, as and for the expenses of conducting such business, more than its application or survey fees and forty (40) per cent of its total premiums or assessments actually collected. But no company shall be required to limit its annual expenses to less than one thousand dollars (\$1,000). (Amended '15 c. 106 § 1)

3420. **Guaranty surplus fund—Dividends, etc.**—Every such company shall create and maintain a guaranty surplus fund and shall annually set aside and credit thereto, on the day its annual assessment falls due, all the income of the preceding year in excess of the amount required for the payment of its losses and its legal expenses. Whenever such fund has to its credit \$120,000, the directors shall by resolution declare a dividend to its members of \$20,000 thereof. The remaining \$100,000 shall be invested according to law. Provided, however, that any company organized exclusively to write insurance against loss or damage by cyclone, tornado and windstorm, or any one or more of them, upon the mutual plan, which has heretofore in accordance with law or otherwise established and maintained such guaranty surplus fund, may hereafter use the same for the payment of its losses and expenses in the same manner as any other funds of such company available for that purpose and that such company need not hereafter create or maintain such guaranty surplus fund. (Amended '15 c. 106 § 2)

TITLE AND FIDELITY COMPANIES

3431. **Capital—Guaranty**—The capital stock of every real estate title insurance company shall not be less than \$200,000.00, and before issuing any policy or other contract of guaranty or insurance, it shall set apart and keep

separate not less than two-fifths thereof, and not less than \$100,000.00 in any case as a guaranty fund, and invest the same according to law, and the securities in which said guaranty fund is invested shall be duly deposited with the commissioner of insurance for Minnesota, and his certificate thereof procured as provided by law. Such deposit shall be maintained unimpaired, and the principal of such fund shall be applied only to the payments of losses and expenses by reason of its guaranty and insurance contracts, with the right to the company to collect the income thereof and to substitute other like securities of equal amount and value from time to time. After the investment of such portion of its capital stock as hereinbefore provided, and the deposit of the securities in its guaranty fund as aforesaid, the remainder of its capital stock may be invested in such securities, records, abstract plants and equipment as the board of directors of such company shall determine to be suitable for the transaction of its business, and in addition to the powers now possessed, such companies are authorized to make abstracts of title to real property for compensation. Two-fifths of every increase of capital shall be likewise set apart and added to such fund so that the same shall always be at least two-fifths of its entire capital, and it shall make no contract of guaranty or insurance when it is less. (Amended '15 c. 196 § 1)

EMPLOYERS' MUTUAL LIABILITY INSURANCE ASSOCIATIONS

3442. Time of commencing business—Such associations shall not begin to issue policies until a list of the subscribers, with the number of employees of each which, in the aggregate must number in the aggregate, not less than five thousand, together with such other information as the commissioner of insurance may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement of all the subscribers that they will take the policies subscribed for within thirty (30) days of the granting of a license by the commissioner of insurance; provided that in case of associations organized exclusively for the purpose of insuring creameries and cheese factories, such associations may begin to issue policies when the number of employees insured aggregates three hundred. ('13 c. 122 § 4, amended '15 c. 65 § 1)

3448. Issuance of policies to cease, when—If at any time the number of subscribers falls below twenty, or the number of the subscribers' employees within the state falls below five thousand, no further policies shall be issued until the total number of subscribers amounts to not less than twenty, whose employees within the state are not less than five thousand. Provided, that in case of associations, organized for the purpose of insuring creameries and cheese factories the number of subscribers must not fall below two hundred nor the number of subscribers' employees within the state below three hundred. ('13 c. 122 § 10, amended '15 c. 65 § 2)

3450. Premiums—Liability of members—Every such company shall charge and collect on each policy a premium, equal to one year's premium on the policy issued, and shall state in the policy the estimated annual premium and shall also provide in its by-laws for the determination of the actual premium and for payment of same when determined. The premium thus determined shall be known as the annual premium on the policy. And such company shall also provide in its by-laws and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. The contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium, nor more than a sum equal to five times the amount of such annual premium, or, in case of a policy written for less than one year, the contingent liability shall not be less than the proportionate fractional part of such annual premium nor more than five times the proportionate fractional part of such annual premium. The contingent liability of the policyholder shall be plainly and legibly stated in each policy as follows:

"The maximum contingent liability of the policyholder under this policy shall be a sum equal to annual premium (or "premiums.") (Amended '17 c. 201 § 1)

3451. Powers and duties of directors—Premiums—The board of directors shall determine the amount of premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of injury to their employees under existing conditions, and they shall fix premiums at such amounts as in their judgment shall be sufficient to enable the association to pay to its subscribers all sums which may become due and payable to their employees under provisions of law, and also the expenses of conducting the business of the association. In fixing the premium payable by any subscriber, the board of directors may take into account the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such board, and they may from time to time change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, work-room, shop, farm or premises of such subscribers in respect to the safety of their employees may justify and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the board of directors in accordance with the provisions of section 11 (3449) of this act. (Amended '17 c. 201 § 2)

3453. Statement to be filed with insurance department—A statement of any proposed distribution of subscribers into groups shall be filed with the insurance department. (Amended '17 c. 201 § 3)

3458. Foreign associations—Any mutual employers' liability insurance association of another state, upon compliance with all laws governing such corporations in general, the provisions of Section 1705, Revised Laws of 1905 [3591], and the provisions of this act, may be admitted to transact business in this state. Such associations shall pay to the department of insurance the fees prescribed by Section 9, Chapter 386, Laws of 1911 [3248].

Whenever the contracts of insurance issued by such associations shall cover in the aggregate less than five thousand employees, or in the case of associations organized for the purpose of insuring creameries and cheese factories less than three hundred employees, the assured shall forthwith notify the commissioner of insurance of such fact and if, at the expiration of six months from said notice, the aggregate number of employees covered by said contracts of insurance shall be less than five thousand, or in the case of associations organized for the purpose of insuring creameries and cheese factories less than three hundred employees, the commissioner of insurance shall revoke the license of such association and shall petition the district court for the appointment of a receiver for the purpose of winding up its affairs. ('13 c. 122 § 20, amended '15 c. 65 § 3)

LIFE INSURANCE COMPANIES

3467. Misstatement, when not to invalidate policy—

In an action on an accident policy § 3300 controls, and not this section, the policy having been written and the accident having occurred prior to the time that Laws 1913, c. 156, post, §§ 3522-3535, took effect, section 3527 proving what shall be the effect of a false statement in an application for an accident policy (134-192, 158+967). Insurance, ☞250(1).

Reasonableness of by-law of fraternal beneficiary insurance order as to effect of misstatement of age in application for membership, considered (123-145, 143+265). Insurance, ☞693, 723(3, 4).

3477. Policies in form other than as provided in section 3471—Provisions required—

A material misrepresentation, made with intent to deceive, avoids the policy; but where such intent is not present the policy is not invalid, unless the risk of loss is thereby increased, and an immaterial misrepresentation, though made with intent to defraud, does not avoid the policy (123-453, 144+218, Ann. Cas. 1915A, 458). Insurance, ☞250(1).

3485. Person soliciting—Agent—

Cited (161+217).

Knowledge of the agent, through whom the insurance was effected, of the actual situation of the risk covered by its burglary insurance policy is the knowledge of the company, and estops it from denying that the property so situate is not insured (125-54, 145+622). Insurance, \S 378(1).

This section has no application in a case where plaintiff is seeking to enforce an oral contract of insurance, a written policy not having been delivered to insured under his written application taken by a soliciting agent (131-147, 154+745). Insurance, \S 92.

3495. Default in payment of premium—Rights of insured—

Value of policy held to exceed amount of loan (121-395, 141+518, Ann. Cas. 1914D, 160). Insurance, \S 179½.

Where policy is improperly forfeited, insured may sue on the policy, and need not sue for conversion (121-395, 141+518, Ann. Cas. 1914D, 160). Insurance, \S 237.

3496. Provisions not waived—

Stipulation for forfeiture on default in payment of loan held invalid (121-395, 141+518, Ann. Cas. 1914D, 160). Insurance, \S 179½.

CO-OPERATIVE LIFE AND CASUALTY COMPANIES

3504. Reserve fund—Reciprocal provisions—Every domestic co-operative life or casualty corporation, society, or association except fraternal beneficiary associations, which issues a certificate or policy, or makes an agreement with its members, by which, upon the decease of a member, more than two hundred (200) dollars is to be paid to, or benefit conferred upon the legal representatives or designated beneficiary of such member, shall set aside ten (10) per cent of its gross premium receipts or assessments each year, as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of twenty-five thousand (25,000) dollars.

Every domestic co-operative or assessment company transacting the business of life and health and accident insurance, which does not issue health and accident policies providing indemnity for disability from accident or disease in excess of seven hundred fifty (750) dollars on account of any one accident or illness, nor issues policies providing indemnity for disability from accident or illness in excess of seven hundred fifty (750) dollars on account of any one accident or illness and death indemnity of more than two hundred (200) dollars, shall set aside as a reserve ten (10) per cent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to two thousand (2,000) dollars, and shall thereafter set aside as a reserve five (5) per cent of its gross premium receipts or assessments each year until the same, together with any reserve already accumulated, shall amount to twenty-five thousand (25,000) dollars.

Every domestic co-operative or assessment life insurance corporation, society or association, which issues a certificate or policy, or makes an agreement with its members, by which upon the decease of a member, a funeral benefit is to be paid or funeral service is to be furnished, not exceeding two hundred (200) dollars in amount or value, shall set aside ten (10) per cent of its gross premium receipts or assessments each year as a reserve, until the same, together with any reserve already accumulated, shall amount to the sum of five thousand (5,000) dollars, which said reserve fund accumulated as herein provided, shall be deposited with the commissioner of insurance of the State of Minnesota for the benefit of all its policy-holders.

Such deposit may consist of securities of the class in which insurance companies are authorized to invest under the laws of this state and the company depositing the same shall be entitled to the income derived from such securities. No foreign insurance company upon the co-operative or assessment plan shall hereafter be permitted to transact business in this state unless it makes the deposit hereinbefore required of domestic companies except that where by the laws of the state under which said foreign company is organized it is permitted to and actually does maintain for the benefit of all its policyholders a deposit with some proper officer of such state of an amount equal to the deposit required by this act; the deposit with such other state shall be a

sufficient compliance with the provisions of this section. No deposit of securities other than that herein provided for shall be required of any such co-operative or assessment company. Any company transacting the business of life insurance, upon the co-operative or assessment plan, and creating and maintaining a greater reserve than herein provided for, may elect by written stipulation, filed with the commissioner of insurance, to keep on deposit with the commissioner its entire reserve and special benefit funds, other than mortuary funds; and thereafter said entire reserve and special benefit funds shall be deposited with said commissioner in securities of like character and upon the same terms as provided herein for the deposit of the reserve required by this Section. ('07 c. 318 § 3, amended '11 c. 211 § 1; '15 c. 365 § 1)

3514. Beneficial and fraternal associations—

On death of a member of a beneficial association, whose certificate, payable to his mother, was dated prior to the enactment of this statute, held, that where the mother predeceased the member, the proceeds went to the member's brother and sister, they being his only heirs, there being no provision in the certificate as to disposition in case of the death of the beneficiary, and the constitution and by-laws of the order not being in evidence. In such case the brother and sister take as beneficiaries and not as heirs, and there being no provision in the certificate for payment to an administrator, a special administrator of the deceased member could not stand in the position of trustee to the brother and sister, and payment to such administrator did not release the insurance order. The brother and sister held not estopped to assert that the special administrator was unauthorized to receive the money, by the fact that they joined in the petition for his appointment, nor were they barred by laches by having delayed for several years in bringing suit on the certificate after its proceeds had been paid to the special administrator (122-221, 142+316). Insurance, ~~6796~~.

The by-laws of an association having provided that policies may be made payable to the affianced wife of the insured, a policy so payable is valid, though the object of the association, as stated in its constitution, is to provide insurance for the surviving relatives of its members (127-225, 149+288, Ann. Cas. 1916C, 584). Insurance, ~~6771~~.

[3515—]1. **Co-operative or assessment casualty companies—Reserve—**No casualty company or association organized under the co-operative or assessment laws of this state not having a reserve of at least \$25,000.00 on deposit with the commissioner of insurance of this state shall issue policies or contracts providing for the payment of endowments of any kind. ('15 c. 318 § 1)

LIFE, ACCIDENT AND HEALTH COMPANIES

3518. Same — Notice — Consolidation and reinsurance—The insurance commissioner shall thereupon issue an order requiring notice to be given by mail to each policyholder of such company of such petition, and the time and place at which hearing thereon will be held, and shall publish the said notice in five daily newspapers, once in each week for at least two weeks before the time appointed for the hearing upon said petition.

In lieu of proceeding under the foregoing paragraph of this section and section 2 of Chapter 303, Laws of 1905 [3517], any accident or health company, may consolidate and enter into a contract of reinsurance with any other company by filing with the commissioner of insurance a copy of such contract and all papers relating thereto, which consolidation and reinsurance shall take effect upon such filing and the mailing to each person holding a policy so reinsured a notice thereof. Provided, that if the holders of not less than five per cent of such policies so reinsured shall within thirty days thereafter file a petition with the commissioner of insurance for a hearing on the question of such reinsurance, the commissioner shall, and without such petition may, order a hearing as provided in section 4, Chapter 303, Laws of 1905 [3519], notice of which shall be given by the company by mail to each holder of such policy, so reinsured, at least ten days before such hearing, and thereupon proceedings shall be had as provided in sections 4 and 5, Chapter 303, Laws of 1905 [3519, 3520]. ('05 c. 303 § 3, amended '15 c. 333 § 1)

3519. Same—Hearing and determination—
125-390, 147+281.

3520. Same—Costs and expenses—No extra compensation—All actual expenses and costs incident to proceedings under the provisions of this act shall be paid by the company or companies bringing said petition, and an

itemized statement of the expenses and costs shall be filed with the insurance commissioner with a certified copy of the decision of the commissioner. No officer of any such company or companies, nor member of said commission, or employé of the State Insurance Department, shall receive any compensation, gratuity or otherwise, directly or indirectly, for in any manner aiding, promoting or assisting in such consolidation or reinsurance. ('05 c. 303 § 5, amended '15 c. 333 § 2)

3527. Same—False statements—

In an action on an accident policy written prior to the taking effect of this act, the accident for which a claim was made having occurred prior to that time, the provisions of § 3300 control, and not those of § 3467 (134-192, 158+967). Insurance, Ⓒ250(1).

3535. Same—When to take effect—

134-192, 158+967; note under § 3527, ante. Insurance, Ⓒ250(1).

3536. Policies of associations confining membership to commercial travelers, etc.—Copies to be attached and mailed, etc.—By-laws—Any domestic assessment, health or accident association now licensed to do business in this state, which confines its membership to commercial travelers, professional men, and others whose occupation is of such character as to be ordinarily classified as no more hazardous than commercial travelers, and which does not pay commissions or other compensation for securing new members, may issue certificates of membership which, with the application of the member and the by-laws of the association shall constitute the contract between the association and the member. A printed copy of the by-laws and a copy of the application shall be attached to the membership certificate when issued, and a copy of any amendment to the by-laws shall be mailed to the members following their adoption. Certified copies of certificate, by-laws, and amendments shall be filed with the commissioner of insurance and subject to his approval. The by-laws shall conform to the requirements of chapter 156, Laws of 1913 [3522-3535], so far as applicable, and wherever the word "policy" appears in said act, it shall for the purpose of this act be construed to mean the contract as herein defined. (Amended '17 c. 183 § 1)

FRATERNAL BENEFICIARY ASSOCIATIONS

3537. Fraternal beneficiary associations defined—Branch system, etc.—

Any corporation, society, order or voluntary association without capital stock organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government and which shall make provision for the payment of death or disability benefits, or both, is hereby declared to be a fraternal beneficiary association; provided that any beneficiary society or association, whose membership is confined to the members of any one religious denomination shall only be required to have a branch system and a representative form of government. Such beneficiary society or association shall be governed by the provisions of chapter 345 of the General Laws of 1907 [3537-3567], and be exempt from all provisions of the insurance laws of this state to the same extent as fraternal beneficiary association. ('07 c. 345 § 1, amended '15 c. 96 § 1)

Sections 3537-3539, requiring fraternal societies to have representative form of government, is not contravened by constitutional provision that jurisdictions must have reasonable minimum of members before representation in supreme council (162+513). Insurance, Ⓒ697.

3538. Same—Associations operating under lodge system, etc.—Any association having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations, and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by such association to hold regular or stated meetings at least once in each month, shall be deemed to be operating under the lodge system; provided that any beneficiary society or association, whose membership is confined to the members of any one religious denomination,

shall not be required to have ritualistic form of work or ceremonies. ('07 c. 345 § 2; amended '15 c. 96 § 2)

See note under § 3537.

3539. Same—When association deemed to have representative form of government—

See note under § 3537.

3542. Same—Who are beneficiaries—

Rules of an order, providing that benefits can be only in favor of "members of his family, or blood relatives, or mutually for husband and wife," did not prevent a married man from designating his father as his beneficiary; and subsequent marriage did not, ipso facto, work a substitution of the wife as the beneficiary in place of the father (122-273, 142+333, 49 L. R. A. [N. S.] 141, Ann. Cas. 1914D, 1123). Insurance, ⚡774.

A change of beneficiaries can be effected only in the manner provided by the by-laws of the order. A mere delivery of the certificate to a person other than the designated beneficiary does not operate as a change of beneficiary (122-373, 142+333, 49 L. R. A. [N. S.] 141, Ann. Cas. 1914D, 1123). Insurance, ⚡784(1).

The term "family" is not to be given a restricted construction, and may include stepchildren or stepfather. An adopted child does not always mean one adopted through statutory proceedings, and may apply to one received into insured's family (130-416, 153+853, L. R. A. 1916B, 901). Insurance, ⚡726, 770, 771.

3544. Same—Certificate shall specify, what—Changes in constitution, etc.

Cited and applied (129-137, 151+905, Ann. Cas. 1916E, 486). Insurance, ⚡719(4).

A by-law adopted subsequent to the issuance of a benefit certificate, limiting the time in which to sue on the certificate, was void as to such certificate, though the certificate provided that it should be governed by the existing by-laws or any thereafter adopted; no notice having been given to the certificate holder of the enactment of such by-law (122-310, 142+331). Insurance, ⚡812.

A by-law passed after a benefit certificate was issued, and changing the limit of time for suing on the certificate, is not binding on the certificate holder or the beneficiary; this section not applying to benefit certificates issued before its enactment (124-431, 145+118). Insurance, ⚡719(1).

The beneficiary certificate of a fraternal order may be received in evidence without offer of the application, the medical examination, or the laws of the order, though these documents form part of the contract between the member and the order by virtue of this section (130-329, 153+742). Insurance, ⚡818(1).

Validity and operation of by-laws of beneficial association as to expulsion of members (see 123-51, 150+178). Insurance, ⚡747, 757.

3553. Same—License, requirements for, etc.—No foreign association which is not now authorized to transact business in this state shall transact any business herein without a license from the insurance commissioner. Before receiving such license, it shall file with the insurance commissioner a duly certified copy of its charter or articles of association; a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the insurance commissioner as hereinafter provided; a statement under oath of its president and secretary or corresponding officers in the form required by the insurance commissioner duly verified by an examination made by the supervising insurance official of its home state of the business for the preceding year; a copy of its contract, which must show that benefits are provided for by assessments upon, or other payments by persons holding similar contracts, and shall furnish the insurance commissioner with such other information as he may deem necessary to a proper exhibit of its business and plan of working, and if he finds that it is transacting business in accordance with the provisions of this act; that its assets are invested in accordance with the laws of the state where it is organized; and unless it has under its jurisdiction, a grand lodge having a beneficiary department which grand lodge is now authorized by the insurance commissioner to transact business in this state, that it has the membership and qualifications required of domestic associations organized under this act, he may license such association to do business in this state until the first day of the succeeding March, and such license may be renewed annually, but in all cases to terminate on the first day of the succeeding March; provided, that any beneficiary society or association, having a branch system and representative form of government, whose membership is confined to the members of any one religious denomination, and who, prior to the passage of Chapter 345 of the General Laws of nineteen hundred and seven (1907) [3537-3567] was, and has been ever

since continuously licensed to do business in this state, may, upon being authorized to transact the business provided for in the laws governing fraternal beneficiary associations in the state of its organization and making such changes, if any, in its charter and plan of business as may be necessary to meet the requirements of said chapter 345 of the General Laws of nineteen hundred and seven (1907) [3537-3567], be licensed to do business in this state under said chapter without being required to adopt the rates required by the national fraternal congress table of mortality. ('07 c. 345 § 17, amended '11 c. 226; '15 c. 96 § 3)

3555. Same—Foreign associations—Appointment of attorney—Service of process—Time to answer—

Where a foreign insurance corporation files the writing provided for by this section, it becomes a part of policies issued within the state, and suit can be maintained by service on the insurance commissioner, whether the corporation continues to do business in the state or not; and if it transferred its business to another foreign corporation, the latter company may be sued in this state under the authorization on one of the policies so written (133-8, 157+721). Insurance, Ⓒ814.

A Colorado beneficiary association consolidated with a like association of Nebraska, which had previously assumed a policy issued to a resident of this state by a prior Iowa association authorized to transact business in this state, and such Colorado association assumed the policy in question and collected dues thereon. Held, that such Colorado association was estopped to set up its failure to comply with this section as to appointment of the insurance commissioner for the service of process upon it; such assumption of liability constituting the transaction of business in this state (131-131, 154+748). Insurance, Ⓒ16, 814.

Where the summons required defendant to answer within 20 days from service, and judgment by default was entered 22 days after service, held, that the judgment was not binding on defendant and must be set aside (124-390, 145+171). Insurance, Ⓒ814.

3558. Same — Amendments of constitution to be filed — Copies as evidence—

Cited (162+513).

A by-law held properly excluded, because not properly authenticated, and not shown to have been in force at the time involved (125-150, 145+806). Evidence, Ⓒ370(1).

FOREIGN COMPANIES

3591. Requirements—Certificate—

As to service of process on insurance commissioner (see 162+461).

3598. Trustees appointed, when—

130-342, 153+745.

3601. [Repealed.]

See § [3601—]21.

[3601—]1. **Agents—Licenses—**No person shall act or assume to act as an insurance agent or broker in the solicitation or procurement of applications for insurance, nor in the sale of insurance or policies of insurance, nor in any manner aid as an insurance agent or broker in the negotiation of insurance by or with any insurance company or association, except fraternal beneficiary associations and township mutual companies, until such person shall have obtained from the commissioner of insurance a license therefor. ('15 c. 195 § 1)

[3601—]2. **Same—Application—**A license to any person to act as agent for any insurance company or association shall only be granted by the commissioner of insurance upon the written application by such company or association upon forms prescribed by the commissioner of insurance and the payment of the fee required by law. Such licenses shall be issued for the term ending on the first day of March thereafter. ('15 c. 195 § 2)

[3601—]3. **Same—Form of application—**A license to act as insurance broker shall only be granted by the commissioner of insurance upon application made in writing and verified by oath by the person seeking such license and the payment of the fee required by law; and such application shall be in the form prescribed by the commissioner of insurance and shall give a statement of the occupations in which the applicant has been engaged for the preceding five years. ('15 c. 195 § 3)

[3601—]4. **Same—“Insurance broker” defined**—Whosoever, not being the appointed agent or officer of the insuring company, acts for another person, firm or corporation, or in any manner aids another person, firm or corporation, for compensation or profit, in effecting or in procuring insurance or in placing or securing insurance or in the purchase of insurance; or whosoever, not being the appointed agent or officer of the insuring company, procures a policy of insurance to be issued to or on behalf of another person, firm or corporation, or procures insurance to be effected or placed for or on behalf of another person, firm or corporation, at the request of or with the consent of such other person, firm or corporation, and collects, receives or accepts in money, or other thing of value, or gives credit for, the whole or any part of any premium, policy fee, or assessment on or for such policy of insurance, and does not forthwith pay or deliver the whole thereof over to the company or its agent entitled thereto issuing such policy or effecting such insurance, shall be deemed an insurance broker. Such broker's license shall be issued and be in force for one year from its date of issue unless revoked or suspended by the commissioner of insurance. ('15 c. 195 § 4)

[3601—]5. **Same—License to be denied in what cases—Power of commissioner**—No person shall be licensed by the commissioner of insurance as an insurance agent or broker if the commissioner of insurance shall be satisfied that such person is incompetent or unqualified to act as such insurance agent or broker; or that such person does not in good faith intend to carry on the business of insurance agent or broker; or that such person is untrustworthy; or that such person has unreasonably failed to pay over to any insurance company, agent or broker, or policyholder or member of any insurance company or association entitled thereto the whole or any part of any premium or return premium, or moneys or other thing of value in his hands, arising out of any insurance transaction, and due or payable to or belonging to any policyholder or other person, firm or corporation; or that such person has wilfully misrepresented to any person, firm or corporation the terms or conditions of any policy or contract of insurance or the financial standing or condition or manner of doing business of any insurance company or association, agent or broker; or that such person has deceived or defrauded, or attempted to deceive or defraud any person, firm or corporation in connection with any insurance transaction; or that such person has been dishonest in connection with any insurance transaction; or that such person has urged or procured any person, firm or corporation to lapse any policy or contract of insurance in any company or association which is now or has been licensed to do business in the state to the damage of such person, firm or corporation; or that such person has violated any of the provisions of the laws of this state in any way relating to insurance or the transaction or negotiation of insurance, or insurance agents, or brokers, or any lawful ruling of the commissioner of insurance; or that such person is not of good moral character. ('15 c. 195 § 5)

[3601—]6. **Same—Revocation of license**—The commissioner of insurance may at any time revoke the license of any insurance agent or broker or suspend the same for not less than thirty (30) days if he shall be satisfied that any such licensee is not qualified under the provisions of the foregoing section, and he shall give such notice thereof as he deems will best protect the public. ('15 c. 195 § 6)

[3601—]7. **Same—Revocation on application of company**—The license of any person as agent for any insurance company shall likewise be revoked by the commissioner of insurance when written request therefor is made by such company. ('15 c. 195 § 7)

[3601—]8. **Same—Notice of revocation, etc.**—Notice of such revocation or suspension shall be given to such person by mail and shall be deemed complete if such notice is deposited in the mails, postage prepaid, directed to such person at his last-known place of residence as disclosed by the application for license on behalf of such person. Notice of such revocation or suspension or the refusal of an agent's license shall in like manner be given to the company

which applied therefor. Notice of the refusal of a broker's license shall in like manner be given the applicant therefor. ('15 c. 195 § 8)

[3601—]9. **Same—Complaints against agent or broker—Hearing—Refusal, revocation or suspension of license—New application—**The commissioner of insurance, when he deems it advisable, may require any complaint made against an insurance agent or broker to be in writing and sworn to by the person or persons making the same. When the commissioner of insurance shall deem it advisable, and in all cases where such person or company requests the same in writing, the commissioner of insurance shall grant a summary hearing in his office to determine whether or not such license shall be refused, revoked or suspended, and if an appearance shall not be made at such hearing, the license of the person applying for the same, or on whose behalf application for the same is made, shall be forthwith refused, revoked or suspended, as the case may be. Whenever the license of any agent or broker has been refused or revoked no new application for such license shall be entertained by the commissioner of insurance for one year thereafter and then only upon condition that such person shall file with the commissioner of insurance a good and sufficient bond in the sum of \$5,000.00 for the protection of the citizens of the state. ('15 c. 195 § 9)

[3601—]10. **Same—Determination when license has expired, etc.—**Upon proper complaint the commissioner of insurance may, in like manner, determine the unfitness of any person whose license as agent or broker has expired, or, in the case of an agent, has been revoked upon the request of the company for which he was licensed, to be thereafter licensed as insurance agent or broker, and record thereof shall be made as in the case of revocation, refusal or suspension of an agent's or broker's license. ('15 c. 195 § 10)

[3601—]11. **Same—Record—**The commissioner of insurance shall keep a record of the name and address of every person whose license as agent or broker has been refused, revoked or suspended, together with a brief statement of the reasons therefor and the facts connected therewith, which record shall be open to public inspection. ('15 c. 195 § 11)

[3601—]12. **Same—Insurance companies prohibited from making application for license or keeping in employ unfit persons—**No insurance company, its officers, agents or managers, shall knowingly make application to the commissioner of insurance for a license as agent on behalf of any person who, is known to such company, its officers, agents or managers, making such application, to be unfit or disqualified to be licensed as an insurance agent as defined by the provisions of this act, and immediately upon the discovery by such company, its officers, agents or managers, having supervision of such agent, of such unfitness or disqualification such company or such officers, agents or managers shall forthwith request the commissioner of insurance in writing to revoke the license of such agent; nor shall any company retain in its employ any agent known by it to be disqualified or unfit to be licensed as an insurance agent as defined by this act. ('15 c. 195 § 12)

[3601—]13. **Same—Appeals—**Any person aggrieved by any ruling or order of the commissioner of insurance made under the provisions of this act, may appeal therefrom to any district court of the state by serving written notice of such intention upon the commissioner of insurance, specifying such court, within ten (10) days after the same is made. The commissioner of insurance shall thereupon file with the clerk of such court a certified copy of his order or ruling and findings of fact upon which the same are based, which shall be prima facie evidence of the facts therein stated. Thereupon the court shall summarily hear and determine the questions involved on said appeal. ('15 c. 195 § 13)

[3601—]14. **Same—Attendance of witnesses, etc.—Investigations, how held—**The commissioner of insurance shall have full power to summon and compel the attendance of witnesses before him to testify in relation to any matter which is, by the provisions of this act, or other provisions of the laws of this state relating to insurance, a subject of inquiry or investigation, and

may require the production of any book, paper or document deemed pertinent thereto. Such summons shall be served in the same manner and have the same effect as subpoenas from district courts of this state. All witnesses summoned shall receive the same compensation as is paid to witnesses in the district court, which shall be paid out of the contingent fund of the department of insurance upon proper vouchers for the same signed by the commissioner of insurance, and the commissioner of insurance shall, at the close of the hearing wherein such witness was subpoenaed, certify to the attendance and mileage of such witness, which certificate shall be filed with such vouchers. All investigations held by or under the direction of the commissioner of insurance may, in his discretion, be private, and persons other than those required to be present by the provisions of this act may be excluded from the place where such investigation is held, and witnesses may be kept separate and apart from each other and not allowed to communicate with each other until they have been examined. ('15 c. 195 § 14)

[3601—]15. **Same—Oaths**—The commissioner of insurance and his deputy are each hereby authorized and empowered to administer oaths and affirmations to any person appearing as witness before them; and false swearing in any matter or proceeding aforesaid shall be deemed perjury and shall be punished as such. ('15 c. 195 § 15)

[3601—]16. **Same—Contempt**—Any witness who refuses to be sworn, or who refuses to testify, or who disobeys any lawful order of said commissioner of insurance or his deputy, in relation to said investigation, or who fails or refuses to produce any paper, book or document touching any matter under examination, or who is guilty of any contemptuous conduct, after being summoned to appear before them to give testimony in relation to any matter or subject under examination or investigation as aforesaid, may be summarily punished by the said commissioner of insurance or his deputy, as for contempt by a fine in a sum not exceeding one hundred dollars. ('15 c. 195 § 16)

[3601—]17. **Same—Power of district court**—Disobedience of any subpoena in such proceeding, or contumacy of a witness, may, upon application of the commissioner of insurance, be punished by any district court in the same manner as if the proceedings were pending in such court. ('15 c. 195 § 17)

[3601—]18. **Same—No commissions to unlicensed agent**—No commission or other compensation shall be paid or allowed by any person, firm or corporation to any other person, firm or corporation acting or assuming to act as an insurance agent or broker without a license therefor. ('15 c. 195 § 18)

[3601—]19. **Same—Violation of act—Penalty**—Any person, firm or corporation violating or failing to comply with any of the provisions of this act, and any person who acts in any manner in the negotiation or transaction of unlawful insurance with an insurance company not licensed to do business in the state, or who as principal or agent violates any provision of law relating to the negotiation or effecting of contracts of insurance, shall be guilty of a misdemeanor. ('15 c. 195 § 19)

[3601—]20. **Same—Failure to appear or testify, etc.—Revocation of license**—The commissioner of insurance shall revoke the license of any agent or broker or officer, director, manager or other official of any insurance company refusing or neglecting to appear or testify at any hearing held before the commissioner of insurance, or failing or refusing to produce any books, papers or documents demanded by the commissioner of insurance, when such persons have been notified by the commissioner of insurance in writing to so appear and testify or produce books, papers or documents at such hearing. ('15 c. 195 § 20)

[3601—]21. **Same—Laws repealed**—Chapters 107 [3601], 223 [3605] and 514 [3297] of the Laws of 1913 are hereby repealed. ('15 c. 195 § 21)

PENALTIES

3603. Unlawful guaranty—Every director, officer or agent of an insurance company who officially or privately gives a guaranty to a policyholder thereof against an assessment for which he would otherwise be liable shall be guilty of a misdemeanor. (Amended '15 c. 84 § 1)

3604. Failure to appear before or obstructing commissioner—Whoever, without justifiable cause, neglects, upon due summons, to appear and testify before the commissioner as provided in this chapter, or obstructs the commissioner or his deputy in his examination of an insurance company, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 2)

3605. [Repealed.]

See § [3601—]21.

3606. Issue of prohibited life policies—Every officer or agent of a life insurance company who shall issue any policy in violation of any order or other prohibition by the commissioner, made pursuant to law, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 3)

3607. When agent of insurer—Procuring premiums by fraud—Every insurance agent or broker who acts for another in negotiating a contract of insurance by an insurance company shall be held to be the company's agent for the purpose of collecting or securing the premiums therefor, whatever conditions or stipulations may be contained in the contract or policy. Whenever any such agent or broker, by fraudulent representations, procures payment, or an obligation for the payment, of an insurance premium, he shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 4)

3608. Penalty for violation on first and second offenses—Every person licensed to procure insurance in an unlicensed foreign company, who fails to file the affidavit and statement required in such case, or who wilfully makes a false affidavit or statement, shall forfeit his license and be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 5)

One held to be an agent of a life insurance company, within the meaning of this section (127-215, 149+292).

One seeking to enforce an oral contract of insurance in a case in which a written policy was not delivered to insured under his written application delivered to a soliciting agent of the insurer (131-147, 154+745). Insurance, 6-92.

3613. Failure to make report or comply with law—Every officer and agent of any insurance company, required by any provision of this chapter to make any report or perform any act, who shall neglect or refuse to comply with such requirement, and every agent, solicitor or collector of such corporation in this state who fails or neglects to procure from the commissioner a certificate of authority to do such business, or who fails or refuses to comply with, or violates, any provision of the insurance law, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 6)

3614. Other violations—Whoever violates any provision of the insurance law, where the nature of the offense is not specifically designated herein, shall be guilty, for the first offense, of a misdemeanor, and for each subsequent offense of a gross misdemeanor. (Amended '15 c. 84 § 7)