1940 Supplement

To

Mason’s Minnesota Statutes

1927

(1927 to 1940)

(Superseding Mason’s 1931, 1934, 1936 and 1938
Supplements)

Containing the text of the acts of the 1929, 1931, 1933, 1935, 1937 and 1939 General Sessions,
and the 1933-34, 1935-36, 1936 and 1937 Special Sessions of the Legislature, both new and
amendatory, and notes showing repeals, together with annotations from the
various courts, state and federal, and the opinions of the Attorney
General, construing the constitution, statutes, charters
and court rules of Minnesota together with digest
of all common law decisions.

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1940
blanks so transmitted. If necessary the public examiner or his assistants are authorized to examine local records, in order to complete or verify the information. (Act Apr. 22, 1939, c. 431, Art. 4, §5.)

3286-13. Shall make and file annual report.—The public examiner shall make and file annually in his office a summary report of the information collected, with such compilations and analyses and interpretations as may be deemed helpful. (Act Apr. 22, 1939, c. 431, Art. 4, §6.)

3286-14. Shall investigate accounting and budgeting systems.—The public examiner shall inquire into the accounting and budgeting systems of all local units of government and shall prescribe suitable systems of accounts and budgeting, and forms, books, and instructions concerning the same. At the request of any local unit of government the public examiner may install such systems. (Act Apr. 22, 1939, c. 431, Art. 4, §7.)

3286-15. Shall be subject to prior laws.—Employees of local examinations.—Repeal.—Subject to the provisions of this chapter, the public examiner shall have and exercise all the rights, powers, and duties conferred upon the former public examiner by Mason's Minnesota Statutes of 1927, Sections 3274, 3275, 3276, 3277, 3279, 3280, 3281, 3282, 3283, 3284, and 3286, and the 1938 Supplement to Mason's Minnesota Statutes of 1927, Sections 3278, 3280-1, 3286-2, 3286-3, 3286-4, 3286-5, 3286-6, and 3286-7, and acts amendatory thereof or supplementary thereto, and all the provisions of said statutes shall apply to and govern all matters therein specified respecting the office and department of the public examiner created by this act, except that any limitations therein contained as to the number of employees to be appointed by the public examiner shall not apply; provided, that the public examiner shall account separately for all of the charges, receipts, and disbursements of the department of public examiner pertaining to the examining and auditing of all school districts, towns, cities, villages, and boroughs for which charges are made, and after allocating to the expense thereof a proper pro-rata share of the administrative expense, such functions of the department of public examiner shall be sustained, so far as practicable, by the funds collected therefor from such political subdivisions as otherwise provided by law. Mason's Minnesota Statutes of 1927, Section 3285, is hereby repealed. (Act Apr. 22, 1939, c. 431, Art. 4, §8.)

3286-16. Powers and duties of comptroller, board of audit and former public examiner transferred.—The powers and duties of the board of audit and of the former public examiner, heretofore transferred to, vested in, and imposed upon the comptroller, are hereby transferred to, vested in, and imposed upon the public examiner created by this act. (Act Apr. 22, 1939, c. 431, Art. 4, §9.)

CHAPTER 19
Insurance

3288-1. Public emergency declared.—It is hereby declared that a public emergency exists affecting the health, comfort, and safety of the people of this State, growing out of the abnormal disruption in economic and financial processes, the declaration of a banking holiday in this State and other states and by the Federal Government, the inability of insurers to carry on in a normal and ordinary manner the functions of their business owing to the situation now existing with reference to currency, specie and checks, and other facts and circumstances curtailing and hampering the conduct of the business of insurance in a normal and ordinary manner. (Act Mar. 13, 1933, c. 78, §1.)

3288-2. May suspend provisions of law relating to insurance.—Notice.—During the period of the emergency as hereinafter defined, the Commissioner of Insurance shall have the power, with the approval of the Governor, to suspend, in whole or in part, any provision of the laws relating to insurance. In addition to such power and not in limitation thereof, he shall also have power, with the approval of the Governor, during such period to make, rescind, alter and amend rules and regulations imposing any conditions upon the conduct of the business of any insurer which may be necessary or desirable to maintain sound methods of insurance and to safeguard the interests of policyholders, beneficiaries, and the public generally during such period. In the discretion of the Commissioner of Insurance, such rules or regulations may be published in a manner to be prescribed by him or may be otherwise brought to the attention of the insurer or insurers affected in a manner to be prescribed by the Commissioner of Insurance. (Act Mar. 13, 1933, c. 78, §2.)

3288-3. Law shall supersede existing laws.—Such rules or regulations may be inconsistent with existing law, and in such event shall supersede such existing law inconsistent therewith. (Act Mar. 13, 1933, c. 78, §3.)

3288-4. Rule to become ineffective, when.—Such rules or regulations of the Commissioner of Insurance adopted pursuant to this Act shall become ineffective upon the termination of such emergency and thereupon all the existing law which may have been suspended or superseded pursuant to this Act shall become effective. (Act Mar. 13, 1933, c. 78, §4.)

3288-5. Effective—termination.—The period of the emergency herein provided for shall be from the date of the taking effect of this Act until such date as the legislature may, by joint resolution, designate to be the termination thereof. If the legislature shall not be in session, the date so designated by proclamation of the Governor. (Act Mar. 13, 1933, c. 78, §5.)

3288-6. Violation a misdemeanor.—Any violation of the provisions of this Act or of any rule or regulation adopted by the Commissioner of Insurance pursuant thereto, shall be a misdemeanor. (Act Mar. 13, 1933, c. 78, §6.)

3288-7. Definitions.—The word "insurer" as used in this Act includes all corporations, associations, societies, and orders to which any provision of the laws relating to insurance is applicable. (Act Mar. 13, 1933, c. 78, §7.)

3288-8. Provisions separable.—If any provision of this Act, or the application of such provision to any insurer or circumstance, shall be held invalid, the remainder of this Act, or the application of such provision to insurers or circumstances other than those as to which it is held invalid, shall not be affected thereby. (Act Mar. 13, 1933, c. 78, §8.)

3288-9. Effective March 15, 1933.—This Act, being an Emergency Act, shall be of no force or effect after March 15, 1935. (Act Mar. 13, 1933, c. 78, §9.)

3294. Commissioner may appoint examiner.—Special examiners employed in division of insurance are not state employees within meaning of retirement laws unless they are employed continuously for a period of six months or more. Op. Atty. Gen. (331a-8), Sept. 7, 1935.
§3302. Computation of net value.
Reserve must be held by life insurance company, held to constitute unearned premiums for purposes of computing federal income tax. 22 U. S. Board of Tax Appeals 774. See 20 D. Dig. 4726.

§3304. Reserves. Section 2720-116 gives commissioner of insurance authority to approve rate for "motor vehicle liability policy."


Since there is no longer a constitutional stockholder's liability, such item should not be taken into consideration in subject of a life insurance company. Op. Atty. Gen., Dec. 3, 1931.

§3313. Acceptance of laws.
Insurance contract solicited by foreign corporation wholly licensed with insurance laws, held not to violate interstate commerce. 275US274, 48SCR124, aff'g 169M541, 211NW476.

§3314. Insurance defined—Unlawful contracts—contracts deeded made in this state.
276US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.


Indemnity bond to bank against loan from taking contracts with insurer will support an action ex contractu. Id. See Dun. Dig. 4647.

Injunction bond to bank against loss from taking contracts with insurer will support an action ex contractu. Id. See Dun. Dig. 4647.

Schmidt v. A., 190M585, 252NW671. See Dun. Dig. 4647.

An oral contract of present insurance, or an oral contract for insurance effective at a future date, is valid. Maryland Casualty Co. v. B., 204M43, 285NW366. See Dun. Dig. 4646.

§3315. Capital stock required and business which may be transacted * * * * *.
(a) 15. Funeral benefits to be paid in money. To make contracts providing that upon the death of the assured a funeral benefit will be paid, and the aggregate amount of which shall not exceed $150.00 upon any one life; provided further that any corporation licensed under this act which now or hereafter has a paid up capital of $15,000.00, may make life insurance contracts not to exceed $600.00 on any one life and with or without indemnity for total and permanent disability such as are usually contained in life insurance contracts.

No such insurance company shall be operated directly or indirectly in affiliation or connection with any funeral director or undertaking establishment or contract by assignment or otherwise to pay such insurance or its benefits or any part of either to any funeral director or undertaking establishment, determined or designated by it so as to deprive the family or representatives of the deceased policyholder from, or in any way to control them in, obtaining for the funeral and burial of the insured, funeral services and supplies in the open market.

Provided, that nothing herein contained shall apply, nor shall it be construed to apply in any way to any co-operative burial association. (As amended Mar. 9, 1933, c. 72.)
A foreign insurance company whose articles authorize it to write fire and tornado insurance, and also fidelity insurance, may not be licensed to do a fidelity insurance business in this state, although it may have the power to do a fire or tornado insurance here. State v. Brown, 189 M497, 250 NW2. See Dun. Dig. 4723.

Insurance Board of city of Alexandria may enter into a contract for group life insurance on employees of Alexandria Motor Co. v. M., 187M465, 246 NW118. See Dun. Dig. 4678.

Evidence held not to justify finding that defendant was owner of a tornado business here. State v. Brown, 189 M497, 250 NW2. See Dun. Dig. 4723.

Evidence submitted findings that through mutual mistake of insured and insurer, there was improperly included in policy in suit name of a wrong person as owner of automobile. Hartigan v. N., 188M484, 245 NW477. See Dun. Dig. 4745.

To justify a reformation of automobile accident policy evidence must be clear, positive and convincing. Hartigan v. N., 188M484, 245 NW477. See Dun. Dig. 8347.

Insured under collision policy was entitled to recover proceeds of premium paid for coverage of converted car and rendered policy useless. Breuer v. C., 188M112, 246 NW371. See Dun. Dig. 4645.

Automobile stored on lot awaiting repair in owner's stop in adjoining garage was not within coverage of theft policy including car stored in any open lot or unroofed space, nor was it temporarily out of buildings while it was being transported or moved in ordinary course of business. Berry Chevrolet Co. v. A., 188M123, 248 NW547. See Dun. Dig. 4757.

In action by city upon machinery policy of insurance, evidence held to find that breakdown in steam turbine was due to "accidental" rupturing of casting which immediately impaired functioning of machinery. City of Detroit Lakes v. T., 201125, 275 NW371. See Dun. Dig. 4669.

Standard worker's compensation policy of insurance held to prevent employer under an accident not covered by worker's compensation act from recovering in an action at law in state court. Globe Indemnity v. the policy. Id. 50 Dun. Dig. 4327.


A special indorsement on policy extending coverage to other automobiles thereafter "acquired" and provided that company shall report purchase of "such automobile" to insurer for indemnity on policy as a separate premium, held to apply only to automobiles which company should thereafter acquire some time to purchasing it or otherwise. Id.

Liability insurance on truck owned by one person, held to cover such truck while temporarily used by a third party. Id.

Where one policy of public liability insurance covered primary risk of independent contractor, another second liability of general contractor, and a third liability of independent contractor paid a loss of personal injury, plaintiff in action for liability of general contractor, is not liable as for contribution. Commer. Casualty Co. v. Blach (DC-Minn). 191 M136, 252 NW114. See Dun. Dig. 4604.

Evidence held for a defendant's negligence in an automobile accident case in which a passenger was guest, and defendant was driving a gasoline in a coffee can was burned. Hultqulst v. N., 202 M352, 278 NW524. See Dun. Dig. 4327.

A title insurance company whose income is derived from the sale of policies and the sale of abstracts and from title insurance premiums is not a corporation which may not be licensed to do a fidelity insurance business in this state, although it does not propose to enter in the fire or tornado business here. State v. Title Ins. Co., 197 M482, 255 NW524. See Dun. Dig. 4337.

There was sufficient evidence to go to jury on whether a robbery had occurred, entrance of robbers with a command to "stick them up" coupled with fatal shooting being sufficient. Zalik v. E., 191 M136, 253 NW114. See Dun. Dig. 4637.

Evidence held to support finding that breakdown in steam turbine was due to "accidental" rupturing of casting which immediately impaired functioning of machinery. City of Detroit Lakes v. T., 201125, 275 NW371. See Dun. Dig. 4669.

A complaint alleging that insurer. Joined with owner and automobile not owned or furnished by his employer. Insurance policy in question not being one insuring owner as a policy of special liability insurance and as a condition of policy that liability should be limited to owner of his property permanently. Kovero v. H., 192 M557, 257 NW371. See Dun. Dig. 4678.

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Evidence held to sustain finding that defendant through his agent made an oral contract of renewal of collision insurance. Société v. 19905125, 255 NW14. See Dun. Dig. 4694.

Evidence held to sustain finding that defendant was driving automobile on his own business and not on behalf of his employer, and plaintiff's action, Barr v. S., 191 M235NW14. See Dun. Dig. 8845.

Provisions of insurance policy that coverage shall not extend to or be available to any public garage, automobile repair shop, sales agency, or the agents or employees thereof, do not exclude from coverage an automobile not owned or furnished by his employer, insurance policy in question not being one insuring owner as a policy of special liability insurance and as a condition of policy that liability should be limited to owner of his property permanently. Kovero v. H., 192 M557, 257 NW371. See Dun. Dig. 4678.

Evidence submitted findings that through mutual mistake of insured and insurer, there was improperly included in policy in suit name of a wrong person as owner of automobile. Hartigan v. N., 188M484, 245 NW477. See Dun. Dig. 4745.

Automobile liability insurers can readily release them-
Evidence held to sufficiently support conclusion that applicant promised to pay premium for liability insurance issued in name of a taxicab association and its insureds, and obligation to pay thereby created was an original and primary one, not within statute of frauds. Kealey Co. v. H., 193M357, 250NW158. See Dun. Dig. 487c.

Automobile liability policy did not cover negligence of car salesmen, who were not within statute of frauds. Id. See Dun. Dig. 487c.

Whether defendant was employee of state highway patrol and protected by liability policy held question of fact for jury. Decker v. S., 195M475, 271NW155. See Dun. Dig. 487c.

Whether defendant was employee of insured who was driving car purchased under conditional sales contract on a pleasure trip. Ely v. S., 198M511, 271NW147. See Dun. Dig. 487c.

Whether defendant was employee of insured while driving county's automobile with its consent, Insurer, for lack of interest in suit, did not have a right to intervene. Id. See Dun. Dig. 487c.

Whether defendant was employee of insured while driving county's automobile with its consent, Insurer, and because it was employed by county to perform a service, did not have a right to intervene. Id. See Dun. Dig. 487c.

Whether defendant was employee of insured while driving county's automobile with its consent, Insurer, and because it was employed by county to perform a service, was estopped in action by company to deny liability under policy, except those "earned on policies for one year from their inception," and also enjoined from using any policy, and necessarily held subject to liability. Schultz v. T., 200M321, 272NW599. See Dun. Dig. 487c.

Whether defendant was employee of insured while driving county's automobile with its consent, Insurer, and because it was employed by county to perform a service, was estopped in action by company to deny liability under policy, except those "earned on policies for one year from their inception," and also enjoined from using any policy, and necessarily held subject to liability. S., 200M321, 272NW599. See Dun. Dig. 487c.

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Insurance relative agent's licenses do not apply to

3322. Capital stock to be paid in full—Investment of
funds.—1. Bonds or treasury notes of the United States, or any state, or of the Dominion of Canada, or any other state, or of any city, town, or county in any bank stock, interest-bearing bonds or certificates of indebtedness at market value of this or any other state, or of the Dominion of Canada or any other state, or of any city, town, or county in

3322-1. Investment in home owners' loan corporation
bonds.—The capital, surplus and other funds of
every domestic life insurance company and fraternal
beneficiary association, whether incorporated by spe-
cial Act or under the general law (in addition to all
other Investments now permitted by law), may be In-
vested in bonds issued by Home Owners' Loan Corpora-
tion in accordance with the provisions of the federal
Act or under the general law (in addition to all
other Investments now permitted by law), may be In-
vested in bonds issued by Home Owners' Loan Corpora-
tion in accordance with the provisions of the federal

3325. Deposit with insurance company.
See §3286.

3326. Real estate.
See §3285 on same subject.

334. Policy to embrace conditions.

Any reasonable doubt as to meaning of employers' pub-
lic liability policy must be resolved in favor of the

Doubtful construction in policy must be resolved
against insurer who writes policy. Maze v. E., 185M135,
241NW725. See Dun. Dig. 4659.

Any reasonable doubt as to meaning of employers' pub-
lic liability policy must be resolved in favor of the

Any provision of an insurance policy operating to work
a forfeiture in favor of insurer may be waived by it.

The bankruptcy or insolvency of the insured shall
not relieve the insurer of any or all of its obligations
under this policy, and in case an execution against the in-
sured on a final judgment is returned unsatisfied,
then such judgment creditor shall have a right of
execution on this policy against the insured, or the
insured by accident, or legal liability imposed upon the
insured by reason of such injuries or death, shall, not-
withstanding anything in said policy to the contrary,
be deemed to contain the following condition:

The bankruptcy or insolvency of the insured shall
not relieve the insurer of any or all of its obligations
under this policy, and in case an execution against the in-
sured on a final judgment is returned unsatisfied,
then such judgment creditor shall have a right of
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execution on this policy against the insured, or the
insured by accident, or legal liability imposed upon the
insured by reason of such injuries or death, shall, not-
withstanding anything in said policy to the contrary,
3340. Commission to hear petition—Hearing—Disposition of surplus assets.

State commerce commission, and not commission created by 1939, c. 3347, §1, to conduct hearing of application for consolidation and re-insurance of domestic insurance companies. Op. Atty. Gen. (248b, 15), Apr. 6, 1938.

3347. Taxation of insurance companies.—Every domestic and foreign company, except town and farmers' mutual insurance companies and domestic mutual insurance companies other than title shall pay to the State Treasurer on or before April 30th, annually, a sum equal to two per cent of the gross premiums less return premiums on all direct business received by it in that year, if unpaid by said date a penalty of ten per cent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of one per cent per month until paid. Provided, however, that every domestic Mutual Insurance Company shall pay to the State Treasurer on or before April 30th, annually, a sum equal to two per cent of the gross direct fire premiums, on policies effective subsequent to January 1, 1929, less return premiums on all direct business received by it in that year, in cash or otherwise, during the preceding calendar year upon business written in municipalities in this state maintaining organized Fire Departments, and provided that the existence of such Department has been certified to in accordance with General Statutes 1923, Section 3737 and if not paid on or before April 30th a penalty of ten per cent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of one per cent per month until paid. Provided, further, that every town and farmers' mutual insurance company shall pay to the State Treasurer on or before April 30th, annually, a sum equal to two per cent of the gross direct fire premiums, on policies effective subsequent to January 1, 1929, less return premiums on all direct business received by it in that year, in cash or otherwise, during the preceding calendar year upon business written in municipalities in this state maintaining organized Fire Departments, and provided that the existence of such Department has been certified to in accordance with General Statutes 1923, Section 3737 and if not paid on or before April 30th a penalty of ten per cent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of one per cent per month until paid. "Return premiums" as used in this section shall mean any dividend and any unused or unabsorbed portion of premium deposit or assessment paid, and also any portion of premium returned by the company upon cancellation or termination of a policy or membership, except surrender values paid upon the cancellation and surrender of policies or certificates of life insurance.

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 sum 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.

A title insurance company whose income is derived from investment of surplus and sale of abstracts and from title insurance premiums is not required to pay money and credits and general personal taxes in addition to the tax upon it as a title insurance company. State v. Title Ins. Co., 197M452, 267NW427. See Dun. Dig. 2986.

The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of Pythias, is to be regarded as a fraternal beneficiary association. Op. Atty. Gen., May 10, 1931.


Tax which §3347 imposes on premiums received by foreign insurance companies is not a tax on property but is a privilege tax, and such insurance company not within power of state to tax stock in such insurance companies as moneys and credits under §3337. Op. Atty. Gen. (249a-13), Sept. 28, 1934.


Two per cent tax on gross premiums of mutual companies, domestic and foreign, received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, to the State Treasurer on or before April 30th, an-"
Provision that no misrepresentation in application avoids policy unless made with intent to deceive or un- 
less matter represented increased risk of loss held to avoid policy where insured with medical examination. 
Schmidt v. P., 190M239, 261NW832. See Dun. Dig. 4666, n2.

Material misrepresentations in an application for in- 

surance, if made with intent to deceive and defraud, or if matter misrepresented increased the risk of 

insured, are not deemed to have been with intent to 

defraud, will avoid the policy. Domino v. M., 191M215, 259 

NW629. See Dun. Dig. 4647.

Section 3373, and not §3396, applies, in so far as practi- 
cable, to reinstatement of lapsed life insurance policies 

avoided upon showing. Robbins v. N., 193M 205, 262NW210, 

§372. Defined.

Agreement between plaintiff and officer of mutual in- 
surance company relative to purchase of the company and employment of others held against public policy. 

170M44, 221NW541.

§373. Prerequisites of all life companies.

Evidence held to show a contract of insurance and not a mere application be required therefor. 174M45, 251 

NW835.

§376. Discrimination in accepting risks.

Where insurable age of an applicant for life insurance 

changed from 34 to 35 on April 14, and application re- 

quested to policy be dated April 1 and applicant gave 

not payable May 1 for first premium but this was not 

paid until about June 20 and second premium was pay- 

able July 1 by terms of the policy, lower premium rate 

at the age of 35 was insufficient consideration for 

the shorter coverage effected by first premium, and the 

misrepresentation held to be immaterial. Robbins v. N., 

205, 262NW210, 872. See Dun. Dig. 4666, 4671.

§386. Investment of domestic life insurance companies 

funds.—The capital, surplus and other funds of every domestic life insurance company, whether 

incorporated by special act or under the general law 

(in addition to investments in real estate as other- 

wise permitted by law) may be invested only in one 
or more of the following kinds of securities or prop- 

erty: (1) Bonds or treasury notes of the United States; 

bonds of this state or of any state of the United States, 
or of the Dominion of Canada or any province thereof; 
bonds of or for the use of city, township, county, 
organized school district, municipality or civil divi- 
sion of this state, or of any state of the United States 
or of any province of the Dominion of Canada; de- 
bentures issued by the Federal Housing Administra- 
tor; and obligations of national mortgage associ- 
ations. (As amended Apr. 29, 1935, c. 365, §1; Mar. 
28, 1937, c. 57, §1.)

(2) Notes or bonds secured by first mortgage, or 
to the deed in the nature thereof, on improved real 

estate in this or any other state of the United States. 

having a value of at least twice the amount of the 

loan secured thereby, no improvement shall be 

included in estimating such value unless the same 

shall be insured against fire by policies payable to 

and held by the security holder or a trustee for its 

interest; also, if approved by the commissioner of 

insurance, notes or bonds secured by mortgage or 

deed upon leased and estates in improved real 

property where forty years or more of the term is 

unexpired and where unencumbered except by the 

lion reserved in the lease for the payment of rentals 

the observance of the terms and conditions of the lease and where the mortgagee, 
upon default, is entitled to be subrogated to, or to 

exercise, all the rights and to perform all the cove- 

nants of the lessee, provided that no loan on such
leasehold estate shall exceed fifty per cent of the fair market value thereof at the time of such loan, and the value thereof shall be shown by the sworn certificate of a competent appraiser; notes or bonds secured by mortgage, or trust deed in the nature thereof, which the Federal Housing Administrator has insured or made a commitment to insure. (As amended Apr. 29, 1935, c. 365, § 2; Mar. 23, 1937, c. 87, § 2.)

(3). Bonds or obligations of railway companies, street railway companies and other public utility corporations incorporated under the laws of this state, the United States or any state thereof, or the Dominion of Canada or any province thereof, which shall not be in default as to the principal or interest on any outstanding issue of bonds; the debentures of farm mortgage debenture companies organized under the laws of this state and federal farm loan bonds.

(4). Stocks of national banks and state banks and of municipal corporations, and certificates of deposit of such banks, provided that not more than five per cent of the admitted assets of the company shall be invested in such certificates of deposit; also stocks of railway companies, street railway companies and other public utility corporations which have paid dividends in cash upon their stock at the rate of not less than three per cent for a period of three years preceding the investment.

(5). In equipment obligations or equipment trust certificates, provided that such obligations or certificates mature not later than fifteen years from their date and are issued or guaranteed by a corporation to which a loan or loans for the construction, acquisition, purchase or lease of equipment have been made or approved by the Interstate Commerce Commission, under authority conferred by act of Congress of the United States of America or are secured by or are evidence of a prior or preferred lien upon interest in the equipment or the rental of such equipment in respect of which they have been sold, or by an assignment of or prior interest in the rent or purchase notes given for the hiring or purchase of such equipment, and provided further, that the total amount of principal of such issue of equipment obligations or trust certificates shall not exceed seventy-five per cent of the cost or purchase price of the equipment in respect of which they were issued. The remaining twenty-five per cent of said cost or purchase price having been paid by or for the account of the railroad so constructing, acquiring, purchasing or leasing said equipment, or by funds loaned or advanced for the purpose by the government of the United States or any state or any of its instrumentalities or departments, shall be in default in the event of default, in respect of the lien or interest thereof upon or in such equipment or rent or purchase notes, to the lien or interest of said prior or preferred equipment obligations or equipment trust certificates.

(6). Stocks of any life insurance company, provided that not more than four per cent of the admitted assets of any domestic life insurance company may be invested in stocks of other life insurance corporations; bonds, debentures, or the preferred or guaranteed stocks, of any solvent institution incorporated under the laws of the United States or of any state thereof, where any such institution, or in the case of preferred stocks held by the insured corporation, during each of the five years next preceding such investment shall have earned a sum applicable to dividends equal at least to four per cent upon the par value (or in the case of stock having no par value, the cost or purchase price, if any, at which issued) of all its capital stock outstanding in each of such five years, and provided further that no such life insurance company shall invest in or loan on any such preferred stock in excess of ten per cent of the total issued and outstanding preferred stock of such institution, nor more than twenty per cent of the unassigned surplus and capital of such life insurance company.

(7). 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 5016, General Statutes of Minnesota for 1925. At the time of issuing 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 or assignee may call for additional like security or shall not be in default upon notice to the grantor thereof, which note or pledge shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder or assignee may call for additional like security or shall not be in default upon notice upon depreciation of the security. The insurance company must maintain in the case of such pledged securities a reserve equal to one-fourth of their value. (Act Apr. 29, 1935, c. 365, § 2.)

(8). Loans on the security of insurance policies issued by itself to an amount not exceeding the net or reserve value thereof; and loans on the pledge of any of the securities enumerated in subdivisions (1) to (7) above, to the extent of the investment permitted in such securities, but not exceeding eighty per cent of the market value of stock except in la 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 by it in its capacity as trustee therefor. No such securities included in the charge mentioned in this subdivision shall not at any time exceed twenty-five per cent of the unassigned surplus and capital of the company.

(9). Bonds or obligations of railway companies, street railway companies and other public utility corporations incorporated under the laws of this state, the United States or any state thereof, or the Dominion of Canada or any province thereof, which shall not be in default as to the principal or interest on any outstanding issue of bonds; the debentures of farm mortgage debenture companies organized under the laws of this state and federal farm loan bonds.

8385. Real estate holdings of domestic life companies.

Sec. 8385. On same subject.

8387. Who entitled to proceeds of life policy.

See notes under § 8399, note 7 h.

Retirement annuity contract held not an insurance contract within state statute or within any other statute of such state, and in case of retirement annuities thereunder, as of the date of adjudication of bankruptcy, vested in the trustee in bankruptcy. Walsh, (USDC-Minn.) 159 FSupp. 567.

Creditors could not impress proceeds of life insurance policy with claims based on fraud of which insurance was guilty after issuance of policies. Cook et al. v. F., 192 M. 496, 235 NW 9. See Dun. Dig. 3867a. 3867a.

Where father paid entire consideration for insurance on life of son, policy payable to son's estate but assigned by written agreement of father that proceeds of policy should go to son's wife, and she, while still lifetime, adopted a child, held that the policy, except in respect of any benefits payable to her, would have been over the child's birth date and in accordance with the terms of the insurance contract. Joyce v. N., 187 M. 496, 244 NW 957. See Dun. Dig. 4596a.

Who entitled to proceeds of life policy. Kassmir v. F., 191 M. 496, 254 NW 446. See Dun. Dig. 4734. Section 8374, providing that all actions not enumerated to certain proceedings or actions in which one or more of the defendants resides within the city or county in which the action was brought may be brought in the county where such service was had by the defendant appellee proceeding provided by § 8261. State v. District Court, 292 M. 4892, 255 NW 77. See Dun. Dig. 10164, 10121.
Where there is a statutory proceeding in nature of
insolvency, as where premiums are unpaid, it alone
may exercise jurisdiction. Id. See Dun. Dig. 4852.

In a suit upon a life insurance policy, trial court’s
refusal to exercise its inherent power to order to
additional defendants four creditors of insured’s estate, who
claim the policy as paid in full by insured, was an abuse of judicial discretion. Minnesota
v. H., 188M260, 245NW569. See Dun. Dig. 4892.

Validity and effect of exemptions from claims of credi-
tors. 23MinnLawRev1652.

§3385. Fraudulent conveyance. 23MinnLawRev618.

§3388. Exemption in favor of family—Etc.


Cook et al v. P., 183M456, 235NW9; note under §3357.

§3392. Automatic paid-up or extended insurance in
certain cases.

Provision in life policy, that upon default it should be
automatically paid-up to face of policy, subjected to,
terms of contract upon default of premiums is not a
form of non-payment of premium policy as being
automatically a paid-up policy for amount that then cash
value be sought by surrender of policy or applied
properly deductible from cash surrender value whether
charge authorized by law and provided for In policy is

Evidence justified findings on questions of fraud and
misrepresentation, and particularly findings to effect
they was no evidence satisfactory to support
ments. Id.

Section applies to a standard life insurance policy
issued without medical examination, and in order to
avoid policy was not shown to have been
or intentionally misleading. Id.

In re Minn. Life Ins. Co., 187M202, 244NW817. See Dun. Dig. 4816.

Informed soliciting agent that Insured had not been in

Insured not having exercised option, given by terms of
his life insurance policy, within stipulated time after
termination of option of redemption of surrender,
was valid. Johnson v. C., 187M611, 246NW358. See Dun. Dig. 4659.

Application for insurance, being subject to the ap-
cut knowledge of insured, he as agent of insured and insur-
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2. Payment of premiums. A valid contract of life and accident insurance was consummated where insured gave post date check for first quarter premium and delivered to agent for delivery to insurer, who was aware of insured's disability and signed receipt for premium given. Fortin v. N., 185M225, 241NW767. See Dun. Dig. 4516.

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Portion of dividend not used as premium, held part of policy reserve and sufficient in amount to carry insurance beyond date of insured's death. Mickelson v. E., 188M495, 246NW738. See Dun. Dig. 4516.

Where loan on policy was never consummated, application for loan held not final election by insured that payment should be applied otherwise than to purchase policy reserve and sufficient in amount to carry insurance beyond date of insured's death. McKelson v. B., 177M273, 225NW81. See Dun. Dig. 4816.

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Date of life policy and not date of delivery governs due date of premiums. Id. See Dun. Dig. 4516.

Acceptance and retention of dividend deposit certificate by insured held to estop insurer and beneficiaries from claiming that sum represented by such certificates should have been used by insurer to prevent policy from lapsing for nonpayment of premiums. Norby v. L., 201M 372, 276NW238. See Dun. Dig. 4516.

Where evidence permits view that insurer's records and conduct are explainable only upon assumption that a premium has been paid, it supports a finding that policy was not lapsed for nonpayment of premiums. Id. See Dun. Dig. 4516.

A release of liability on lump sum settlement of total disability payments. Id. See Dun. Dig. 4516.

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Where a life insurance policy is issued at rates higher than standard, due to substandard risk, and thereafter insured is reclassified as a standard risk and policy reinsured and reclassified, the policy "reissued at standard rates" and "rewritten" as of the date on which the insured was reclassified as a standard risk. Id. See Dun. Dig. 4516.

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Where a paragraph of contract provided that after disability has been continuous for three months it shall be assumed to be permanent, and another paragraph that duration of disability is determined by Insured until his death or thereafter, there was a practical construction placed upon rewritten policy that the parties were not agreed as to the point of time on which disability becomes a term of policy and, as such, as to limitation of disability as required by policy. Opten v. P., 194M580, 261 NW699. See Dun. Dig. 4516.

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Where insured is "permanently disabled from "performing any work for compensation of financial value." Koebeler v. E., 190M 265, 249NW415.

Statement of physician that insured was suffering from arteriosclerosis and chronic inflammation of mid-vertex region of brain, a condition which, in his opinion, was permanent, without any statement as to what extent disability was partial or total, was held not "due proof" of total and permanent disability to perform gainful work. Rich- mond v. P., 152M383, 256NW476. See Dun. Dig. 4516.

Insured upon becoming totally and permanently disabled was entitled to a lump sum payment of all instalments of disability benefits based on his expectancy but was confined to a suit upon contract for past due instalments, not withstanding that his expectancy was more than past due disability payments. Id. See Dun. Dig. 4871c.

3. Permanent and total disability. One unable to follow any regular occupation in work of his usual trade or business, as to which he Is "able to continue for life. Maze v. E., 188M139, 246NW737. See Dun. Dig. 4516.

A totally disabled insured was "permanently" disabled when he had been totally disabled for a period of 60 days and thereafter application of his disability was reclassified so that disability was presumed to be permanent after three months, where no disbursements were made further proof of continuance of disability. 177M273, 225NW81. See Dun. Dig. 4516.

2. Payment of premiums. A valid contract of life and accident insurance was consummated where insured gave post date check for first quarter premium and delivered to agent for delivery to insurer, who was aware of insured's disability and signed receipt for premium given. Fortin v. N., 185M225, 241NW767. See Dun. Dig. 4516.

Defendant's liability under policy disability provision held terminated only as authorized thereby. Id. See Dun. Dig. 4871c.

Jury's finding that disability was not caused by disease having its inception prior to date of issuance of insurance held sustained by evidence. Midland Nat. Life Ins. Co. v. W., 195M618, 273NW195. See Dun. Dig. 4516.

Insured's statement of his age at time of application which becomes part of a life and disability insurance policy becomes a term of policy and, as such, as to liability in point of time on obligation of insurer to pay disability benefits, is binding on insurer. Fino v. E., 200M391, 274 NW516.

Partially blind insured managing mercantile business held not permanently and totally disabled. Id. See Dun. Dig. 4871c.

In action on disability clauses in Illinois contracts of insurance, where plaintiff failed to prove that jury would be justified In finding that insured was totally and permanently disabled, judgment was reversed. "It was suffering from such impairment of health and capacity that he was unable to follow, with reasonable comfort, the usual occupation of gainful work or occupation." Proveden v. M., 200M523, 275NW415.

Upon issue of misrepresentation in application which would make void provision for total disability benefits, verdict and findings for plaintiff are sustained by evidence. Schaedler v. N., 201M327, 276NW235. See Dun. Dig. 4516.

Provision in policy excluding from disability benefits in case of naval or military service in war should be interpreted to mean partial or total disability services after policy took effect. Id. See Dun. Dig. 4871c.
Complaint in action to recover disability annuity under life policy alleging that plaintiff became totally disabled as a result of a heart attack while he was employed by the defendant, and that he was entitled to such annuity under the terms of the policy. Held, plaintiff entitled to such annuity.

7. Rescission and release of liability.

Beneficiary in life policy who retained premiums when required by insurer to surrender policy and then died. Held, beneficiary entitled to retain premiums.


That after death of insured a suit in equity does not lie; rescinding insurance policy requires that the parties from rescinding by consent. Peterson v. N., 185M500, 245NW569. See Dun. Dig. 4848a.

Whether notice of due date or default in payment of life insurance premium was given as customary, held for trial. Schoonover v. P., 187M442, 245NW476. See Dun. Dig. 4818.

Te. Paid-up policy.

Provisions of life policy permitting company on default to deduct indebtedness from surrender value and force policy and extend premiums for lessee, unless it does not in its opinion or forfeiture. Schoonover v. P., 187M343, 245NW476. See Dun. Dig. 4816.

Evidence of personal extension of life policy, held not to be a waiver, that if not foreclosure of loan or forfeiture of policy, and provision as to notice of loss ceases to have any force. Schoonover v. P., 187M343, 245NW476. See Dun. Dig. 4816.

On default, life policy held to become automatically a paid-up policy for such extended term as time was sufficient. Held, a paid-up policy was purchased in a single premium. Schoonover v. P., 187M343, 245NW476. See Dun. Dig. 4816.

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Provisions of life policy were not for ordinary commercial or banking transaction so as to disconnect it from provisions as to extended insurance on failure to pay premiums. Schoonover v. P., 187M343, 245NW476. See Dun. Dig. 4816.

Change of beneficiary.

Change of beneficiary in life policy held to become effective upon receipt by insurance company of application, request, or order. Held, if policy was formal or ministerial act, equity will consider that done which should have been done by an insurer which received but lost application for change of beneficiary effective at once. Blackford v. N., 185M208, 240NW659. See Dun. Dig. 4659a.

The fact that insured was informed that insurer claimed it had not received notice of change of beneficiary, which it in fact had received, and that insured failed to execute and forward a new request for such change did not revoke or nullify change of beneficiary already effectively made. Id.

There was no error in permitting administrator of will to be named as beneficiary to plead and prove that insured intended to make a five year old child of wife into his heir and name her as beneficiary of life insurance policy, held equity will consider that done which should have been done by an insurer which received but lost application for change of beneficiary effective at once. Tittm v. E., 193M311, 279NW574. See Dun. Dig. 4813.

Rights of irrevocable beneficiary in life policy, although vested, were subject to provision granting insured right to borrow from insurer. Insured had right to borrow from insurer. Stahel v. P., 189M405, 249NW922. See Dun. Dig. 4964a.

Paid up loans made by insurer to insured upon security of life insurance policies are in reality but advances to insured under paid up policy, and do not create personal liability or debt of insured. Held, a paid-up policy is held to be owned by insured so that if paid up loan is made by insurer to insured upon security of life insurance policy, it is only an advance to insured under paid up policy. Palmer v. C., 185M306, 284NW732. See Dun. Dig. 4845a.

Standard provision that failure to repay any loan or to pay interest shall not affect the policy unless total indebtedness equals or exceeds loan value, and until one month after notice, is not applicable, and does not require notice to insured of deduction from cash value of his indebtedness to insurer, where policy lapses for nonpayment of premium and automatic provisions for extended insurance or other options take effect. Id.

Under terms of policy, a surrender charge was properly deducted from cash surrender value. Id. See Dun. Dig. 4816.

Deduction of loans from cash surrender value under terms of contract upon default of premiums is not a foreclosure requiring notice under provisions of policy relating to foreclosure. Held, no such notice was required. Id. in excess of total loan value. Erickson v. P., 193M269, 283NW730. See Dun. Dig. 4845a, 4816.

Loan from insurer made upon security of a life insurance policy under provisions of our standard form life insurance policy, held properly to be a commercial loan, and differs from such a loan, in that it does not in ordinary sense create a personal liability of insured and cannot be sued upon. Id. See Dun. Dig. 4645a, 4816.

Forfeiture.

Settlement by insurer that he was in good health when he had in fact taken treatment for diabetes, held to void policy. First Trust Co. v. Kansa City L. I. Co. (US CCAS), 79P(2d)48.

A life insurance policy is subject of a gift inter vivos, transferable by assignee of insured and not assignable by assignee of insured. Hadden v. P., 193M228, 259NW300. See Dun. Dig. 4022.

Complete and absolute surrender of all power and dominion over life insurance policy was clearly shown by delivery of key to receptacle containing policy, with
intention of insured to part absolutely with all title to
Dun. Dig. 4693. 4812, 6174.
assignee who was not a party in other suit. Id. See judgment to administratrix was no defense to suit by
by one claiming to be assignee of policy, payment of
ment for plaintiff therein, insurer was sued in this state
Dun. Dig. 4816.
 spect to future dividends to be declared by insurer, and
miums. Stahel v. P., 189M405, 249NW713. See Dun. Dig.
charge authorized by law and provided for in policy is
properly deductible from cash surrender value whether
should Insured survive beneficiary, held not assignable
period, default takes effect as of due date subject to In-
cluded in rights and privileges and options which she
pledged as collateral security without such writing. Id.
Where Insured assigned policies to beneficiary, and she
Interests which beneficiary was free to dispose of as she
Assignments of life Insurance policies should be given
within the contestable period. It was error to instruct
Applicant named as beneficiary in a policy for nearly
whether plaintiff had complied with defendant's require-
bankruptcy. Kaasmir v. P., 191M340, 264NW446. See
In action on life policy, In which defense is suicide,
ment of death and that the amount of life policy was due and
of death of any beneficiary, there was created
are incontestable and includes all rights and privileges and options which she
Within the contestable period, the insurer is
and original wife of insured had no right to insurance
insured, it is not essential that assignee have such In-
was the right to require, pledgee by failing to bring pro-
the right to have it assumed or reinstated, and the assignee
had no right to insurance, and does not limit otherwise power of insured
to which beneficiary, and husband and wife perished in a common
catastrophe, burden was upon representative of wife's
estate to prove that she survived her husband. Miller v. M., 193M497, 270NW568. See Dun. Dig. 4813.
Where local agent of an insurer was authorized to
reinstate a policy for non-payment of premiums within
line at which a accident due on reinstated finding that
wife survived her husband an appreciable length of time. Wagonmaster v. H., 203M207, 249NW641. See Dun. Dig. 4812.
Trial proceeded as if defendant had satisfactory proofs of
and that the amount of life policy was due and payable to some one. Redden v. P., 192M328, 255NW300. See Dun. Dig. 480, 4789.
In action on life policy evidence held to Justify directed
verdict for defendant on ground that death was suicidal.
In action on life policy evidence held insufficient to show death by accident, and sufficient to support inference of
In action on life policy, in which defense is suicide,
In action on life policy, In which defense was suicide
whether plaintiff could recover the face of the policy If she
the right to exercise her election after the death of
the Company until the original or duplicate thereof shall
Where local agent of an insurer was authorized to
reinstate a policy for non-payment of premiums within
line at which a accident due on reinstated finding that
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nor proof thereof was furnished until after death of the insured. 1d. See Dun. Dig. 4740, 4741c.

An insurer may not avail itself of defense that statements made by insured in application for non-medical examination were false and intentionally misleading unless application is attached to policy, where proof thereof was furnished until after death of the insured. Sherman v. M., 191US347, 276NW298. See Dun. Dig. 4665.

Insurer may set up its defenses, though the suit is actually brought against another. First Trust Co. v. K., (USCCA8). 79F(2d)48. See Dun. Dig. 4741c.

No reversible error was made in not receiving in evidence a letter which had been delivered at 12:35, for, without objection, witnesses not contradicted testified that what so indicated, and, moreover, the party was not put to proof that she authorized her husband, 1d. See Dun. Dig. 424.

Where request for an autopsy in action on life policy was delayed until a few days before day set for trial, refusal to grant same cannot be held an abuse of discretion, 1d. See Dun. Dig. 767.

Testimony that beneficiary was a creditor of insured held admissible as tending to prove insurable interest of beneficiary in life of insured. Eight v. P., 201US474, 276 NW3. See Dun. Dig. 4841.

Defendant was not entitled to closing argument to jury, its concession of total disability not having been made until it was too late to prevent its expression. Hallbom, 189US383, 249NW417. See Dun. Dig. 4871c.

Finding against suicide cannot be reversed unless the evidence precludes every reasonable hypothesis of natural or accidental death. 172US98, 214NW795.

Action to cancel for fraud does not lie where Insured repaid amount deducted from policy before suit was commenced. Hallbom, 189US383, 249NW417. See Dun. Dig. 4816.

An Insurer may not avail itself of defense that statement in application or the policy in determining whether section 3408 requires that the form of application shall accompany the policy, nor may the premium rates pertaining thereto have been filed with the commissioner as a part of the policy. First Trust Co. v. K. (USCCA8). 79F(2d)421.

ACCIDENT AND HEALTH INSURANCE

3415. Form of policy to be approved by commissioner.---Subdivision 1. On and after the first day of January, 1914, no policy of insurance against loss or damage from sickness, accident or injury to the health of the insured by accident shall be issued or delivered to any person in this state until a copy of the form thereof and of the classification of risks, if more than one class of risks is written and the premium rates pertaining thereto have been filed with the commissioner and the premium rates pertaining thereto have been filed with the commissioner and the premium rate for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to judicial review by any court not already having jurisdiction.

Subdivision 2. Group accident and health insurance is hereby declared to be that form of accident and health insurance covering not less than twenty-five employees or members, and which may include the employee's or member's dependents, consisting of husband, wife, children, and actual dependents, residing in the household, written under a master policy.
issued to any governmental corporation, unit, agency or department thereof, or to any corporations, co-partnership, individual, employer, or to any association, corporation or division thereof, may be insured for their individual benefit.

Any corporation or association eligible to and applying for insurance in such chapter 146, may be insured for their individual benefit.

(a) A provision that the policy and the application of the employer, or executive officer or trustee of any association, and the individual applications, if any, of the employees or members to be insured, or trustee in behalf of the group to be insured, or by the head of the family shall constitute the entire statement of facts, together with the representations and not warranties, and that no such statement shall be used in defense to a claim under the policy, unless it is contained in the written application.

(b) A provision that the insurer will issue a master policy to the head of a family, or to the executive officer or trustee of the association. Such insurer shall also issue to the employer or to the executive officer or trustee of the association, for delivery to the employee or member, who is insured under such policy, an individual certificate setting forth a statement as to the insurance protection to which he is entitled and to whose beneficiary and such demand was seasonably made February 25 where death occurred January 22 and notice thereof was received February 17.


Additionally, there is a note under 53417. Accident insurer, held entitled to autopsy, and to disinterment of body of insured to determine cause of death, that right being given by the policy, and not being contrary to the public policy of Minnesota; and demand therefor was properly made on widow as beneficiary, and such demand was seasonably made February 25 where death occurred January 22 and notice of claim was received February 7.


1. In general.

In case of insurable disability half of indemnity could not be paid until death was received within Massachusetts Protective Ass'n (CC83), 232(53)51.

In addition, there is a note under 53417. Accident insurer, held entitled to autopsy, and to disinterment of body of insured to determine cause of death, that right being given by the policy, and not being contrary to the public policy of Minnesota; and demand therefor was properly made on widow as beneficiary, and such demand was seasonably made February 25 where death occurred January 22 and notice of claim was received February 7.


3. A motor speed boat used in making regular pleasure excursions around a large lake, held a "public conces- sion" provided by federal law, and such policy should be construed in regard to disability insurance as if clauses required by those sections as are applicable, together with provisions set out in such chapter 146. Op. Atty. Gen. (245B-8). June 2, 1939.

Duty to submit to surgical treatment as a prerequisite to recovery of benefits. 23MinnLawRev229.

4. Provisions.—No such policy shall be so issued or delivered (1) unless the entire money and other considerations therefor are expressed in the written application; nor (2) unless the time at which the insurance thereunder takes effect and terminates is stated in a portion of the policy preceding its execution by the insurer; nor (3) unless the representations and not warranties, and no statement thereof shall be printed in type of which the face shall be not prominent than any other portion of the text of the policy; nor (4) unless every printed portion thereof and of any endorsements or attached papers shall be plainly printed in type of which the face shall be not more prominent than the ten-point; nor (5) unless a hand description thereof be printed on its first page and on its filing back in type of which the face shall be not more prominent than the ten-point, nor (6) unless the exceptions or exclusions of the policy are stated in not less prominence as the benefits to which they apply, provided, however, that any portion of such policy which purports, by reason of the circumstances under which a loss is incurred, to reduce any indemnity promised therein to an amount less than that provided for the same loss occurring under ordinary circumstances, shall be printed in bold face type and with greater prominence than any other portion of the text of the policy. (As amended Apr. 5, 1959, c. 145, §2.)


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In addition, there is a note under 53417. Accident insurer, held entitled to autopsy, and to disinterment of body of insured to determine cause of death, that right being given by the policy, and not being contrary to the public policy of Minnesota; and demand therefor was properly made on widow as beneficiary, and such demand was seasonably made February 25 where death occurred January 22 and notice of claim was received February 7.


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uses car for a purpose other than that for which he
performed, and for long continued to perform, an Im-
portant part of his duties, was able to do so with due
regard for his health. Kerkela v. E., 184M318, 289NW
306. See Dun. Dig. 4971c.

Verdict for temporary total disability benefits under
accident policy not sustained by evidence because the
insured, who immediately returned to his work and
performed, and for long continued to perform, an im-
portant part of his duties, was able to do so in a
reasonable and practical, but liberal construction as to insured.
Cavallero v. T., 197M417, 2C7NW370. See Dun. Dig.
4971c.

Verdict reducing indemnity in case of infection
"from any injury, abrasion, bruise, or incision" held
not to apply. Air v. M., 188M146, 290WNW36. See Dun. Dig.
4971c.

Group health and accident policy provided for by Laws
1941, c. 624, effective Jan. 1, 1942, is' to be interpreted
as extending to all accident injuries as defined in
stand provisions of this section as are applicable. Op.
Att'y Gen. 1939, c. 146, amending g3415, should contain only such
provisions reducing indemnity in case of infection by
"from any injury, abrasion, bruise, or incision," held
not to apply. Air v. M., 188M146, 290WNW36. See Dun. Dig.
4971c.

Motorcycles as "motor driven cars" within terms of
accident insurance policy. 15MnInLAWRev354.

Motorcycle disabilities within terms of accident
insurance policy. 15MnInLAWRev231.

Right of insurer to demand an autopsy. 15MnInLAW
Rev13.
In action for death under accident policy, burden of proving there was no liability or accident provision within life insurance policy is on plaintiff, and no refusal to permit an autopsy, and on issue raised by claim that there was no liability because there was no visible evidence or that an injury or death occurred, an exception to the coverage clause. Cavallerio v. T., 197 M 417, 257 N W 825. See Dun. Dig. 4748. Evidence is insufficient to justify jury in finding in defendant's favor on issue of demand for and refusal to permit autopsy. Id. See Dun. Dig. 4770.

In suit upon an accident policy where there is no evidence of liability or of an injury or death which occasioned or contributed to death benefits) must be payable to the insured. Joyce v. N., 190 M 66, 252 N W 427. See Dun. Dig. 4862a.

CO-OPERATIVE LIFE AND CASUALTY COMPANIES

3429. Qualifications for license—number of members.—No corporation not now authorized to transact business in this state, shall be licensed to transact the business of life or casualty insurance, or both, upon the co-operative or assessment plan until at least three hundred (300) persons eligible to membership therein have made individual applications in writing therefor; containing warranties of age, health and other required conditions of membership, and shall have obtained from the commissioner of insurance of this state as security for all its policyholders stocks or bonds, of this state or of the United States or bonds of any of the municipalities of this state, or personal obligations secured by first mortgage on real estate within this state, worth, exclusive of buildings, the amount of the lien, and bearing interest at not less than three per cent per annum, to an amount the actual market value of which exclusive of interest shall never be less than ten thousand dollars, provided that the aggregate of such obligations and obligations of a like character procured and filed with the commissioner of insurance a part of the total number of applications required by law shall only be required to deposit securities of the market value of $5,000.00, provided, however, that such a corporation that confines its membership exclusively to the members of volunteer fire departments shall be required to have not less than one hundred (100) individual applications in writing from persons eligible to membership and the sum of at least one thousand dollars ($1,000.00), which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts. ( '07, c. 318, § 2; G. S. '13, § 3505; '27, c. 287; Apr. 21, 1930, v. 25.)

3435. Net rates—reserve fund—limitation of expenses—etc.—No corporation hereafter organized to transact the business of life insurance upon the co-operative or assessment plan, and no such corporation not already admitted to transact business in this state shall hereafter be licensed to transact the business of life or casualty insurance business in this state unless it shall by its charter, by-law and policy or certificate contracts, provide for and actually charge and collect from its members, for and on account of the insurance furnished to them, net rates not exceeding at least equal to the rates known as the National Fraternal Congress rates, with 4 per cent interest.

Provided that when any such corporation has adopted the use of a net rate not less than the National Fraternal Congress table of mortality and interest at the rate of 4 per cent, on the full preliminary term plan, and shall set aside the said net premium to its mortuary or benefit funds, including reserve or special benefits, for the use and benefit of its members, such corporation shall be treated as a non-rental insurance business in this state, unless it shall by its charter, by-law and policy or certificate contracts, provide for and actually charge and collect from its members, for and on account of the insurance furnished to them, net rates not exceeding at least equal to the rates known as the National Fraternal Congress rates, with 4 per cent interest.

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Provided further that the accretions to the various funds derived from interest, dividends, or other source, or less expense incidental to investment supervision, shall also be set aside and appropriated to the fund producing said accretions. Gaia from lapses, savings.
in mortality, surrenders and changes shall revert to the expense fund.

Provided further that policies issued by such corporation may contain a provision that in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the member of the policy a stipulated form of insurance, the net value of which shall be at least equal to the reserve at the date of default on the policy and on any dividend addition thereto, specifying the mortality table and the rate of interest adopted for computing such reserve, less a sum not more than two and one-half per cent of the amount insured by the policy, and of any existing dividend additions thereto, less any existing indebtedness to the company on the policy, and that the policy may be surrendered to the company at its home office within one month from date of default for a specified cash value at least equal to the sum which would otherwise be available for the purchase of insurance as aforesaid and shall stipulate that the company may defer payment for not more than six months after the application therefor is made. This provision shall not be required in terminal insurance of 20 years or less.

Provided further that such corporation shall value its policies at the end of each calendar year and show in its annual statement as a reserve liability the sum of such valuation. If Infantile Insurance is provided for in term insurance of 20 years or less.

Two per cent gross premium tax is not applicable to assessment benefit associations operating under §3445-1. Assessment benefit associations authorized.

ASSESSMENT BENEFIT ASSOCIATIONS

CH. 19—INSURANCE

3443. Commercial Traveler insurance company may give prizes.—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 more hazardous than commercial travelers, and which does not pay any other commissions or compensation, other than prizes to members of nominal value in proportion to the membership fees charge for securing new members, may issue certificates of membership, which, with the application of the member and the by-law, shall constitute a 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 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 Laws 1913, Chapter 166 [3415 to 3427], 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 hereinafter defined.

(As amended Apr. 13, 1939, c. 216.)

MUTUAL BENEFIT ASSOCIATIONS

3444. Employers who made deductions from wages of employees' funds must secure license.

In action by employee against employer's benefit association, evidence held to show that plaintiff suffered injuries because of intoxication. Holdy v. S., 1936, c. 216, NW468. See Dun. Dig. 1831a. / ASSESSMENT BENEFIT ASSOCIATIONS

3445-1. Assessment benefit association authorized.

—Any three or more persons, who are citizens of this State, desiring to form an assessment benefit association under this Act and who have complied with the provisions hereof, in writing, proposed articles of association. Such articles shall state the name of the association, the location of its principal business office, which office must be located in this State, the time and place of holding meetings of the association and the manner of voting at such meetings and the number of members required to constitute a quorum, the number and the names and the place of residence of the persons so desiring to form such association, the number of its directors, and the name and addresses of the directors selected to serve until the first annual meeting of such association, or the object of such association with its place of doing business clearly and fully defined, the maximum amount of benefits it is intended to pay, which may be graduated according to the age of the insured at the time of his admission to membership. (Act Apr. 13, 1935, c. 241, §1.)

3445-2. Commissioner of Insurance may issue permits to solicited applications.—On receipt of such articles of association the Commissioner of Insurance shall examine the same and if he shall find that the objects and purposes are fully and definitively set forth and are within the provisions of this Act and that the name and title of the association or any closely resembles a name or title in use as to have a tendency to mislead the public, shall approve the name, and upon deposit with him as such Commissioner, of the sum of $1,000.00 in cash, or in bonds of the character required for deposit by life insurance companies, to secure the performance by said persons and by the proposed corporation of their obligations, shall issue a permit to such persons to solicit applications for membership in such proposed association. (Act Apr. 13, 1935, c. 241, §2.)

3445-3. Membership fees—bond.—Upon the issuance of such permit the persons proposing such articles of association may solicit applications for membership in such proposed association and collect a membership fee of not more than $5.00 nor less than $2.50 with each such application which membership fee shall be deposited in a bank approved by the Commissioner of Insurance in the names of such persons as trustees, or in lieu of such deposit, the Commissioner of Insurance may require a bond in the sum of $5,000.00 executed by some surety corporation authorized to transact surety business in this State to secure the return of said membership fees if the proposed association is not formed. Upon submission to the Commissioner of Insurance of not less than 300 bona fide applications for membership, and a certificate from such bank that an amount equal to at least the total of such membership fees on account of such applications has been deposited as herein provided, he shall mark said articles of association "filed" and thereupon a duplicate or certified copy of said articles of association shall be recorded in the office of the Register of Deeds of the County in which the principal office of such association is located, and upon proof thereof filed with the Commissioner of Insurance he shall issue a certificate of incorporation in the name of such proposed association.
and held by such persons as trustees and all other moneys in the hands of such persons shall be transferred to the treasurer of such association, but said deposit with the by-laws of the Association shall remain, but the persons who made such deposit may be reimbursed by said association therefor; provided, however, that if within 1 year from the filing of such proposed articles of association the organization of such association shall not be completed, the amount of the membership fees so collected shall be returned to the applicants without any deduction for expense, and upon proof thereof, the Commissioner of Insurance shall return the amount deposited with the organization of such association shall thereupon be deemed abandoned. (Act Apr. 13, 1933, c. 241, §3.)

Reimbursement of deposit fund may only be paid out of moneys in expense account and not out of reserve account. Op. Atty. Gen. (249a-8), July 30, 1937.

3445-4. Articles may be amended.—The articles of association may be amended by authority of a majority vote of the members present and voting in person or by proxy, at an annual meeting of the association or at a special meeting called for that purpose. Provided, however, that any proposed amendment shall, before it becomes effective, be approved by the Commissioner of Insurance. (Act Apr. 13, 1933, c. 241, §4.)

3445-5. Shall adopt by-laws. An assessment benefit association organized under the provisions of this Act shall make by-laws in the manner provided by the articles of association and may amend the same in the manner provided by the articles of association or by-laws of the association. A copy of such by-laws and of all amendment thereof, as amendments may be made, together with the certificate of the president and secretary, attested by the seal of the association, to the effect that such by-laws and amendments thereto were regularly adopted, shall be filed with the Commissioner of Insurance and shall be approved by him before the same shall become effective. (Act Apr. 13, 1933, c. 241, §5.)

3445-6. Board of directors.—The affairs of such assessment benefit association shall be managed by a board of not less than 3 nor more than 7 directors who shall be residents of the State of Minnesota and who shall be elected from and by the members at such time and place and for such period not exceeding 3 years, as may be provided in the articles of association or by-laws. Provided, however, that as practicable an equal number shall be elected each year. Whenever any directors shall be elected a certificate by the president and secretary, under the seal of the association, giving the names and residence of those elected and the terms of their offices shall be filed in the office of the Commissioner of Insurance. Vacancies on the Board of Directors shall be filled in the manner provided by the by-laws. (Act Apr. 13, 1933, c. 241, §6.)

3445-7. Officers.—Each such association shall have a president, a treasurer, a secretary and such other officers as the articles of association or by-laws shall provide. Each such officer shall give bond to the association for the faithful performance of his duties and accounting for the funds of the association coming into his hands, in such amount and with such responsible sureties as shall be prescribed by the Board of Directors but not less than $500.00 each. (Act Apr. 13, 1933, c. 241, §7.)

3445-8. Certificates of membership.—Such assessment benefit associations shall, in addition to each certificate of membership, which certificate shall provide for a death benefit payable to a designated beneficiary or to the member's estate, which certificate before it shall be used shall be approved as to form by the commissioner of insurance. Such certificate shall specify the maximum benefits which the association promises to pay upon contingency of death and shall state that the amount to be paid is dependent on payment of assessments by members, and upon the occurrence of such contingency the association shall be obligated to the beneficiary, to make payment as specified in the certificate not later than three months after the date due proof of death shall have been received by the association. Such certificate, together with the articles of association and the by-laws of the association, shall constitute and be the entire contract between the member and the association. Provided, in no case, shall the association be liable on any one certificate for an amount greater than the amount received on an assessment of $1.00 each made on each member of the same class or group in good standing, and such association may by its articles of association or by-laws provide for the levy of losses on one assessment of $1.00 each month and may then provide that its liability shall not in any one year exceed $15.00 per member in good standing of its members or of the members of the class or group thereof to which an insured member belongs, and such association may also provide for its articles of association that any excess by the association in amount of the amount required to pay losses may, if the articles of association so provide, be accumulated in a reserve account and invested in the same class of securities as required by the statutes of this state for the investment of funds of insurance companies. (Act Apr. 13, 1933, c. 241, §6.)


3445-9. May be declared insolvent to non-payment of losses.—If the amount for which the association is liable remains unpaid after 6 months from the date upon which satisfactory proofs of death are filed with the association, and such claim is not rejected or contested by the association, for fraud, misrepresentation or misstatement upon the part of the member or representative of the member, such association may be deemed insolvent and may be proceeded against as such by the Commissioner of Insurance. (Act Apr. 13, 1933, c. 241, §9.)

3445-10. Assessments.—Whenever the association shall have been notified of any loss under its certificate of membership, which exceeds in amount the benefit fund of the association properly allocated to the class to which the member belonged, the association shall levy an assessment to pay such loss. Provided, however, that any proposed assessment or by-laws provide that at the end of every calendar month during which losses have occurred and due proof thereof filed with the secretary of the association, the association shall levy one or more assessments to pay such losses. Assessments provided for in this section shall be distributed equally as against the members of the association of the same class or group. The association may provide that of any assessment provided for in this section a certain percentage may be used to pay expenses of management or may provide for the levy of assessments for such purpose, and may also if the articles of association so provide levy assessments for the accumulation of a properly authorized reserve account at any time, provided, however, that the amount available for expenses of management, including salaries shall not be in excess of $6.00 per member per annum. All assessments provided for by this section shall be reported to the Board of Directors and a record thereof made upon the minutes of its meetings and such record shall show the amounts assessed for losses and expenses separately. (Act Apr. 13, 1933, c. 241, §10.)

3445-11. May divide membership into groups.—Any association heretofore or hereafter formed un-
under this Act may divide its membership into as many classes or groups as such association may desire. Whenever such association shall divide its membership into classes or groups then such association so classifying shall be liable for any losses assessed to each such group separately, distributing such assessment equally as against all the members in the class or group to which the deceased member belonged. (Act Apr. 13, 1933, c. 241, §11.)

3445-12. Secretary to notify members of assessment.—It shall be the duty of the secretary, whenever such assessment shall have been levied, to immediately notify every member of such assessment; and in case such assessment is distributed against any certain class or group as provided in this Act, then every member belonging to the class or group against which such assessment is made or apportioned shall, properly addressed to each member at the last post office address given by him to the secretary of the association, of the amount of the total assessment for losses and expenses, and the sum due from each member, his share of such losses and expenses. Such notices shall also state the time when, the name and address of the officer of the association to which the payment is to be made, but such time may not be less than 30 days nor more than 60 days from the date of such notice. Such notice, in case of a benefit assessment, shall include the name and address of the deceased member with the maximum amount to be paid.

Upon failure of any member to pay any assessment levied upon him under the provisions of this Act, within the time named in such notice, the association may declare such certificate of membership cancelled, upon a further notice sent by first class mail in the manner above provided that his certificate will be cancelled if payment is not made to the association within 10 days of the mailing of such cancellation notice. The association may reinstate a cancelled certificate of any member according to regulations provided in the by-laws of such association. (Act Apr. 13, 1933, c. 241, §12.)

3445-13. Membership fees.—The directors may fix the membership fee to be charged applicants for membership, within the same limits as provided in Section 3445-11, or any portion thereof, and such membership fees authorized by this Act may be paid to any person or persons soliciting the applicant to become a member as provided by the directors of the association. (Act Apr. 13, 1933, c. 241, §13.)

3445-14. Funds to be kept in two accounts.—Every assessment benefit association shall establish two general accounts to be known respectively as the Benefit Account and the Expense Account and may provide in its articles of association for a reserve account. Into the Benefit Account shall be placed the amount of all assessments or portions thereof collected from members of the association for the purpose of paying losses incurred under its certificate of membership, and from such account shall be paid losses incurred under its certificates of membership. Into the Expense Account shall be placed the membership fee received by the association and not retained by agents according to the by-laws, and all assessments or portions of assessments collected from members for the purpose of defraying the expenses of the association and from such account shall be paid all salaries, expenses, fees, taxes, costs of defending or prosecuting suits and all other items relating to the management of the association. Into the Reserve Account, if one is created, shall be placed monies as provided in its articles of association. The funds to the credit of said account may be used to pay losses as the articles of association may provide. No sum shall ever be transferred from the Benefit Account or the Reserve Account to the Expense Account. (Act Apr. 13, 1933, c. 241, §14.)

Reimbursement of deposit fund may only be paid out of moneys in expense account and not out of reserve account.

3445-15. Only one certificate to member.—No assessment benefit association shall issue to any member more than one certificate in any one group or class. No such association may after the certificate has been in force 1 year during the lifetime of the member, avail itself or any derivative or any claim for any benefit under its certificate of membership on account of any statement or answer to interrogatory by the member in his application for membership, except in case of fraud. (Act Apr. 13, 1933, c. 241, §15.)

An incorporated benevolent society is authorized to divide its membership into units, and, if permitted by its by-laws to be a member of another association, to be a member of any other unit. Olson v. U. S., 185 M. 357, 281 N.W. 425. See Dum. Dig. 4822.

3445-16. May transfer risks.—Any association organized, reincorporated or operating under the provisions of this Act may by majority vote of its Board of Directors at any regular meeting or any special meeting called for that purpose and of its members present and voting in person or by proxy at any regular meeting or special meeting called for that purpose transfer its risks, or reinsure them in other assessment benefit association or any other Life Insurance corporation, fraternal beneficiary association or society, or merge or consolidate with any other assessment benefit association or any other Life Insurance corporation, fraternal beneficiary association or society, with the approval of the Commissioner of Insurance. (Act Apr. 13, 1933, c. 241, §16.)

3445-17. Powers of Commissioner of Insurance.—The Commissioner of Insurance shall have the same power and authority over all associations to which this Act is applicable as to visitation and examination as are given to him by the statutes of this State over life insurance companies. (Act Apr. 13, 1933, c. 241, §17.)

3445-18. Members may make change in beneficiary.—Any member in such association shall have the right at any time to make a change in the payee or beneficiary without the consent of the payee or beneficiary. (Act Apr. 13, 1933, c. 241, §18.)

3445-19. Funds exempt from process.—The money or benefit provided or paid by any association authorized to do business under this Act, as provided in the certificate of membership thereof, or reinsurance in other assessment benefit association or any other Life Insurance corporation, fraternal beneficiary association or society, or any other property of or belonging to any association authorized to do business under the provisions of this Act, shall not be subject to any legal process to enforce payment of any debt or liability of a certificate holder, or of any beneficiary named therein. (Act Apr. 13, 1933, c. 241, §19.)

Validity and effect of exemptions from claims of creditors. 25 Minn. Law Rev. 1662.

3445-20. Fees of commissioner.—The fees for any service or act of the Commissioner of Insurance or his assistants and employees, shall be the same as provided in the case of life insurance companies, except that each association authorized to transact business under this Act shall pay to the Commissioner of Insurance on submitting the proposed articles of association $5.00, and on the filing of its application and articles of association $20.00, and for each annual statement thereafter $5.00. (Act Apr. 13, 1933, c. 241, §20.)

3445-21. Must file reports with commissioner.—Every such association doing business under this Act, shall, on or before the first day of March in each year, make and file with the Commissioner of Insurance, a report of its affairs and operations during the year ending on the thirty-first day of December immediately preceding, which report shall be in such form as the Commissioner of Insurance may require. Such report shall be verified by such of the officers of the
Association as the Commissioner of Insurance may direct. (Act Apr. 13, 1933, c. 241, § 21.)

3445-22. Shall place "Assessment Benefit Association" on all printed matter.—Every association, operating under and by virtue of the provisions of this Act, shall include immediately under the name or title of the association the words "ASSOCIATION IN ALL PRINTED MATTER, circulaires, applications, advertisements or literature of any kind. (Act Apr. 13, 1933, c. 241, § 22.)

3445-23. Existing associations to come under this act.—Within 6 months after the passage of this Act any association or corporation doing business in this State, and paying death benefits by means of assessment in its members or voluntary contribution made by its members, (except organizations now exempted from the operation of the statutes of this state relating to life insurance companies and fraternal beneficiary associations and except corporations or associations now subject to regulation by the statutes of this state,) desiring to continue in operation shall come under the provisions of this Act by complying with the following: It shall present to the Commissioner of Insurance for filing, its articles of association and by-laws or proposed articles of association and by-laws, it shall furnish proper evidence that it has a bona fide contributing membership of at least 300, it shall make the deposit provided by Section 2 of this Act, it shall submit, at its own expense, to the Commissioner of Insurance or his deputies or employees, the name of each director as set forth in the charter or articles of association. If the Commissioner of Insurance shall find that such association or corporation has met all of the requirements of this Act, he shall file the articles of association and upon proof of the record of a duplicate or certified copy of the same in the manner provided in this Act the Commissioner of Insurance shall issue to said association or corporation a certificate of authority to do business. (Act Apr. 13, 1933, c. 241, § 23.)


3445-24a. Exceptions.—The provisions of this chapter shall not apply to the operations or charitable activities of any religious society, religious association or religious corporation, which does not assume any definite contractual obligations with any of its members or others, and not charging any stipulated premium, and which does not engage in any insurance business. (Added Apr. 21, 1937, c. 320, § 1.)

3445-24. Effective sixty days after passage of Act.—This Act shall take effect and be in force from and after 60 days after its passage. (Act Apr. 13, 1933, c. 241, § 24.)

3445-25. Assessment benefit associations may reinsure.—Five or more duly licensed assessment benefit associations organized and doing business in Minnesota under Laws 1933, Chapter 241, and in a manner approved by the commissioner of insurance of the state of Minnesota, may organize a mutual association and by-laws approved by a majority vote of all directors of each association held in accordance with the by-laws of each. Articles of association duly executed and filed with the commissioner of insurance. (Act Apr. 24, 1937, c. 408, § 2.)

3445-27. Incorporation—Articles of incorporation. Incorporation may be effectuated by filing with the commissioner of insurance the original, and recording a duplicate thereof in the office of the register of deeds of the county in which the principal place of business of such assessment benefit association is located. Articles of association duly executed by the assessment benefit associations forming such reinsurance association and shall be duly acknowledged by at least three of the member assessment benefit associations signing and subscribing the articles. Before such reinsurance association shall be authorized to do business in this state it shall be made to appear of record that each assessment benefit association forming such reinsurance association shall have been fully authorized by resolution adopted at a regular annual meeting or at a special meeting called for that purpose to join in forming such reinsurance association and that the articles of association have been approved by the commissioner of insurance. Said articles of association shall state in the English language:

(a) Its purposes.
(b) Its location and postoffice address of its principal place of business.
(c) Names, postoffice addresses and terms of office of the first board of directors.
(d) Name and postoffice address of each assessment benefit association constituting the incorporators thereof.
(e) Any other provisions consistent with the provisions of this act and the provisions of Laws 1933, Chapter 241, regulating the business of such reinsurance association. (Act Apr. 24, 1937, c. 406, § 3.)

3445-28. Members may withdraw.—Any member assessment benefit association may withdraw from membership upon giving ninety days' notice of its intention so to do, when such withdrawal has been authorized by a majority vote of its members present and voting at a regular meeting or at a special meeting called for that purpose. Such withdrawal shall not in any manner affect its liabilities for any dues or losses which have accrued or shall have been incurred prior to the effective date of such withdrawal. (Act Apr. 24, 1937, c. 406, § 4.)

3445-29. Officers and directors.—The directors of such reinsurance association shall be chosen from the officers of its member assessment benefit associations but no member assessment benefit association shall have more than one of its officers serving as an officer of such reinsurance association. At the first meeting of such reinsurance association it shall adopt by-laws.
which shall be filed with the commissioner of insurance and which shall be effective from and after the date of their approval by him. The corporate existence of such reinsurance association may be made perpetual by providing in its by-laws and present the facts relating thereto to the attorney general, who shall, if the circumstances warrant, commence action to enjoin such association from carrying on any further business and for the appointment of a receiver, who shall under the direction of the court proceed to sell the property and assets of such association and distribute its funds to those entitled thereto. (Act Apr. 24, 1937, c. 406, §10.)

3445-30. Membership dues and assessments. Member assessment benefit associations of such reinsurance association and assessment benefit associations contracting with such reinsurance association shall each year pay to the treasurer thereof such membership dues, assessments and fees as may be fixed or authorized by its by-laws and present the facts relating thereto to the attorney general to be effective from and after the date of their approval by him. The corporate existence of such reinsurance association may be made perpetual by providing in its by-laws and present the facts relating thereto to the attorney general, who shall, if the circumstances warrant, commence action to enjoin such association from carrying on any further business and for the appointment of a receiver, who shall under the direction of the court proceed to sell the property and assets of such association and distribute its funds to those entitled thereto. (Act Apr. 24, 1937, c. 406, §10.)

3445-31. Association to file annual statement. Every reinsurance association organized under this act shall file with the commissioner of insurance an annual statement of expenses necessary funds required to perform its functions and discharge its contract obligations so as to afford mutual financial strength among the licensed assessment benefit associations authorized to do business in this state and to secure protection to the individual certificate holders of such assessment benefit associations. (Act Apr. 24, 1937, c. 406, §6.)

3445-32. Fees. There shall be paid by such reinsurance association to the commissioner of insurance and by him accounted for to the state of Minnesota the following fees:

For filing certificate of association ................ $2.00
Filing annual statement ............................. 1.00
Certificate of authority annealed .................... 1.00
It shall pay to the register of deeds his proper fees for recording the duplicate of such articles of association. (Act Apr. 24, 1937, c. 406, §8.)

3445-33. Powers of association. Every such association shall have power:

(a) To sue and be sued.
(b) To adopt, use and, at will, alter a corporate seal.
(c) To acquire, hold, lease, encumber, convey or otherwise dispose of real and personal property within the state and to take real and personal property by assignment or otherwise dispose of real and personal property with the approval of the commissioner of insurance as required by the articles of incorporation.
(d) To enter into contracts of reinsurance with assessment benefit associations and to do any act expedient for the attainment of the purposes stated in the articles of association as approved by the commissioner of insurance to effect the objects of this act and said Laws 1933, Chapter 241. No shares of stock shall be authorized. Each member association shall receive a certificate of membership as evidence of its membership in such reinsurance association. (Act Apr. 24, 1937, c. 406, §9.)

3445-34. To be under supervision of commissioner. The certificate of association, by-laws, forms of contracts and policies of reinsurance adopted or issued by every such reinsurance association and the general conduct of its affairs shall be subject to the general supervision and jurisdiction of the commissioner of insurance and such commissioner whenever requested by five or more members of such reinsurance association shall make an examination of the affairs thereof at its expense. Whenever after such examination, the commissioner is satisfied that any such association has violated the law, has exceeded its authority or not carrying out its contracts in good faith, is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or to its members, he may, after a reasonable hearing, suspend the license of such association and present the facts relating thereto to the attorney general, who shall, if the circumstances warrant, commence action to enjoin such association from carrying on any further business and for the appointment of a receiver, who shall under the direction of the court proceed to sell the property and assets of such association and distribute its funds to those entitled thereto. (Act Apr. 24, 1937, c. 406, §10.)

3445-35. Limit of expenses. No more than thirty cents out of every dollar received shall be used for expenses of such reinsurance association and the remainder shall be credited to a benefit fund which benefit fund shall be subject to the rules and regulations prescribed by the commissioner of insurance. (Act Apr. 24, 1937, c. 406, §11.)

3445-36. Directors. The number of directors shall not be less than five nor more than fifteen. (Act Apr. 24, 1937, c. 406, §12.)

Sec. 15 of Act Apr. 24, 1937, cited, provides that the Act shall take effect from its passage.

FRATERNAL BENEFICIARY ASSOCIATIONS

3446. Accident and sick benefits. Etc. Children of divorced wife of fraternal beneficiary association shall be insured for accident and sick benefits. The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of the Purple Owl, shall be authorized to contract for the insurance of fraternal beneficiary associations to be conducted under the provisions of the laws of the state of Minnesota. Upon the payment of a premium of one dollar to the United Mutual Life Insurance Company, each such association or its agents or members may apply to the United Mutual Life Insurance Company for a certificate of insurance which shall be issued to each such association by the United Mutual Life Insurance Company and the United Mutual Life Insurance Company shall not be responsible for the performance of any benefits provided by such certificate. The United Mutual Life Insurance Company may by its agents or members accept any application for insurance and issue a certificate of insurance under the provisions of this section. Each application for insurance shall be on a form prescribed by the United Mutual Life Insurance Company.

3446-1. Societies not subject to subject insurance law. That any aid society confining its membership to one religious denomination, not operating for profit, and not charging stipulated premium which has been so operating in this state for more than 30 years and which pays death benefits not exceeding $1,000.00 in any one case, shall not be subject to the insurance laws of this state. (Act Apr. 16, 1929, c. 209, §202.)

3447. Fraternal beneficiary association defined—Law of 1927. Since the Amendment of 1927, fraternal beneficiary associations are permitted to issue contracts of endowment insurance. (Act Aug. 9, 1927, c. 413.)

3450. Scope of act. 179M255, 228NW919. The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of the Purple Owl.

3451. Benefits—reserves.—Every association transacting business under this act shall provide for the payment of death or disability benefits, or both, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age, provided the period of life at which the payment of benefits for disability on account of old age shall not be under seventy years. Any such association may grant to Us for disability on account of old age shall not be under twenty-five years, or by the National Fraternal Congress Table of Mortality with interest at rate of four (4) per cent per annum, or by, the National Fraternal Congress Table of Mortality with interest at rate of four (4) per cent per annum, and the association shall carry as a liability the reserves so determined, and that assets representing such reserves shall be held in trust for such members separate and distinct from assets belonging to members holding certificates on which such reserves are not maintained, and that the assets so held in trust shall be used to pay any claims or benefits upon any certificates to members other than to the members for whom said assets are so held in trust.

This act amends section 3453 by implication and does away with the age limitations and requirements as to medical examination in connection with contracts issued by fraternal beneficiary societies with requisite assets and reserves. Op. Atty. Gen., Nov. 5, 1931.

3452. Who may be beneficiaries.—Change of beneficiary named in benefit certificate may be made without the written consent of the person thereby made beneficiary, provided the new beneficiary is a licensed medical practitioner, or other acceptable evidence of insurability in accordance with the laws of the association, or such benefit certificate be issued unless the association shall simultaneously put in force at least five hundred such cur-
tificates, on each of which at least one assessment has been paid, nor where the number of lives represented by such certificate falls below five hundred. The death benefit contributions to be made upon such certificate shall be based upon the "Standard Industrial Mortality Table of the English Life Office Number Six", and a rate of interest not greater than four percent per annum, or upon a higher standard; provided, that contributions may be waived or returns may be made from any surplus in excess of reserve and interest liabilities, as provided in the by-laws, and provided further, that extra contributions shall be made if the reserves hereafter provided for become impaired. (As amended Apr. 22, 1939, c. 411, §2.)

§3458. Specified expense.
Subscription to guaranty fund of a mutual fire insurance company, held valid and binding notwithstanding alteration and alleged fraud. 17SM15, 233NW881.

§3461. Certificates—Evidence—Amendments to charter, etc.—Every certificate issued by any association shall specify the maximum amount of benefit provided by the contract and shall provide that the certificate, the constitutional and by-laws of the association, or the membership for the purpose of benefit and medical examination, signed by the applicant, shall constitute the contract between the association and the member and copies of the same certified by the secretary of the association, or corresponding officer, shall be delivered in evidence of the terms and conditions of the contract; and any changes, additions or amendments to said charter or articles of association, constitution or laws duly made or enacted subsequent to the issuance of such certificate, shall be binding upon the member and his beneficiaries and shall govern and control the contract in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application. Provided, that any association hereafter organized or admitted to do business in this state shall in its certificates specify a fixed minimum amount of benefit. Provided, that any association now or hereafter organized or admitted to do business in this state may, with the approval of the Commissioner of Insurance, re-insure all or any part of the amount specified in such certificate in excess of the amount of Five Thousand Dollars in a company authorized to do business in this state. c. 345, §8; G. S. '15, §3544; Mar. 28, 1929, c. 102.

With regard to by-laws enacted subsequent to issuance of a certificate of life insurance by a fraternal or cooperative association, this section contemplates only such changes that are reasonable, and a by-law enacted subsequent to issuance of a certificate providing for same shall be void unless there be no presumption of death after seven years unexplained absence is unreasonable and void as to such a certificate. Cutter v. Y., 167M72, 233NW881. See Duni Dig. 4718.

§3463. Real estate holdings—Investments—Loans to officers and directors.—Any association may invest its funds in and hold real estate for lodge and office purposes, and real estate acquired by foreclosure or received in satisfaction of loans, and may sell and convey the same. Any such association may also invest its funds in bonds of the United States, bonds of the State of Minnesota or any state of the United States, or of the Dominion of Canada or any province thereof, bonds of any county, city, town, village, organized school district or municipality of any subdivision of this state, or of any state of the United States or of any province of the Dominion of Canada, provided that such bonds shall be exempt from process or be reinsured by any company or association not licensed to transact business as a fraternal benefit society; provided, that any fraternal benefit society organized under the laws of this state having an insurance membership in good standing at the time of reinsurance, merger or consolidation of not more than thirty years and having its headquarters in this state, may engage in business for more than fifteen years prior to such time, may be reinsured by or consolidated or merged with any life insurance company organized under the laws of Minnesota. (19, c. 42, §1; Mar. 9, 1925, c. 63, §1.)

§3468-1. This act shall take effect and be in force from and after its passage, and shall apply to reinsurance, merger or consolidation contracts heretofore or hereafter made. (Act Mar. 9, 1929, c. 63, §2.)

§3469. Merger to be approved by commissioner of insurance.—When any such fraternal benefit society proposes to consolidate or merge its business, or to enter into any contract or reinsurance, or to assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, the proposed contract in writing setting forth the terms and condi-
tions of such proposed consolidation, merger or reinsurance shall be submitted to the legislative or governing bodies of each of said parties to said contract after 30 days' written notice by mail is given to all policy holders, stating the object of the meeting, and if approved such proposed consolidation, merger or reinsurance shall be submitted to the commissioner of insurance of the state for his approval, and the parties to said contract shall at the same time submit a sworn statement showing the financial condition of each of such fraternal benefit societies as of the 31st day of December preceding the date of such contract; provided that such insurance commissioner may within his discretion require such financial statement to be submitted as of the last day of the month preceding the date of such contract. The commissioner of insurance shall thereupon consider such contract of consolidation, merger or reinsurance, and if satisfied that the interests of the certificate holders of such fraternal benefit societies are properly protected, and that such contract is just and equitable to the members of each of such societies and that no reasonable objection exists thereto, shall approve said contract as submitted by the parties; but such contract shall not have been incorporated in separate states, or territories, such contract shall be submitted as herein provided to the commissioner of insurance of each of such incorporating states or territories, to be considered and approved separately by each such commissioner or, if said contract of consolidation, merger or reinsurance, shall have been approved as hereinabove provided, such commissioner or commissioners of insurance shall issue a certificate to that effect, and thereupon said contract of consolidation, merger or reinsurance shall be in full force and effect. In case such contract is not approved the fact of its submission and its contents shall not be divulged to the commissioner of insurance. (As amended Apr. 21, 1937, c. 309, § 1.)

3470. Payment of expenses. Section cannot properly be construed to require an attorney, employed in merging two fraternal beneficiary associations, to secure from insurance commissioner approval of his bill for such services as a condition precedent to suit, prohibition of statute being against merging associations, and their officers. Kolars v. D.... 1979 3470. Payment of expenses.

3481. Dissolution. Section cannot properly be construed to require an attorney, employed in merging two fraternal beneficiary associations, to secure from insurance commissioner approval of his bill for such services as a condition precedent to suit, prohibition of statute being against merging associations, and their officers. Kolars v. D.... 1979 3481. Dissolution.

3482. Proceedings to be instituted. Section cannot properly be construed to require an attorney, employed in merging two fraternal beneficiary associations, to secure from insurance commissioner approval of his bill for such services as a condition precedent to suit, prohibition of statute being against merging associations, and their officers. Kolars v. D.... 1979 3482. Proceedings to be instituted.

3483. Certain organizations exempted. Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, or Knights of Pythias—exclusive of the insurance branch of the supreme lodge Knights of Pythias—or to similar orders which do not issue insurance certificates, nor to societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business, nor to local lodges of an association which was doing business in this state at the time of the enactment of General Laws 1907, Chapter 345 § 3483. Certain organizations exempted.

3484. Rights of policy holders of domestic associations. Section cannot properly be construed to require an attorney, employed in merging two fraternal beneficiary associations, to secure from insurance commissioner approval of his bill for such services as a condition precedent to suit, prohibition of statute being against merging associations, and their officers. Kolars v. D.... 1979 3484. Rights of policy holders of domestic associations.

3485. Certain organizations exempted. Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, or Knights of Pythias—exclusive of the insurance branch of the supreme lodge Knights of Pythias—or to similar orders which do not issue insurance certificates, nor to societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business, nor to local lodges of an association which was doing business in this state at the time of the enactment of General Laws 1907, Chapter 345 § 3485. Certain organizations exempted.

3486. Certain organizations exempted. Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, or Knights of Pythias—exclusive of the insurance branch of the supreme lodge Knights of Pythias—or to similar orders which do not issue insurance certificates, nor to societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business, nor to local lodges of an association which was doing business in this state at the time of the enactment of General Laws 1907, Chapter 345 § 3486. Certain organizations exempted.

3487. Definitions—Deputy commissioner to act. Section cannot properly be construed to require an attorney, employed in merging two fraternal beneficiary associations, to secure from insurance commissioner approval of his bill for such services as a condition precedent to suit, prohibition of statute being against merging associations, and their officers. Kolars v. D.... 1979 3487. Definitions—Deputy commissioner to act.

3491-1 Fraternal beneficiary associations may become mutual life insurance companies. That any domestic fraternal beneficiary association organized and operating under the laws of this state, and with a membership of less than one thousand, composed of both male and female, and on a solvent basis according to a recognized table of mortality acceptable to the commissioner of insurance of this state, may upon two-thirds of its supreme legislative and governing body amend its articles of incorporation and laws in such manner as to transform itself into a mutual life insurance company with the same name by which it is already known, or another name, in the supreme legislative and governing body shall determine, provided that a thirty-day written notice be given by mail to all policy holders stating the object of said meeting, and; provided that the proposed plan for reorganization shall be submitted to and be subject to the approval of the commissioner of insurance of this state; and upon so doing, and upon procuring from the commissioner of insurance said approval and a certificate of authority as prescribed by law to transact business in this state no incorporated mutual life insurance company, it shall incur the obligations and enjoy the benefits thereof the same as though originally thus incorporated; and such corporation under its articles and by-laws so named or amended shall be a continuation of the original organization, and the officers thereof shall serve until their successors shall be elected as provided by the amended articles or by-laws of such company as thus reorganized provide; but such incorporation, amendment
or reincorporation shall not affect existing suits. (Act Apr. 18, 1929, c. 239, §1.)

3401-2. Powers and duties.—The company so reorganized, and its officers, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon organizations writing the kinds of insurance written by said company so reorganized, and all outstanding policy contracts shall be recalled and new contracts issued based upon the same table of rates and reserves, but in form required by law for the company as reorganized, provided, however, that the minimum reserve requirements shall be based upon the same table of rates and reserves that said policy contracts are based if acceptable to the commissioner of insurance of this state. Such organization and its officers shall exercise all the rights and powers and have full authority to perform all the duties necessary to protect rights and contracts existing prior to reorganization.

The commissioner of insurance shall exercise the powers and discharge the duties concerning any such company so reorganized that are applicable to companies writing insurance or issuing policies of the same class, organized or operating in this state. The commissioner of insurance shall issue a certificate of authority to any such company so reorganized which is in a solvent condition and has fully complied with the laws of this state, to transact such insurance business in this state. (Act Apr. 18, 1929, c. 239, §2.)

3401-3. Inconsistent acts repealed.—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 18, 1929, c. 239, §3.)

FIRE INSURANCE COMPANIES

3512. Standard fire policy.

1. In general. The interest of an insurer is to be ascertained from terms of policy, and cannot be enlarged or varied by judicial construction, and terms of policy are to be taken in absence of ambiguity, in their plain, ordinary and popular sense. Miller's Mut. Fire Ins. Ass'n v. W. (CCA8), 94F(2d)741. It is only where there is doubt as to meaning of terms used or where writing is silent or incomplete in some regard that a court interpreting a contract will resort to practical construction which parties have placed upon it. 172M43, 214NW762.

Evidence held sufficient to sustain a finding of breach of contract. 171M502, 214NW456. Claim under fire policy was not subject to garnishment prior to proof of loss though there had been an adjustment of the loss under a non-waiver agreement. 172M43, 214NW762.

Township mutual companies are not required to use standard forms prescribed by this section, and a fire policy so provided no recovery could be had by mortgagor whose building had been transferred by him without written approval of insurer. 172M122, 214NW925.

3512-1. Evidence held to show that explosion in gasoline filling station was caused by an innocent or friendly flame or fire so that loss caused by the explosion was not recoverable. 174M122, 218NW457.

Lessor's right of recovery of loss of fixtures which were to become the property of the lessee was limited to value of use during term. 170M510, 225NW812.

The business of fire insurance is affected with a public interest and is subject to control and regulation by the state. Schaffer v. H., 183M137, 236NW327. Whether storing of alcohol by tenant was within control of insured landlord had knowledge that tenant increased hazard by maintaining still in his barn. Schaffer v. H., 183M101, 236NW327. See Dun. Dig. 4769.

In action on fire policy, evidence held to sustain finding that insured landlord had knowledge that tenant increased hazard by maintaining still in his barn. Schaffer v. H., 183M101, 236NW327. See Dun. Dig. 4769.

Whether storing of alcohol by tenant was within control of insured landlord had knowledge that tenant increased hazard by maintaining still in his barn. Schaffer v. H., 183M101, 236NW327. See Dun. Dig. 4769.

Where one provision of fire policy provides no loss will be on any buildings constructed after date stated in policy and another provision provides that it shall be void if risk is increased by any means within control of insured, such failure of fire policy would be void. Kamin v. F., 286NW400. See Dun. Dig. 4769.

Evidence held to show that verdict was predicated solely upon proof that plaintiff insured caused his brother to operate a still in barn, and evidence held to warrant submission to jury of fraud in obtaining overinsurance from each defendant. Id.


FRAUD

3512-2. Fraud. Evidence is ample of perjury and fraud committed after fire is to sustain convictions of perjury and fraud. See Dun. Dig. 4765.

Evidence held sufficient to support a finding of fraud in obtaining insurance from each defendant. Id.

Where fire insurance policy agreed damage to insured's property in part was due to fraud, and defendant, in making submission of proof of loss, included therein a bed, valued at $35, which he did not in fact own, in absence of a finding on that issue, even if defendant attempted to show that such representation was willfully false and such as was intended to deceive the insurer, there was no basis in law of that such was not a willful misrepresentation, but was the result of inadvertence or mistake, and hence did not avoid the right of recoverer. Goldsberg v. A., 260M400, 260NW402. See Dun. Dig. 4765.

Evidence held to support finding that persons connected with insured deliberately paddeled proof of loss and injury, rendering it fraudulent for fraud. Foot v. Y., 280M400. See Dun. Dig. 4778.
75. Arson.

Evidence that defendant had knowledge or under control of a fire which damaged insurance property is not sufficient to establish arson.


10. Estoppel and waiver.

Where an insurer has had an opportunity to present its case at the trial and did not object to the exclusion of certain evidence at the time, it is not barred from introducing the evidence on appeal.

80 U.S. 17, 19 L. Ed. 311 (1869).

16. Payment of mortgagee.

Where mortgagee receives a discharge on a mortgage, he has an interest in the property which is superior to that of an assignee of the mortgage.

94 U.S. 528, 24 L. Ed. (1876).

§ 3531-1. Polices—Provision for adjustment of loss.

Where there is a delay in adjusting insurance losses, the insurance company may be estopped to deny liability on the ground of the statute of limitations.

MISCELLANEOUS PROVISIONS REGARDING MUTUAL INSURANCE COMPANIES

§3535. Mutual companies—When permitted.

It is not permitted by this act to any one mutual insurance company and two reciprocal companies to form a new reinsurance corporation, Op. Att'y Gen. (240th-16), Dec. 18, 1936.

Sec. 2 of Act Apr. 1, 1935, cited, provides that the act shall not affect the passage.

—That any company heretofore organized and doing business as a mutual insurance company, and which for fifteen years prior to the passage of the act has issued policies in addition to the contents and equipments of the dwelling houses and barns in the city or town where such corporation was organized, and which has assets of $100,000.00, may issue policies in addition to the contents and equipments of the dwelling houses and barns in the city or town where such corporation was organized, and which has assets of $100,000.00, may issue policies in addition thereto to cover farmers' elevators, cooperatively owned warehouses, cooperative filling stations, cooperative oil companies and all cooperatively owned or organized enterprises. (Act Apr. 1, 1935, c. 97, §1.)

Section 2 of Act Apr. 1, 1935, cited, provides that the act shall not affect its passage.

MISCELLANEOUS PROVISIONS REGARDING VARIOUS KINDS OF MUTUAL COMPANIES

§3538. Premiums—Contingent liability.

A fire may be made with property in a mutual company so long as policy will not create a contingent liability in excess of statutory limitation of the indebtedness of municipality. Op. Att'y Gen. (475-5), May 24, 1937.

§3542. Provisions as to policies lapsing.

When a mutual insurance company so acts as to lead members to believe that policy is still in force, company shall not be subject to limitations found in this section.

—That any company heretofore organized and doing business as a mutual insurance company, and which for fifteen years prior to the passage of the act has issued policies in addition to the contents and equipments of the dwelling houses and barns in the city or town where such corporation was organized, and which has assets of $100,000.00, may issue policies in addition thereto to cover farmers' elevators, cooperatively owned warehouses, cooperative filling stations, cooperative oil companies and all cooperatively owned or organized enterprises. (Act Apr. 1, 1935, c. 97, §1.)

§3540. Restrictions.—When the articles of incorporation of any mutual insurance company, not having a guaranty fund of the amount required by Section 1 (§3545) of this Act, so provide, it may transact any and all kinds of business as set forth in Subdivisions 1 to 14, inclusive, of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, Chapter 141, Laws of 1919 (§3515), subject to the conditions and restrictions as to the kinds of insurance which may be combined by a like stock insurance company, and subject to all restrictions contained in the laws of this State relating to the organization and internal management of mutual insurance companies transacting the same kinds of business; provided that nothing in this section contained shall be construed as prohibiting a company issuing policies with a contingent liability from creating a guaranty fund as authorized by Section 4 of this Act. Any mutual company, however organized, may amend its articles so as to provide for the doing of two or more of the kinds of business specified in said Subdivisions 1 to 14, inclusive, of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, and Chapter 141, Laws of 1919. (21, c. 200, §2; 23, c. 153, §2; Mar. 28, 1929, c. 85, §1.)

§3541. Restriction on mutual companies. — No mutual insurance company heretofore organized shall be licensed to transact any of the kinds of business specified in subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14 of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, and Chapter 141, Laws of 1919, (21, c. 200, §2; 23, c. 153, §2; Mar. 28, 1929, c. 85, §1.)

§3547. Prerequisites of mutual companies transacting business other than life, fire, accident, etc.—No mutual insurance company heretofore organized shall be licensed to transact any of the kinds of business specified in subdivisions 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 12, 13 and 14 of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, and Chapter 141, Laws of 1919, (21, c. 200, §2; 23, c. 153, §2; Mar. 28, 1929, c. 85, §1.)

§3553-1. Mutual insurance companies may reinsure. — Any mutual insurance company organized under the laws of this State for the purpose of insuring property against loss or damage by fire, hail, tornados, cyclones and hurricanes, or any of said causes, may at any time reinsure its business in and consol-
date with any other mutual insurance company organized under the laws of this State for the purpose of insuring property against loss or damage from any of said causes.

To so consolidate it shall be necessary

(1) That a resolution, reciting the terms and conditions of the proposed contract, be adopted by each of said companies by a two-thirds' vote of its members represented, present and voting at any regular meeting or at a special meeting called for that purpose. Thirty days' printed or written notice shall be published to each member of each of such companies of the time and place where such meeting is to be held, reciting the purpose thereof. Mailing of such notice to the last-known address of the member shall be deemed sufficient notice of such meeting.

(2) That certified copies of such resolutions, together with a copy of such contract, shall be filed with the Commissioner of Insurance. Such contract shall not become effective until approved by the Commissioner of Insurance and such approval shall not be given unless the Commissioner is satisfied that the interests of the policyholders of both of such companies are fully protected and that the contract is just and equitable. (Act Apr. 16, 1931, c. 179.)

MUTUAL AUTOMOBILE INSURANCE COMPANIES

3554. Mutual automobile insurance companies.—Any number of persons not less than five may associate themselves together and form an incorporated company to insure against loss or damage to automobiles or other vehicles and their contents, by collision, fire, burglary, theft, hail, windstorm or tornado, and against liability for damage to property of others by collision with such vehicles. ('19, c. 429, §1; '21, c. 129, §1; '28, c. 288, §1; '35, c. 10, Apr. 13, 1935, c. 136, §1.)

3559. Additional coverage.—Any such company which shall have and maintain at all times admitted assets of not less than Seventy-five Thousand Dollars, or which shall add and maintain over and above its liabilities and the reserves required by law of like stock insurance companies a guarantee fund available for the payment of losses and expenses of at least Fifty Thousand Dollars, shall when its certificate of incorporation so provides, be permitted to insure against loss or damage to persons or property by collision with automobiles or other vehicles and against any loss or hazard incident to the ownership, operation or the use of motor or other vehicles; provided that the net income has been less than One Hundred Thousand Dollars of admitted assets shall not exceed Three Thousand Dollars. Where a membership fee is charged the amount thereof shall be specified or included in the consideration clause of the policy. ('21, c. 258, §48; Mar. 28, 1929, c. 90.)

MUTUAL EMPLOYERS' LIABILITY ASSOCIATIONS

3567. Form of certificate. Under an employee benefit policy providing for indemnity for disabling illness contracted and beginning after policy was in force for 15 days, recovery could not be charged the amount thereof shall be specified or included in the consideration clause of the policy. Op. Atty. Gen. (249h-16), Dec. 16, 1936.

RECIPROCAL OR INTERINSURANCE EXCHANGES


3595. Misdemeanor for failure to comply. Agreement between unincorporated association and another insurer against loss or damage to automobiles and other vehicles and against any loss or damage to property of others by collision with such vehicles, tow service, roadside repairs and mechanical assistance giving bail and legal services in civil and criminal actions, was a contract of insurance. Op. Atty. Gen., (249h-7), Aug. 1, 1935.

INSURANCE ON STATE BUILDINGS AND PROPERTY

3590. State property.—Rural Credits Bureau may insure buildings.—No public funds shall be expended on account of any insurance upon state property against loss or damage by fire or tornado, nor shall any state officer or board contract for or incur any indebtedness against the state on account of such insurance, except that the state board of control is authorized to purchase a policy of insurance in one or more insurance companies licensed to do business in this state, in such an amount as such board may from time to time determine, and to pay the premiums therefor from the revolving fund of said institution; provided also that the board of control is authorized in its discretion to insure in such companies the state of Minnesota against loss by fire or tornado of buildings upon real estate acquired by the bureau and in such amounts as such bureau may from time to time determine, and to pay the premiums therefor from the rural credit expense fund. ('21, c. 288, §48; Mar. 22, 1929, c. 78.)

University may insure its property against fire and tornado, but may not purchase common stock of insurance companies owned or controlled by another state. Sec. 2 of Act Apr. 11, 1935, cited, provides that the act shall take effect from its passage.
FIRE INSURANCE RATING BUREAUS AND RATE REGULATION

§3608. Rating agreements to be submitted for approval to insurance commissioner.—No fire insurance company or any other insurer and not rating bureau, or other insurer or rating bureau shall enter into or act upon any agreement with regard to the fixing, fixing or collecting of any rate for fire insurance upon property within this state, unless in compliance with this act.

Such agreement must be in writing, and, prior to its taking effect, must be approved by the commissioner of insurance, and a copy thereof, together with a copy of the order of approval, 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, shall, after notice to interested parties and hearing, as provided in Section 3609, General Statutes 1923, make an order either approving or disapproving any such agreement.

Such order shall be subject to review by the district court, in the same manner provided in Section 3609, General Statutes 1923. (16, c. 101, §5; Apr. 24, 1929, c. 321, §1.)

§3609. Commissioner to review rate fixed by bureau—Appeals.—The commissioner of insurance shall have power, at any time, on written petition 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 increase in fire insurance rates affecting the general rates or rate classification in the entire state or in an entire zone, city, village, town, or other political subdivision, shall go into effect unless in compliance with the commissioner of insurance after notice to the interested parties hereinafter provided and hearing thereon. Provided that the commissioner of insurance may also hold a hearing on any decrease of rates as herein provided at his discretion.

Proceedings for the review of any rate increase fixed by any bureau or for an increase in fire insurance rates affecting the entire state or an entire zone, city, village, town or county shall be had as follows: Upon the institution of such proceedings or the filing of a petition for an order approving an increase in rates, the commissioner shall make an order fixing a time and place for a public hearing and shall give notice of said hearing by mailing a copy of said order to the chief executive officer and the recording officer of each political subdivision affected by such change at least three weeks prior to the date fixed by such order; provided that the insurance commissioner in his discretion may give additional notice by publication of a copy of said order in a legal newspaper in the seat of government in the various political subdivisions affected.

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, filed in the order appealed from by the court; and upon such trial the findings of fact on which said 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 review shall be refunded to the persons entitled thereto. (15, c. 101, §6; Apr. 24, 1929, c. 321, §2.)

COMPENSATION INSURANCE BUREAU

§3612. Definitions.—The word “insurer” as used in this act means any fire insurance company authorized by law to transact the business of insurance in this state. The word “insurance” as used in this act means workmen’s compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability by such compensation as provided in Section 4288. The word “board” means the compensation insurance board. (21, c. 85, §1; Apr. 25, 1931, c. 353, §1.)

Sec. 2 of Laws 1931, c. 353, provides that the act shall take effect from and after July 1, 1931.


Contract of sale and installation of an air conditioning system, providing “price herein includes cost of workmen’s compensation” could be construed as alleged in complaint to include requirement that compensation insurance in this state means any insurance carrier authorized by law to transact the business of insurance in this state. The word “insurance” as used in this act means workmen’s compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability by such compensation as provided in Section 4288. The word “board” means the compensation insurance board. (21, c. 85, §1; Apr. 25, 1931, c. 353, §1.)

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ance subject to rate and classification to be established therefor. (21 c. 85, §9: Apr. 25, 1931, c. 392, §1.)

Sec. 2 of Act Apr. 25, 1931, c. 392, provides that the act shall take effect from and after July 1, 1931.


The Compensation Insurance Board may order the Minnesota Compensation Rating Bureau to devise a plan for making test payroll audits for the purpose of verifying audits made by or on behalf of insurance carriers. Op. Atty. Gen. (517b), Nov. 20, 1931.

The Commissioner of Insurance shall notify all members of the Compensation Insurance Board of the passage of this act, of the provisions hereof, and upon its payment, said bureau shall thereafter and thereafter from time to time certify the available funds shall be prorated to such claims as to which it is liable.


It is not necessary to advertise for bids in connection with premiums for compensation insurance. Op. Atty. Gen. (517c), June 1, 1936.

3634-1. Insurers required to take certain risks—Refusal to write—Statement. It shall be the duty of companies carrying workmen’s compensation insurance to become members of the Compensation Rating Bureau of Minnesota, as defined in the statutes of this state, to insure and accept any workmen’s compensation insurance risk which shall have been tendered to and rejected by any member of said bureau, in the manner herein provided. The member of the bureau who is the agent of such member refusing to write such insurance when the applicant has made written application for insurance, shall forthwith furnish the applicant for insurance a written statement of such refusal, and said member of the bureau or any agent of such member to whom written application has been made shall forthwith file a copy of such refusal with the rating bureau. The Commissioner of Insurance may revoke the license of such member or agent for refusal or failure to give such refusal in writing. The Commissioner of Insurance shall notify all members of the bureau now licensed to write insurance and such member may be hereafter become member of the bureau after the passage of this act, of the provisions of this section. (Apr. 18, 1929, c. 227, §1: Apr. 8, 1937, c. 175, §1.) (Act Apr. 8, 1937, cited, provides that the act shall take effect from its passage.

A policy of compensation insurance to "A. F. Peavy, deceased, doing business as the Northwestern Sand Blast Company," issued after Peavy had taken a partner into business with him, Northwestern Sand Blast Company being maintained as partnership name, intention was to protect all employees working under that firm name. Moresuit v. N., 198M40, 271NW246. See Dun. Dig. 1039.

3634-2. Bureau to fix premium rates.—When any such rejected risk is called to its attention and it appearing that said risk is in good faith entitled to coverage, said bureau shall fix the initial premium therefor, and its payment shall be binding on said bureau to designate a member whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor but for which usual premium thereon is paid. Members of the bureau who shall be insurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by such member bears to the total compensation insurance written in the preceding calendar year by all members of said bureau. (Act Apr. 18, 1929, c. 237, §2.) Compensation Insurance Bureau does not have the power to declare an insurer, and a new insurer cannot assume existing policies of insurance previously issued as assigned risks under statute. Yoselowitz v. Minn., 201M160, 278NW246. See Dun. Dig. 1999.

Compensation Insurance Bureau's authorization issued to it by insurers pursuant to requirements of statute is simply to act for insurers in their behalf as provided in act 1d.

Where an employer is entitled to a designation of an insurance carrier, he may compel designation by the compensation insurance bureau by mandamus. Id. See Dun. Dig. 10390.

Where new corporation was formed taking over business of several old corporations and employees of old corporation workmen's compensation insurance in the proportion of the fact, he must recover his compensation for injuries from new corporation and not old corporation, and insurance carrier of old corporation would not be liable. Id.

A reimbursement rider to a workmen's compensation policy is valid. Maryland Casualty Co. v. A., 201M210, 282 NW241. See Dun. Dig. 10291.

3634-3. Bureau to adopt rules.—The bureau shall adopt rules and regulations as to which it is liable. (Act Apr. 18, 1929, c. 227, §3.)

3634-4. Insurance companies to come under act. As a prerequisite to the transaction of workmen's compensation insurance in this state, every insurance company shall file with the commissioner of insurance written authority permitting said bureau to act in its behalf as provided in this act. (Act Apr. 18, 1929, c. 227, §4.)

3634-5. Effective July 1, 1929.—This act shall take effect and be in force on July 1, 1929. (Act Apr. 18, 1929, c. 227, §5.)

3634-6. Liability of insurers. Carriers of workmen's compensation insurance shall be liable to the extent and in the manner hereafter set forth for the payment of unpaid awards of workmen's compensation arising out of injuries occurring prior to the passage of this act while the employer was insured by a carrier and such carrier becomes insolvent. Upon the determination by the Insurance Commissioner, or other competent authority of the State, where such carrier is incorporated or organized, that any carrier of workmen's compensation insurance, which is or has been engaged in such business in this State, is insolvent, the Industrial Commission shall thereupon and thereafter from time to time certify to the Rating Bureau of Minnesota, as defined in Mason's Minnesota Statutes of 1927, Sections 3622 and 3623, the unpaid awards of workmen's compensation for such injuries outstanding against employers insured by such carrier and as to which it is liable. Said Rating Bureau shall thereupon make payment of such unpaid awards so far as funds are available, in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compensation insurance in the proportion of each insurer's share of the assessment or assessments on all carriers writing workmen's compen

Evidence held not to justify invocation of doctrine of estoppel on question of relationship of president to his corporation, though insurance premiums were based on payroll. Hansen v. A., 201M210, 282 NW241. See Dun. Dig. 10391.

3634-7. Assessments.—If necessary to secure funds for the payment of such awards it shall be the duty of the Rating Bureau to assess its members by a plan adopted as a result of an assessment or assessments on all carriers writing workmen's compensation insurance in the proportion that the workmen's compensation insurance written by such carrier in the State during the preceding calendar year bears to the total of such insurance written in the State during such year. Said assessments may be made at any time by said Bureau in its discretion for such amount as it estimates will be necessary to meet both past and future awards.
which will probably become due and payable during the year in which such assessment is levied. Each company assessed shall have at least thirty (30) days' notice by mail as to the date such assessment is due and payable. In no event shall the total sum assessed in any calendar year exceed one (1) per cent of all the premiums for workmen's compensation insurance written in this State during the preceding calendar year. Any assessment paid under the provisions of this Act shall be included in determining the loss ratio of such carriers. (Act Apr. 1, 1935, c. 103, §2.)

3634—9. Subrogation upon insolvency.—Said Rating Bureau shall be subrogated to the rights of such employee or his dependents as against the employer and his carrier to the extent of payments made by the Rating Bureau under the provisions hereof, and shall take such legal proceedings as it shall deem necessary or advisable to recover thereon, and all sums so recovered shall constitute an additional fund for payment of such awards until the same are paid in full. (Act Apr. 1, 1935, c. 103, §3.)

3634—10. Duties of rating bureau.—Said Bureau may sue for and recover any assessment not paid when due, and any member thereof which shall fail to pay an assessment as provided herein shall be liable to forfeiture and revocation of its license upon complaint made to Commissioner of Insurance by the Bureau. (Act Apr. 1, 1935, c. 103, §4.)

3634—11. Provisions severable.—If any provision hereof is found unconstitutional, such determination shall not affect the validity of the remaining provisions not clearly dependent thereon. (Act Apr. 1, 1935, c. 103, §6.)

FARMERS' MUTUAL COMPANIES


3645. Farmers' fire companies. Doctrine of estoppel is applicable to mutual companies. 181 Minn. 231 NW 461.

TOWNSHIP MUTUAL COMPANIES ORGANIZATION

3646. Township mutual fire insurance companies.—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 Dollars ($50,000.00) 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 one county. A corporation may be formed for the purpose of insuring against fire on the premises of a member of such mutual company on such terms and conditions as may be mutually agreed upon. (Act Apr. 5, 1929, c. 123.)

Sec. 2 of Act Apr. 24, 1935, cited, provides that the act shall take effect from its passage. Sec. 2 of Act Apr. 21, 1937, cited, provides that the act shall take effect from its enactment.

3646. Township mutual fire insurance companies may insure grain in sealed containers.—In addition to the powers and privileges now conferred upon them by law, township mutual fire insurance companies organized under the provisions of Chapter 411, Laws 1909, and acts amendatory thereof (§§ 3646 et seq.), are hereby authorized to insure against loss or damage by hail, windstorm, tornado, and cyclone, for their members, corn and other grain while stored in sealed containers in accordance with the regulations of the Federal government. (Act Apr. 11, 1926, c. 154.)

3652. Corporate existence not to exceed, etc. Act to legalize renewal of corporate existence of township mutual fire insurance companies. Laws 1921, c. 197, legalizes renewal of corporate existence of township mutual fire insurance companies.


3649. Powers of such corporation. Township mutual companies are governed by the statutes specially applicable to them and are not required to issue policies in standard form. 177 Minn. 225 NW 445.

3649. Compensation proceedings involving risks insured by such carriers. (Act Apr. 1, 1935, c. 103, §2.)

3652. Corporate existence not to exceed, etc. Act to legalize renewal of corporate existence of township mutual fire insurance companies. Laws 1921, c. 197.
Every woman being a member of any such insurance company may be represented at any regular or special meeting of the members thereof by any person duly appointed in writing as her proxy, and such proxy so appointed shall have full power to represent such members as fully as if she were personally present at such meeting. (As amended Apr. 13, 1939, c. 225.)

3659. What may be insured.—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 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, livestock, farm machinery, automobiles, country store buildings, and the household goods therein, threshing machines, farm produce anywhere on the premises, churches, and their contents, courthouses, and their contents, county-blacksmith shops and their contents, parlors, and town halls, and their contents, country blacksmith shops and their contents, parsonages and their contents, and the bonds [sic] and contents used in connection therewith, dairies, cheese factories and their contents, and their contents, threshing machines, and other machinery, and their contents, and the property covered by the bonds [sic] and contents used in connection therewith, and the usual contents of both said dwellings and outbuildings in any village of 1000 or less inhabitants, and any county poor farm together with such personal property as is situated in connection therewith and within the limits of the town or towns in which such company is authorized to do business, except personal property temporarily outside of such limits; provided, however, any such company is hereby authorized to do business, except personal property temporarily outside of such limits; provided, however, any such company is hereby authorized to do business, except personal property temporarily outside of any such county wherein such company is located on lands on which such company shall be used. (09, c. 411, §15; G. S. '13, §3395; 1931, c. 107, §1; 23, c. 338, §1; Apr. 20, 1931, c. 269; Mar. 3, 1933, c. 62; Apr. 21, 1933, c. 421; Apr. 1, 1935, c. 104.)

3660. Assessments to be paid.—Member companies in forces or in the state shall apply to township mutual fire insurance companies unless it is applicable to township mutual fire insurance companies, ('09, c. 411, §13; G. S. '13, §3395; '13, c. 80, §3; '15, c. 107, §1; '23, c. 338, §1; Apr. 20, 1931, c. 269; Mar. 3, 1933, c. 62; Apr. 21, 1933, c. 421; Apr. 1, 1935, c. 104.)


3662. Advance assessments.—The directors of any such company may direct by advance assessments and maintain in its treasury an emergency fund not exceeding five mills on a dollar to the total amount of insurance in force, to be used in payment of losses and for other purposes for which assessments may be had. (09, c. 411, §15; G. S. '13, §3395; Mar. 16, 1931, c. 53.)

3663. Joint or partial risks permissible. —It is not permissible for one mutual company and two or more reciprocal companies to form a new reinsurance corporation. 176M539, 225NW744. See Dun. Dig. 4746.

3664. President and secretary may accept applications.—A president or secretary of any such association for the purpose of reinsuring specific risks may accept any application, in writing, on behalf of the association for the purpose of reinsuring specific risks. 176M539, 225NW744. See Dun. Dig. 4746.


3666. Assessments to be paid.—Member companies in forces or in the state shall apply to township mutual fire insurance companies unless it is applicable to township mutual fire insurance companies, ('09, c. 411, §13; G. S. '13, §3395; '13, c. 80, §3; '15, c. 107, §1; '23, c. 338, §1; Apr. 20, 1931, c. 269; Mar. 3, 1933, c. 62; Apr. 21, 1933, c. 421; Apr. 1, 1935, c. 104.)

3670. All companies to be governed by this act.—All laws relating to insurance companies now in force in this state shall apply to township mutual fire insurance companies or farmers' mutual fire insurance companies which may organize a mutual association for the purpose of reinsuring specific risks in such amounts as shall be fixed by the by-laws of such association and/or for the purpose of reinsuring all the risks of the member companies in excess of such amounts as shall be fixed by the by-laws of such association. (19, Ex. Sess., c. 65, §1; '21, c. 399, §1; Apr. 16, 1931, c. 178, §1.)

3671. Assessments to be paid.—Member companies of any such association shall each year pay to the treasurer thereof such assessments as shall be prescribed by the by-laws of such association, which assessments shall be based upon the amount of insurance of each of its member companies during the calendar year ending December 31 of the next preceding. No individual member of the member companies shall be subject to assessment in case the funds of the member companies are insufficient to pay any assessment made by the association, to the same extent and in the same manner as though said assessment by the association were to cover a
§3690

MUTUAL HAIL, TORNADO AND CYCLONE COMPANIES

3690. Limit of premiums and assessments.

This section imposes a maximum premium of 2% per cent of the amount insured as to hail insurance. Op. Atty. Gen. June 15, 1931.

3691. Notice and payment of assessments—Etc.


3692. Bonds of officers—duties—The officers shall post a bond for the indemnification and compensation, and give such bonds as shall be provided by the by-laws or fixed by the directors; but no salary, past or future, shall be increased except by majority vote of all members present and represented at an annual meeting, and no officer or director shall receive any commission, except upon business personally solicited and written by such officer. (R. L. '05, §1670; G. S. '13, §3416; Apr. 10, 1933, c. 195.)

MUTUAL BURGLARY AND THEFT INSURANCE COMPANIES

3701. Formation or admission—Conditions.

Where pretended purchaser substituted worthless pieces of jewelry in a store, and then appropriated the property and threatened action for damages when manager protested that substitute was not diamond shown, and left the store, there was a taking of property within robbery insurance policy. Citizens Loan & Investment Co. v. S., 195M515, 263NW541. See Dun. Dig. 4875k.

3702. Fidelity and surety companies.

The insurance policy which is derived from interest on its investments as well as from making and sale of abstractions and from title insurance premiums is not limited to actions which arise out of business transactions and includes personal property taxes in addition to those imposed upon it as a title insurance company. State v. Title Ins. Co., 197M432, 267NW427. See Dun. Dig. 4875k.

FIDELITY AND SURETY COMPANIES

3710. Fidelity and surety companies.

Bank held entitled to recover where its employee acted wrongfully or dishonestly and in bad faith, resulting in money loss. 177M65, 224NW451. See Dun. Dig. 4875k.

Evidence sustains the finding that notice of loss was given in writing to indemnity company, except as to one item. 177M65, 224NW451.

Surety on bond of treasurer of corporation was not liable for losses occurring after defendant took over the property in which it was the duty of the treasurer to deposit corporate funds. 190M185, 251NW123. See Dun. Dig. 4875k.

Under fidelity indemnity bond of employees of bank, actual loss did not occur to bank by reason of wrongful transfer of property from an account of depositor until bank was required to pay on judgment obtained by against such depositor, as effectuating time for notice to surety. Cary v. N., 190M185, 251NW123. See Dun. Dig. 4875k.

Surety on fidelity indemnity bond disclaiming all liability could not subsequently take advantage of default in provision of bond requiring notice and filing of claim. Id. See Dun. Dig. 4686, 4785.

When ambiguities exist in a fidelity indemnity bond, it must be construed most favorably to insurer. Id. See Dun. Dig. 4336.

Policy indemnity bond providing that claim must be presented “within six months after the date of termination of the surety’s liability” did not bar recovery for acts occurring during period in force. Id.

Offers of proof were properly excluded as directed more against character of employee than to prove any larger damage. Deposition of an officer of company who was absent during time of defalcation: but prima facie surieties on lost bond are liable for such funds as are properly chargeable to such officer at time of his retirement, and burden is upon such surerties to show that defalcation in fact occurred during a prior term. Lac Qui Parle Town Farmers U. F. I. Co. v. R., 195M542, 263NW455. See Dun. Dig. 4875k, 5105.

There is a continuing suretyship for faithful discharge of duty, if employer discovers that his employee or agent has been guilty of dishonesty in course of his office, and thereof it is bound to take notice without notice to and without consent of surety, express or implied, to such course, latter is not liable for any loss occurring from such dishonesty during such subsequent period of service: but mere negligence of an employer in failing to discover defaults of employees or agent or will not ordinarily discharge surety. Id.

Persons insured is charged with notice of his policy when he accepts it, and there must be an intent to waive a known right before it becomes of binding effect, except as to conduct or declarations. Id. See Dun. Dig. 4679(85).

Fidelity bonds issued by compensated bonding companies are now regarded as policies of insurance, in substance, and are governed, for most part at least, by law of insurance rather than law of suretyship. Id.

Surety companies are now regarded as policies of insurance, in substance, and are governed, for most part at least, by law of insurance rather than law of suretyship. Id.

PROVISIONS REGARDING FOREIGN COMPANIES

3711. Requirements—Certificates.

275US274, 48SCR124, aff'd 195M516, 221NW478; note under §321.

3712. Foreign fire and tornado insurance companies.

A foreign insurance company whose articles authorize it to write fire and tornado insurance, and also fidelity insurance, may not be licensed to do business in this state, although it does not propose to do other or tornado business in this state, and the commissioner may require such certificate of insurance therefrom. 176M49, 220NW901. See Dun. Dig. 4875k.

3713. Appointment of insurance commissioner attorney for service of summons, etc.

275LTS274, 48SCR124, aff'd 195M516, 221NW478; note under §321.

Service of summons upon the insurance commissioner is not limited to actions which arise out of business transactions in this state, or with residents thereof. 175M143, 221NW901.

Commissioner of insurance should continue to accept processes and notices served upon him, notwithstanding foreign insurance company has been adjudged insolvent. There has been taken over by an official of another state the real property of the corporation in this state, and pursuant to an order of the commissioner the appointed receiver was confirmed. State v. Brown, 189M 497, 225NW2. See Dun. Dig. 4723.

3716. Deposit to be made with commissioner of insurance.

275LTS274, 48SCR124, aff'd 195M516, 221NW478; note under §321.

3721. Retaliatory provisions.

Validity of retaliatory legislation towards foreign insurance companies. 16ManLaw542.

3722. Insurance from unlicensed foreign companies.

The Minnesota State High School League, as the representative governing body of all sports and athletics sponsored by its member schools, cannot secure a license provided for by this section. Op. Atty. Gen. (249a-15), Feb. 10, 1939.

FIRE AND POLICE DEPARTMENT AID AND FIREMEN'S AND POLICEMEN'S RELIEF

3723. Clerk to file certificate.—On or before October 31, annually, the clerk of every municipality having an organized fire department, or a partly paid or volunteer department, shall file with the commissioner his certificate stating such fact, the system of supply in use in such department, the number of its organized companies, steam, hand or other engines, hook and ladder trucks, hose carts, and feet of hose in actual use, and such other facts as the commissioner may require; provided however that such clerk shall include in such certificate the name of each municipality or town served by such fire department under contract. (R. L. '05, §1660; G. S. '13, §3724; Apr. 24, 1934, c. 32.)

precise of a village, though it is to be replaced at some future time. Op. Atty. Gen., Dec. 21, 1929.

Funds received under these sections, together with interest thereon, may be used for the purchase of fire apparatus. Op. Atty. Gen., Feb. 28, 1930.


Army is without power to pass rules and regulations under this section. Op. Atty. Gen., Apr. 21, 1931.

In order to be entitled to benefits, a man must be a member of the fire department or retired after serving for five years and have served at least one year in the service of the association. Op. Atty. Gen., Apr. 21, 1931.

The funds raised under this section and $300 should be kept separate so that investment of each could be evidenced by the proper authority. Op. Atty. Gen., Mar. 15, 1921.

The firemen's relief association may expend money from its special fund for the purchase of fire fighting equipment for a village as far as funds received under section 1919. Op. Atty. Gen., Apr. 21, 1931.

Right to relief from a firemen's relief association does not vest in a member whose death is determined to have been caused by wars of this state. Op. Atty. Gen., May 28, 1931.

Funds raised by a firemen's relief association may not be placed in the general fund and any amounts so placed in such fund may be spent. Op. Atty. Gen., July 30, 1931.


The fireman is entitled to benefit however he received his injury. Id.

Funds acquired from taxes cannot be used to purchase group insurance, but monies received from fees, dues, donations, etc., may be used for any purpose. Op. Atty. Gen. (198b-10(a)), Nov. 1, 1935.

Funds acquired pursuant to this section may not be expended for flowers at funeral of deceased member. Op. Atty. Gen. (198b-9(b)), Nov. 9, 1931.

Funds may be used to purchase rubber boots and coats for use of firemen in fighting fires, but not for shoeskin boots to be worn at other times. Op. Atty. Gen. (198b-9(e)(v)), Dec. 13, 1935.


Funds of a relief association which are derived from taxation by fire insurance companies may be used for any improvement of funds used by it in the purchase of fire fighting equipment. Op. Atty. Gen. (198b-9(b)), Nov. 1, 1935.

Funds derived from tax levy of one-tenth of a mill upon taxable property in municipality may be used only for purposes specified in §1920. Op. Atty. Gen. (198b-10(a)), Feb. 24, 1936.

Funds are not public funds and members of relief association have no power under laws of 1928, c. 421, art. II, §16, to reduce expenditure for firemen of villages. Op. Atty. Gen. (198b-10(e)), Sept. 2, 1933.

Funds of relief association which are derived from tax levy of one-tenth of a mill upon taxable property in municipality may be used only for purposes specified in §1920. Op. Atty. Gen. (198b-10(a)), Feb. 24, 1936.

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Funds are not public funds and members of relief association have no power under laws of 1928, c. 421, art. II, §16, to reduce expenditure for firemen of villages. Op. Atty. Gen. (198b-10(e)), Sept. 2, 1933.


Where member of city of Virginia fire department relief association left department but was granted leave of absence for him to fill out his seven years of service with the department and acting membership in the association, and died while on leave of absence, his estate and the association may make a present cash payment from special and general funds in settlement and relinquishment of claim, and payment of all fund and by-laws of association. Op. Atty. Gen. (198a-1), Mar. 12, 1937.

Lump sum pension may be paid to widow or orphan of firefighter annually under existing laws for the payment of pensions. See R. L. '07, c. 331, §1; G. S. '13, ch. 434, §1; Apr. 11, 1935, c. 153, §1; Apr. 22, 1939, c. 434, §1.

3728. Service pension. Every fire department relief association organized under any laws of this state, whenever its certificate of incorporation or by-laws provide, may pay out of any funds received from the state, or other source, a service pension, in such amount, not exceeding $40.00 per month, as hereinafter authorized, or as may be provided by its by-laws, for the benefit of any member of such association who has hereafter retired or may hereafter retire, who has reached or shall hereafter reach the age of 50 years, and who has done, or hereafter shall do, active duty for 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 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 firemen may be increased by adding to the maximum above prescribed, an amount not exceeding $40.00 per month for each year of active duty over 20 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 $80.00 per month. Such pensions shall be uniform in amount, except as herein otherwise provided. No pensioner shall be paid to any person while he remains a member of the fire department and no part of any such pension shall be entitled to any 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. (R. L. '07, c. 331, §1; G. S. '13, ch. 434, §§22, 32.)

Sec. 2 of Act Mar. 28, 1933, cited, provides that the act shall take effect from its passage.

Member to qualify for pension must qualify both as to age, service and membership. In order to qualify for pension granted that cannot be taken away without notice and a hearing. Rens v. H., 186 M.370, 214 N.W.713. See Dun. Dig. 1918.

In order for a firefighter to receive a pension from association for disability, he must show that his disability has a causal connection with service in the fire department. Rens v. H., 186 M.370, 214 N.W.713. See Dun. Dig. 1918.


In the event a city of the third class has provided for payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to wit: 1920, and 3723 to 3728, inclusive, may pay retirement pensions in excess of the amounts authorized by such statutes, but not in excess of the following total amount to each of its members who has heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of 50 years, and who has done or hereafter shall do, active duty for 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 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 firemen may be increased by adding to the maximum above described an amount not exceeding $3.00 per month for each year of active duty over 20 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 $80.00 per month. (Act Apr. 11, 1935, c. 153, §1; Apr. 22, 1939, c. 434, §1.)

3728-1. Firemen's relief association in certain cities. In any city of the third class, may provide for payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to wit: 1920, and 3723 to 3728, inclusive, may pay retirement pensions in excess of the amounts authorized by such statutes, but not in excess of the following total amount to each of its members who has heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of 50 years, and who has done or hereafter shall do, active duty for 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 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 fireman may be increased by adding to the maximum above described an amount not exceeding $3.00 per month for each year of service over 20 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 $80.00 per month. (Act Apr. 11, 1935, c. 153, §1; Apr. 22, 1939, c. 434, §1.)

3728-2. Same—Restrictions—Change of classification of city.—(a) The payment of such additional retirement pensions shall be subject to the conditions imposed by the statutes hereinafter mentioned and by the certificate or by-laws of such association.

(b) In the event such a city shall qualify under the terms of this act it shall continue thereunder notwithstanding any subsequent change in classification or valuation of the city in which it is located. (Apr. 11, 1935, c. 153, §2; Apr. 22, 1939, c. 434, §2.)

3728-3. Sources of revenue. Deductions from pay—Levy of tax—Non-existence or dissolution of association.—In addition to the moneys in the special fund of said association or provided to be raised therefor under existing laws for the payment of pensions and other benefits, revenues from the following sources shall be paid to said special fund, to wit: 1920, and 3723 to 3728, inclusive, may pay retirement pensions in excess of the amounts authorized by such statutes, but not in excess of the following total amount to each of its members who has heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of 50 years, and who has done or hereafter shall do, active duty for 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 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 fireman may be increased by adding to the maximum above described an amount not exceeding $3.00 per month for each year of service over 20 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 $80.00 per month. (Act Apr. 11, 1935, c. 153, §1; Apr. 22, 1939, c. 434, §1.)
009, at the time the tax levies are made for the support of the city, and within the per capita limitations provided by law, levy a tax of one-tenth of a mill on all the taxable property throughout the city. The amount so levied shall be transmitted to the auditor of the county in which the city is situated at the time all other tax levies are transmitted, and shall be collected and payment thereof enforced in like manner as state and county taxes are collected and the payment thereof enforced.

(e) The city treasurer, when the tax is received by him, shall pay the same over to the treasurer of the duly incorporated firemen's relief association of such city, if there is one organized, together with all penalties and interest collected thereon: but if there is no firemen's relief association so organized in any such city, or if any such association resigns, be dissolved or removed, or any successor of such association resigns, be removed or has heretofore resigned or has been removed as trustee of such money, then the treasurer of such municipality shall keep the money in a special fund to be disbursed only for the purpose authorized by this act. (Added to Act Apr. 11, 1935, c. 153, by Act Apr. 22, 1939, c. 434, §3.)

3728-4. Secretary shall make report of money or property donated.—The said secretary of said association shall file annually on or before the first day of October of each year, with the city clerk a detailed report of the amount of money or property so received, expended, and still remaining on hand to the credit of said fund. The books and records of said association shall be open to inspection and audit by any taxpayer of said city or his duly authorized representative. (Added to Act Apr. 11, 1935, c. 153, by Act Apr. 22, 1939, c. 434, §4.)

3728-5. Pensions not subject to judicial process.—No pension allowed or to be allowed by any firemen's relief association under this act, and no accumulated contributions of members to the fund hereinafter referred to, shall be subject to judgment, garnishments or executions or other legal process, and no person entitled thereto shall have any right to assign the same, nor shall the association have the power to recognize any attempted assignment or pay over any sum whatever, which has been assigned or attempted to be assigned. The association shall have the right to cancel or suspend any pension or reduce the amount thereof during such time as the person otherwise entitled thereto is absent from the service of any municipal or other subdivision of the State of Minnesota, or is regularly receiving income from a business of employment. But no pension shall be reduced below the amount which, when added to the income from such other personal business or employment, equals the monthly pension to which such person would otherwise be entitled. (Added to Act Apr. 11, 1935, c. 153, by Act Apr. 22, 1939, c. 434, §5.)

3728-6. Accumulated deductions to be refunded in certain cases.—Whenever a member of said association shall cease to be a member of said department, for any reasons other than death or retirement, he shall be paid, on demand, the full amount of the accumulated deductions from pay standing to his credit. Whenever any member shall die without having received a pension, or without having received in pension payments an amount equal to the total amount of the accumulated deductions from his salary hereafter provided for, the full amount of such accumulated deductions, less such pension payments, if any, as have been made to said members, shall be paid in one lump sum to the beneficiary or beneficiaries designated by such member, or if none, to the legal representatives of such member; provided, however, if no valid claim be established thereon, such accumulated deductions shall remain with and become the property of said association. No member shall be entitled to interest upon, deductions under the provisions of this paragraph. (Added to Act Apr. 11, 1935, c. 153, by Act Apr. 22, 1939, c. 434, §6.)

3728-7. Benefits other than service pension.—Nothing herein shall be construed as preventing any such association from paying any benefits other than service pension which the board of firemen is authorized to pay to members of the association under the General Laws of this state or of the statutes hereinafter referred to, except that such benefits shall not be paid to any member while he is receiving a pension hereunder.

(Added to Act Apr. 11, 1935, c. 153, by Act Apr. 22, 1939, c. 434, §7.)

3729. Pensions for members of volunteer fire departments in certain cities and villages.

Act is invalid. Stevens v. N., 161M20, 200NW237.

3732. Fire departments may share in benefits—Duties of commissioner.

This section, in so far as it gives to fire departments the option to accept or reject the benefits of this act, is violative of Const. art. 4, §§35, 34, denouncing special legislation. Stevens v. Village of Nashwauck, 161M30, 200 NW237.

3737 to 3744 [Repealed.] Repealed by Act Apr. 8, 1933, c. 177, §23, post §3750-29.

ANNOTATIONS UNDER §3739

Commissioner of administration has no power under laws 3728-4, 3738-43, and 3743-44, to assess members' contributions to the civil service fund to be paid to volunteer fire departments. Op. Atty. Gen. (640a), Sept. 2, 1939.

Annotations under §3741. Resignation of fireman filed with fire department and civil service commission terminated right to pension, and withdrawal after death of copy filed with civil service commission was not reinstatement. 390ME57, 230NW631.

Annotations under §3749. A widow of a member of fire department relief association, recipient of a pension under its constitution and by-laws, terminated her right to such pension by marriage and is not entitled to maintain it as a pension upon such marriage being annulled by a judgment of a court of competent jurisdiction. Northrup v. S., No. 223, 259NW185. See Dun. Dig. 6605a.

3750-1. Firemen's relief associations in cities of first class established.—The fire departments of each city of the first class in this state shall maintain a firemen's relief association which shall be duly incorporated under the laws of the State of Minnesota. All such associations now existing as such corporations, or hereafter incorporated under the laws of this state, shall have perpetual corporate existence. (Act Apr. 8, 1933, c. 177, §1.)

3750-2. Relief associations to be self-governing.—Each relief association shall be organized, operated and maintained in accordance with its own articles of incorporation and by-laws, by firemen, as hereinafter defined, who are members of said fire departments. Each such association shall have power to regulate its own management and its own affairs, and all additional corporate powers which may be necessary or useful; subject, however, to the regulations and restrictions of this Act, and other laws of this state pertaining to corporations, not inconsistent herewith. (Act Apr. 8, 1933, c. 177, §2.)

3750-3. Members.—A fireman under this Act is one who is regularly entered on the payroll of one of said fire departments, serving on active duty with a designated fire company therein, or having charge of a fire engine or other company and engaged in the
hazards of fire fighting; and shall include all members of the electrical and mechanical divisions of such fire departments who are subject to like hazards. Substitutes and persons employed irregularly from time to time shall not be included.

Each fireman of such relief associations at the time of the passage of this Act, whether their status is embraced within the definition of a fireman herein contained or otherwise, shall have the right to continue as members of their respective associations and be entitled to all benefits pertaining thereto. Each member included under the definition of firemen herein provided shall have the right to retain his membership on promotion or appointment to other positions to which such fireman may be subject.

Act shall not affect any pensions or other benefits which have been allowed or which are being paid by any such relief association under or in accordance with any prior Act or Acts, at the time this Act becomes effective. Payment of such pensions and benefits shall be continued by the respective associations, and shall be subject only to the provisions of Section 18 of this Act. (Act Apr. 8, 1933, c. 177, §3.)

$3750-4. Eligibility.—Every fireman as herein defined shall be eligible to apply for membership in the relief association in the city in which he is employed within the time and in the manner hereinafter set forth. Any such fireman desiring to become such member shall make written application for reinstatement within six months thereafter. His application must be acted upon by the association within 90 days from and after the passage of such application for reinstatement in such association.

Application must be acted upon by the association within six months from the date applicant was entered on the payroll of the fire department. Provided the applicant shall make up all dues which he would have paid had he been a member of the fireman's relief association. Such application shall make application with the secretary of the association. The application within six months from the time when he is regularly entered on the payroll of such fire department, make written application for membership in such relief association on forms supplied by said association, accompanied by more physician's certificates as required by the by-laws of said association. After such application has been filed, the board of examiners of the association shall make a thorough investigation thereof and file their report with the secretary of the association. Such application must be acted upon by the association within six months from the time applicant was entered upon the payroll of the fire department. Provided, however, that no fireman who is more than 35 years of age when his application is filed can become a member of the relief association, except that such age limitation of 35 years shall not apply on application for reinstatement in such association.

Any fireman, as that term is herein defined, actively employed in any city on or after the 1st day of January, 1937, may be eligible to membership in a fireman's relief association. Such fireman shall make application within 90 days from and after the passage of this act. His application must be acted upon by the association within six months thereafter. Upon the acceptance of said application, the membership of such applicant shall become effective as of the date when he was entered upon the payroll of the department, provided the applicant shall make up all dues which he would have paid had he been a member of the Firemen's Relief Association from the date he entered upon the payroll of the department. All pay- ments, and privileges to which such fireman are entitled as members of said fund shall be governed by Mason's Minnesota Statutes, 1936 Supplement, Section 3750-1 and 3750-38. (Act Apr. 8, 1933, c. 177, §4; Apr. 5, 1937, c. 155, §1.)

Sec. 3750-5, cited, provides that the Act shall take effect from its passage.

3750-5. Associations may reject unfit persons.—Each fireman's relief association shall have the right to exclude all applicants for membership who are not physically sound, so as to prevent unwarranted risks for the association; and additional requirements for entrance fees and annual dues for membership in the association may from time to time be prescribed in the by-laws of such association. (Act Apr. 8, 1933, c. 177, §5.)

3750-6. Officers—duties—bonds.—The officers of such relief association shall be a president, one or more vice-presidents, a secretary and a treasurer. The officers of assistant secretary and assistant treasurer may be created by the by-laws of any such association. The said association shall be managed by a board of trustees elected annually or at such other time as may be prescribed in the by-laws thereof as may be prescribed by the articles of incorporation of said association.

The secretary and the treasurer of each such relief association shall furnish the corporation bond to the association for the faithful performance of their duties, in such amount as the company may, from time to time determine. Each relief association shall and is hereby authorized to pay the premiums on such bonds from its general fund. (Act Apr. 8, 1933, c. 177, §5.)

3750-7. Reports of officers.—The secretary and treasurer of every such association, prior to the 1st day of February in each year, shall jointly prepare and sign with the approval of the association's board of trustees, a detailed and itemized report of all receipts and expenditures in the association's special fund for the preceding calendar year, showing the source of said receipts, and to whom and for what purpose said moneys have been paid and expended, and transmit a copy of such report to the Insurance Commissioner of the State of Minnesota. No money shall be paid to a relief association by either the State of Minnesota or the city in which such association is located until such report is so filed. (Act Apr. 8, 1933, c. 177, §7.)

3750-8. City clerk to file report with the insurance commissioner.—The clerk of every city of the first class having a firemen's relief association shall, on or before the 31st day of October in each year, make and file with the Insurance Commissioner of this state his certificate stating the existence of such firemen's relief association. (Act Apr. 8, 1933, c. 177, §8.)

3750-9. Insurance commissioner to report names of associations to insurance companies.—The Insurance Commissioner shall, in his annual statement, file a copy of any and all fire insurance policies issued in the state and in the names of the cities of the first class and the names of said cities, and shall require said companies at the time of making their annual statements to said Insurance Commissioner to state on said blanks the amount of premiums received by them upon properties insured within the corporate limits of the cities named thereon during the year ending December 31st last past. Thereafter, and before July 1st in each year the Insurance Commissioner shall certify to the State Auditor the information thus obtained, together with the amount of the tax for the benefit of such relief association paid in such year by said companies up on such insurance premiums. (Act Apr. 8, 1933, c. 177, §9.)

3750-10. State Auditor to distribute monies.—The State Auditor of this state at the end of each fiscal year shall issue and deliver to the treasurer of each such relief association his warrant upon the State Treasurer of this state for an amount equal to the total amount of the tax, for the benefit of such relief associations, paid by fire insurance companies upon premiums by said companies received in the city upon properties insured within the corporate limits thereof in which said association is located, together with such other appropriations or funds as may hereafter be appropriated or created, and to which said association is entitled. (Act Apr. 8, 1933, c. 177, §10.)
3750-11. Payments to be made from general revenue fund.—The State Treasurer shall, upon presentation to him of the warrant of the State Auditor specified in the foregoing section, pay out of the general revenue fund of the state the amount thereof to the treasurer of such relief association presenting the warrant. (Act Apr. 8, 1933, c. 177, §11.)

3750-12. Tax levy for firemen's relief association in certain cities.—The city council or other governing body of each city wherein such a relief association is located shall each year, at the time the tax levies for the support of the city are made, and in addition thereto, levy a tax of five and one-half tenths of one mill on all taxable property within said city. Provided, however, that in the event the balance in said relief association's special fund, at the time said levy is made, is less than $300,000.00, as determined by said association's board of trustees, then it shall be the duty of said city's governing body to increase the rate of said tax levy herein provided to three-quarters of one mill. The tax so levied shall be transmitted with other tax levies of the city in which such relief association is situated, and by said county shall be collected and payment thereof enforced when and in like manner as state and county taxes are paid. (Act Apr. 8, 1933, c. 177, §12; Apr. 1, 1935, c. 87; Apr. 17, 1937, c. 279, §1.)

3750-13. County Treasurer to pay over monies collected.—As soon as practical after the first days of June and November in each year, the county treasurer of each such county shall pay to the treasurer of the relief association situated within said county the amount of such tax then collected, and payable to said association together with all interest and penalties so collected, and all interest paid thereon between the time of collection and the time of payment to such relief association. And the city treasurer of such city, in the event that such tax or any part thereof is paid to him, shall likewise pay the same to the treasurer of the relief association in said city as soon as the same has been collected, together with all interest and penalties collected thereon. (Act Apr. 8, 1933, c. 177, §13.)

3750-14. Associations to manage funds.—Each relief association shall have full and permanent charge of, and the responsibility for the proper management and control of all funds that may come into its possession, and particularly funds derived from the following sources:

(a) Funds derived from the State of Minnesota, and interest from the investment thereof.

(b) Funds derived from tax levies by the city in which such relief association is located, and interest from the investment thereof.

(c) Funds derived from private sources such as gifts, charges, rents, entertainments, dues paid by members, and from other sources. (Act Apr. 8, 1933, c. 177, §14.)

3750-15. To be kept in separate fund.—The money received from the various sources shall be kept in two separate and distinct funds, one to be designated as the Association Special Fund, and the other as its General Fund. All money received from the State of Minnesota and from the city in which the relief association is located shall be kept in the special fund, and shall be expended only for purposes hereinafter authorized. All money received from other sources shall be deposited in the general fund, and may be expended for any purpose deemed proper by such association. (Act Apr. 8, 1933, c. 177, §15.)

3750-16. Payments.—The amounts so paid to such relief association by the state and said city under the provisions of this Act, and by it set aside and deposited as a special fund, shall be appropriated and disbursed by each such association for the following purposes, to-wit:

(a) For the relief of sick, injured and disabled members of the relief associations, their widows and orphans.

(b) For the payment of disability and service pensions to members of such relief associations. (Act Apr. 8, 1933, c. 177, §16.)

3750-17. Associations may define sickness and disability.—Each such relief association shall in its by-laws define the sickness and disability entitling its members to relief, and specify the amounts therefor and also specify the amounts to be paid to its disability and service pensioners, and to widows and children of deceased members, and to fix the age limit of children to which pensions may be paid. When the total assets of such association shall amount to $300,000.00 or more, its board of trustees may provide for the payment of such pensions and the making of such distributions in a manner in accordance with the provisions of this Act. (Act Apr. 8, 1933, c. 177, §17.)

3750-18. Associations may reduce pensions.—Such firemen's relief association shall at all times have and retain the right to reduce the amount of pensions and benefits paid out of its funds, and to reduce and otherwise adjust the amounts of such pensions and benefits to be thereafter paid out of its funds, whenever its total funds, as determined by its board of trustees, are less than $300,000.00; and within the limits of this Act described, said associations shall have and retain the right to increase, or otherwise adjust said pensions and benefits after same have been so reduced. (Act Apr. 8, 1933, c. 177, §18.)

3750-19. Persons entitled to relief.—A member of such association who, by reason of sickness or accident, becomes disabled from performing his assigned duties or duties on the fire department, shall be entitled to such relief as the by-laws of the association may provide.

No allowances for such disabilities shall be made unless notice of such disability and application for benefits thereon be made by or on behalf of the disabled member to the secretary of the association within thirty days after the beginning of such disability. (Act Apr. 8, 1933, c. 177, §19.)

3750-20. Amount of payments.—A member of any such relief association entitled to disability benefits as herein defined, shall receive the same from his association for such periods of time as shall be allowed in the by-laws of each association, and in such amounts, not to exceed $75.00 per month, as the by-laws of said association provide. (Act Apr. 8, 1933, c. 177, §20.)

3750-21. Retirement pay.—A member of such association as herein defined who has completed a period, or periods of service on the fire department equal to 20 years or more, shall, after he has arrived at the age of 50 years or more, and has retired from the payroll of the fire department, be entitled to a basic pension of not less than $50.00 and not more than $65.00 per month for his natural life in conformity to the by-laws of each association. Any and all leaves of absence of more than 90 days, except such as are granted to a member because of his disability due to sickness or accident, shall be excluded in computing said period of service; and all periods of time during which a member received a disability pension shall be excluded in such computation. No deductions shall be made for a leave of absence granted to a member to enable him to accept an active position in said fire department. No member shall be entitled to draw both a disability and a service pension. Such monthly basic payments may be increased by adding to said basic pension as follows:

1. The sum of $2.80 per month for each year of active duty over 20 and not more than 25 years.
§3750-22. Member may be on deferred pension list.—A member of such association who has performed service on the fire department for 20 years or more, but has not reached the age of 50 years, shall have the right to retire from the department while retaining his right to service over 30 and not more than 35 years. The by-laws of each association may provide for said increases or any portion thereof, provided that in no event shall said total pension exceed the sum of $98.00 per month. (Act Apr. 8, 1933, c. 177, §21.)

§3750-23. War service to be included in period of service.—Any applicant for a service pension who has served in the military forces of the United States in the World War, or having during such war, or at any time before the expiration of the period of such war, been employed in the government service during said war, and has returned after his honorable discharge from such service and resumed active duty in said fire department, the period of his absence in such service or the United States shall not be deducted in computing the period of service hereinafter provided for, but shall be construed and counted as a part and portion of his period of active duty in said fire department. (Act Apr. 8, 1933, c. 177, §22.)

§3750-24. Pensions to widows and children of members.—When a service pensioner, disability pensioner, or deferred pensioner, or an active member of such relief association dies, leaving (a) A widow who was his legally married wife, residing with him, and who was married to him while or prior to the time he was on the payroll of the fire department; and who, in case the deceased member was a disabled service or deferred pensioner, was legally married to said member at least three years before his retirement from said fire department; or

(b) A child or children who were living while the deceased was on the payroll of the fire department, or who were born within nine months after the death of the said decedent was withdrawn from the payroll of said fire department, such widow and said child or children shall be entitled to a pension or pensions as follows:

1. To such widow a pension of not less than $25.00 and not to exceed the sum of $50.00 per month, as the by-laws of said association provide, for her natural life; provided, however, that if she should remarry, then such pension shall cease and terminate as of the date of her said remarriage.

2. To such child or children, if their mother be living, a pension of not to exceed $10.00 per month for each child until the age of not less than 16 years and not to exceed an age of 18 years, in conformity with the by-laws of each association provided; but the right to such pensions hereunder for the widow and/or children of said deceased member shall not exceed the sum of $50.00 per month.

3. A child or children of a deceased member receiving a pension or pensions hereunder shall after the death of their mother, be entitled to receive a pension or pensions in such amount or amounts as the board of trustees of such association shall deem necessary to properly support such child or children until they reach the age of not less than 16 and not more than 18 years, as the by-laws of each association may provide; but the total amount of such pension or pensions hereunder for any such child or children shall not exceed the sum of $95.00 per month. (Act Apr. 8, 1933, c. 177, §24.)

§3750-25. Board of Examiners.—Such relief association shall establish a board of examiners who shall, as and when requested by the association's board of trustees, make a thorough investigation of and report on all applications for membership in the association; investigate and make report on all applications for disability pensions and make recommendations as to amount to be paid to such applicant; investigate and make report on all disability pensioners, and make recommendations as to amount of pension to be paid to them from year to year; and investigate and report on all other legal process, and no persons entitled to such pensions, and claims for relief. Such board shall consist of a competent physician selected by the association, and at least three members of such relief association with active duty with the fire department. (Act Apr. 8, 1933, c. 177, §25.)

§3750-26. Public Examiner to examine books.—The Public Examiner of this state shall each year examine the books and accounts of the secretary and the treasurer of each such relief association. Provided, the total pensions hereunder for any such child or children are hereby in all things repealed; except as hereinbefore provided for, but shall be construed and counted as a part and portion of his period of service or the United States shall not be deducted in computing the period of service hereinafter provided for, but shall be construed and counted as a part and portion of his period of service or the United States shall not be deducted in computing the period of service hereinafter provided for, but shall be construed and counted as a part and portion of his period of active duty in said fire department. (Act Apr. 8, 1933, c. 177, §26.)

§3750-27. Payments exempt from garnishment.—All payments made or to be made by any relief associations under any of the provisions of this Act shall be totally exempt from garnishment or any other legal process, and no persons entitled to such payment shall have the right to assign the same, nor shall the association have authority to recognize any assignment, or to pay any sum on account thereof, and any attempt to transfer any such right or claim or any part thereof shall be void. (Act Apr. 8, 1933, c. 177, §27.)

§3750-28. Not to affect workmen's compensation act.—This Act shall not be construed as abridging, repealing or amending the laws of this state relating to the provisions of the law commonly known as Workmen's Compensation Act. (Act Apr. 8, 1933, c. 177, §28.)

§3750-29. Inconsistent acts repealed.—All laws and enactments of this state inconsistent herewith, or conflicting with the provisions of this Act, and all prior laws of this state relating to firemen's relief associations in cities of the first class, the rights and obligations of the members thereof, and the use and control of the funds received by such associations, are hereby in all things repealed; except as hereinbefore provided for, in section numbered 3 of this Act. (Act Apr. 8, 1933, c. 177, §29.)

§3750-30. Provisions separable.—If any section or portion of a section of this Act is declared invalid, the rest of this Act shall nevertheless be and remain
in full force and effect. (Act Apr. 8, 1933, c. 177, §30.)

3750-31. Surcharge on premiums to restore deficiency in special fund. — Whenever the balance in the special fund of any Firemen's Relief Association in Minneapolis is less than $600,000.00 as determined by any such association's board of trustees, which fact shall be duly certified to by the State Comptroller, such board of trustees may thereupon file its duly verified petition for relief, accompanied by such certificate, with the Commissioner of Insurance. The Commissioner of Insurance shall thereupon order and direct a surcharge to be collected of two per cent of the fire, lightning and sprinkler leakage gross premiums, less return premium on all direct business received by any foreign or domestic fire insurance company on property in such city of the first class, or by its agents for it, in cash or otherwise, until the balance in the special fund of such relief association amounts to $600,000.00 the board of trustees of such relief association shall certify that fact to the Commissioner of Insurance and the Commissioner of Insurance shall forthwith order and direct that the collection of such surcharge shall be discontinued after the expiration of said 15 day period and shall forthwith mail a copy of the order last mentioned to each insurance company affected thereby. Said surcharge shall be due and payable from such companies to the State Treasurer in semi-annual installments on June 30th and December 31st of each calendar year, and if not paid within 30 days after such dates a penalty of ten per cent shall accrue thereon and thereafter such sum and penalty shall draw Interest at the rate of one per cent per month until paid. (Act Jan. 6, 1934, Ex. Sess., c. 56, §1; Apr. 1, 1935, c. 825, §1; Apr. 22, 1937, c. 351, §1.)


3750-32. Same—Warrant on state treasurer. — The State Auditor of this state on July 31, 1934, and semi-annually thereafter, shall issue and deliver to the treasurer of such relief association in Minneapolis a warrant on the State Treasurer for an amount equal to the total amount of said surcharge on said premiums within such city theretofore collected, and transmitted to the State Treasurer by such insurance companies. There is hereby appropriated out of any moneys in the general revenue fund in the State Treasury not otherwise appropriated such sums as may from time to time be necessary to pay such warrants. (Act Jan. 6, 1934, Ex. Sess., c. 56, §2; Apr. 1, 1935, c. 825, §2.)

3750-33. Same—State treasurer to pay warrant. — The State Treasurer shall, upon presentation to him of the warrant of the State Auditor specified in the foregoing section, pay out of the general revenue fund of the state the amount thereof to the treasurer of such relief association presenting the warrant. The treasurer of such relief association shall assign and receive money received by him in payment of any such warrant in the special fund of such relief association. (Act Jan. 6, 1935, Ex. Sess., c. 53, §3; Apr. 1, 1935, c. 86, §3.)

3750-34. Same—Emergency declared. — An emergency exists and this Act shall be construed as a surcharge for firemen's relief associations in any city of the first class. (Act Jan. 6, 1934, Ex. Sess., c. 53, §4.)

3750-35. Same—Dues imposed on owners insuring in unauthorized companies—statement—penalty for failure to furnish. — The owner of any property situated in any municipality having an organized fire department, or a partly paid or volunteer department, who carries insurance in a company not licensed by this state, or if he has not insured his property, who sets aside a reserve against loss or damage by fire, shall furnish the Commissioner of Insurance an annual return of and shall acknowledge receipt of all premiums written and furnished by the Commissioner of Insurance, a statement, verified by affidavit, showing the description and location of the property, the amount of insurance in companies not licensed by this state which has effected such loss or damage by fire, in the number of the policy or policies, the name and location of the company or companies issuing such policy or policies, and the premiums paid; or, if he has not insured his property, the amount paid into or credited to any insurance fund or other reserve against loss or damage by fire. Such statement shall be furnished by those property owners carrying insurance in companies not licensed by this state not more than thirty days after the issuance of the policy or policies of insurance, and by those property owners not carrying insurance but having an insurance or other reserve fund against loss or damage by fire upon demand of the Commissioner of Insurance, or if no such demand is made, then on or before January 31st of each year. Every property owner whose duty it is to make such statement who shall willfully make a false statement or who shall for thirty days after such demand, neglect to render such statement, shall be guilty of a misdemeanor and shall be fined fifty dollars for each one-half of which shall be transmitted to the Commissioner of Insurance and shall be disbursed by him as other sums collected under the terms of this Act and charged for. (Act Jan. 9, 1934, Ex. Sess., c. 56, §1; Apr. 17, 1937, c. 255, §1.)

3750-36. Same—Collection of percentage on premium—recovery. — If such insurance has been effected in any company not authorized to do business in this state, or if such owner carries his own insurance fund or reserve, the Commissioner of Insurance shall, and he is hereby authorized and empowered, to collect from such property owner such taxes as would equal the taxes on the annual premium which authorized insurance companies would have charged for insuring such property. If not paid upon demand, such sum or centum may be recovered in a civil action brought in the name of the State. (Act Jan. 9, 1934, Ex. Sess., c. 56, §3; Apr. 17, 1937, c. 258, §2.)

3750-37. Same—Disposition of proceeds. — All sums collected under the terms of this Act shall be payable to the respective municipalities or fire department relief associations in the same manner and disbursed for the same purposes as the two (2) per cent state tax on fire insurance premiums. (Act Jan. 9, 1934, Ex. Sess., c. 56, §3; Apr. 17, 1937, c. 258, §3.)

3750-38. Same—Exempt property. — This Act shall not apply to property owned and occupied exclusively as a homestead nor to exempt property specified in Section 9447, Mason's Minnesota Statutes of 1927, comprising such buildings and thereupon upon which homestead or exempt property the owner carries his own insurance. (Act Jan. 9, 1934, Ex. Sess., c. 56, §4.)

PENALTIES

3757. When agent of insurer, etc. — State supreme court's decision that a soliciting agent of an insurance company has authority to accept promissory note of insured in payment of amount of ordinary premium held binding on federal court. Braman v. M., (USCCA8), 70772/1931. See Dun. Dig. 4655.

Agent of insurer cannot bind his principal by agreement that premium shall be applied in payment of his personal debt. L79M545, 229NW879.

A policy of life insurance became effective, whether delivered or not, as of the date of the application if the premium was paid in cash. Lueck v. N., 160M194, 240NW563. See Dun. Dig. 4655.
Agent represented insurer and not insured in accepting premium paid pursuant to reduction of rates following issuance of policies made, though it must result in reducing personnel or salaries of other personnel not fixed by law. Op. Atty. Gen. (249A-24), June 8, 1939.


3775. Kerosene must be inspected. Superseded by §§3787-7 to 3787-9.

3776. Gasoline must be inspected. Superseded by §3787-5, 3787-6.

3777. Duties of oil inspector and deputies. Superseded by §3787-11.

3780. Sale of adulterated kerosene or gasoline forbidden. Superseded by §3787-12.

3781. Must be inspected before unloading. Superseded by §3787-4, 3787-6.


3785. Penalty for adulteration or changing of certificate. Superseded by §3787-16.


3787-1. Definitions.

Section 1. Unless the language or context clearly indicates that a different meaning is intended the following words and terms shall, for the purpose of this act, be given the meaning hereinafter subjoined to them:

(a) "Motor gasoline" means and includes all gasoline, benzine, naphtha, benzol and other volatile liquids by whatever name called, used or to be used for generating power in combustion engines, but does not include the products herein defined as gasoline or kerosene, furnace oil or gasoline for other industrial, heating or cooking purposes.

(b) "Kerosene" means and includes all illuminating oils, signal oil, mineral seal and other petroleum liquids, by whatever name called, used for illuminating, cooking or power purposes, but does not include the products herein defined as gasoline or furnace oil.

(c) "Furnace oil" means and includes all kerosene distillate, gas oil, fuel oil, and other petroleum liquids by whatever name called or used only for domestic heating purposes, but does not include the products herein defined as gasoline or kerosene.

(d) "Lubricating Oils" means and includes all grades of petroleum oil used for the general lubrication of internal combustion engines.

(e) "Distributor" means and includes every person, co-partnership, company, joint stock company.


Right of optional purchase of stock in endowment policy does not offend §3760, but does have effect of making policy a "security" within §§3956-1(2) and writing of insurance a "sale" within §3956-4, requiring registration and license from commerce commission. Op. Atty. Gen. (249A-17). Mar. 13, 1937.

This section is not violated by return of part of premium paid pursuant to reduction of rates following issuance of policies. Op. Atty. Gen. (249B-5). June 8, 1939.


CHAPTER 20
Inspector of Oils


3773. Inspection districts—Compensation of inspectors. The dairy and food commissioner, in conjunction with the chief oil inspector, is hereby authorized to create not to exceed sixty-seven inspection districts in the state. In the creation of said district due consideration shall be given to important shipping centers. Said commissioner, with the advice of the chief oil inspector, is hereby authorized to appoint when necessary one deputy for each inspection district so established. He shall take such measures as he deems necessary to prevent duplication of effort by inspectors under his control and to effect economy in the administration of the inspection laws, and to that end he shall detail dairy and food inspectors to perform the duties of deputy oil inspectors as far as practicable. The deputy inspectors shall receive compensation on a graded scale based upon their qualifications, the volume of work they perform, and tenure of employment. Such compensation shall not be less than One Hundred Dollars ($100.00) per month during the probationary period of one year, not less than One Hundred Twenty-five Dollars ($125.00) per month thereafter not less than One Hundred Dollars ($100.00) per month during the next succeeding four years, and thereafter not less than One Hundred Fifty Dollars ($150.00) per month; and they shall be reimbursed for all expenses necessarily incurred by them in the performance of their official duties; such salaries to be determined by the dairy and food commissioner upon the advice of the chief oil inspector. For the purpose of effecting more efficiency and economy in the service, the chief oil inspector is authorized, whenever he finds it advantageous and practical, to detail deputy oil inspectors to inspect petroleum products in storage outside of the state at places from which such products are transferred to dealers or consumers within the state. (As amended Apr. 26, 1937, c. 439, §1.)

3780. Sale of adulterated kerosene or gasoline for domestic heating purposes, but does not include the products herein defined as gasoline or kerosene, furnace oil or gasoline for other industrial, heating or cooking purposes.


3785. Penalty for adulteration or changing of certificate. Superseded by §3787-16.


3787-1. Definitions.

Section 1. Unless the language or context clearly indicates that a different meaning is intended the following words and terms shall, for the purpose of this act, be given the meaning hereinafter subjoined to them:

(a) "Motor gasoline" means and includes all gasoline, benzine, naphtha, benzol and other volatile liquids by whatever name called, used or to be used for generating power in combustion engines, but does not include the products herein defined as gasoline or kerosene, furnace oil or gasoline for other industrial, heating or cooking purposes.

(b) "Kerosene" means and includes all illuminating oils, signal oil, mineral seal and other petroleum liquids, by whatever name called, used for illuminating, cooking or power purposes, but does not include the products herein defined as gasoline or furnace oil.

(c) "Furnace oil" means and includes all kerosene distillate, gas oil, fuel oil, and other petroleum liquids by whatever name called or used only for domestic heating purposes, but does not include the products herein defined as gasoline or kerosene.

(d) "Lubricating Oils" means and includes all grades of petroleum oil used for the general lubrication of internal combustion engines.

(e) "Distributor" means and includes every person, co-partnership, company, joint stock company.