An employee's plan providing for life insurance only under which the employer is to make deductions from the wages of his employees is not within the licensing provisions of section 63.36. OAG March 17, 1948 (249-A-19).

Where an employer merely deducts payments from wages and pays same to a clinic on direction of the employees, a license is not required under section 63.36. OAG Nov. 14, 1951 (249-A-19).

CHAPTR 64

FRATERNAL BENEFICIARY ASSOCIATIONS

64.06 BENEFICIARIES

In loco parentis in national service life insurance. 36 MLR 757.

64.18 BENEFITS EXEMPT FROM PROCESS; TAX EXEMPTION

An exemption from taxation is a privilege of such high order and is so rarely granted that it can be established or extended only by, and according to the reasonable and natural import of, clear and explicit language, and not by implication or presumption. Ramaley v City of St. Paul, 226 M 406, 33 NW(2d) 19.

64.20 EXISTING ASSOCIATIONS; POWERS

An act of the territorial legislature incorporating a grand lodge provided it "shall be established in St. Paul," and prohibited bylaws in conflict with that provision, must amend its articles before it can move to some other location. An amendment of bylaws was not sufficient. OAG Jan. 15, 1949 (92-A-7).

64.32 DOMESTIC ASSOCIATIONS; DISSOLUTION

Type of administrative action subject to control by a writ of quo warranto. 37 MLR 1.

Conditions for the issuance of the writ on application and relation of the attorney general. 37 MLR 8.

64.363 ODD FELLOWS; GRAND LODGE

HISTORY. 1953 c 121 s 1, 2.

64.60 MANDAMUS PROCEEDINGS

Judicial review of means of extraordinary remedies. 33 MLR 570, 607, 685.

CHAPTER 65

FIRE INSURANCE COMPANIES

NOTE: Laws 1860, Chapter 6, entitled "An act to regulate insurance companies not incorporated in Minnesota," was the first attempt to regulate fire insurance companies. The law was revised and rewritten by Laws 1872, Chapter 1, and made to include domestic companies. Laws 1885, Chapter 185, authorized fire and marine companies to write hail and tornado insurance. The law was completely revised by Laws 1895, Chapter 175, and as amended and supplemented is now Chapter 65.

65.01 STANDARD FIRE POLICY

HISTORY. 1895 c 175 s 53; 1897 c 254 s 1; 1909 c 331 s 1; 1913 c 405 s 1; 1913 c 421 s 1; 1943 c 86 s 1; 1949 c 463 s 1.

Insurance; double recovery; collateral contract; rights of insured lessee. 33 MLR 82.

Inconsistent apportionment clauses in concurrent fire insurance policies. 34 MLR 350.

Landlord's right of action against insured, based on tenant's policy. 35 MLR 102.

Language other than standard provisions required by statute in a policy, being that of the insurer, selected by it and intended for its own benefit in limiting the scope of its principal obligation, must be unambiguous, and any reasonable doubt as to its meaning must be resolved in insured's favor; and this rule of liberal construction is applicable to the provisions describing what property is insured against loss. Cement Co. v Agricultural Insurance Co., 225 M 211, 30 NW(2d) 342.

An indemnity insurance policy, written in the language chosen by the insurer, providing that notice to it by the insured should be given "as soon as practicable," and that such notice "shall contain particulars sufficient to identify the insured and also reasonably obtainable information respecting the time, place and circumstances of the accident," carries with it all implications, meanings, and uncertainties which such words would likely and reasonably convey to the average layman. Williams v Cass-Crow Wing Co-op. Assn., 224 M 295, 28 NW(2d) 646.

An order under section 65.01 appointing an umpire as a member of a board of appraisers to determine the amount of loss or damage caused by fire is premature and void where the insured has not rendered to the insured written proof of loss, even though the insured was guilty of delay in failing to do so.

The district court has the power before judgment to review or vacate an order appointing an umpire under section 65.01 after the time to appeal from an order has expired. Boston Insurance Co. v Jacobson Co., 226 M 479, 33 NW(2d) 602.

Any change of title or interest in the insured's property, except by death, occurring before loss voids the policy. Windey v North Star Co., 231 M 279, 43 NW(2d) 99.

Whether the insurance policy is a fire insurance contract depends not upon how the policy is labeled or classified but upon the risk or risks which are insured against, and a policy insuring a stock of goods at a fixed location against loss by fire is a "fire insurance contract" even though the policy covers other risks and provides broader coverage in some respects against a fire loss than does the standard form. A jeweler's block policy covering loss from all causes, upon property which was not and would not be in transit, although some of it might be transported incidentally in the course of trade, was subject to section 65.01, notwithstanding that the insurer was an inland marine insurance company and therefore a warranty in policy, which was not one of those included in Minnesota statutory fire policy, was void. Fireman's Fund v Vermes Jewelry Co., 92 Fed. Supp. 905; 185 F(2d) 142.

In the instant action on a judgment said action was to enforce a contract for payment of legal liabilities of the insured, and consequently the transcript of the evidence in the case in which the judgment was entered against the insured was admissible to identify the judgment as within coverage of the policy sued upon. General Gas Co. v Larson, 196 F(2d) 170.

Insurance policies are merely personal contracts between the insurer and the insured. They appertain to the person or party to the contract and not to the thing which is subjected to the risk against which the owner is protected. An insurable interest exists in both the partnership and the partners, and a partner has an insurable interest in the firm property which will support a policy taken out thereon for his own benefit. In the absence of an assignment or express stipulation of the parties to such an effect, contracts or policies of insurance do not attach to or run with the property insured, whether the property is real or personal. Where de-

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fendent sold a half interest in his medical practice to the plaintiff, and where at the time of the transaction defendant carried fire insurance coverage on his office equipment, and where at the same time plaintiff asked defendant "Is this equipment covered by insurance" and received the reply the defendant thought there was five or six thousand dollars on it, and where the partnership equipment was totally destroyed by fire and the defendant received the full amount of the policy, the policy under all the facts in the case was not an asset of the partnership and plaintiff is not entitled to receive one-half the proceeds of the policy. Closuit v Mitby, ... M ....., 56 NW(2d) 428.

One of the essential elements of equitable estoppel is that the party asserting the estoppel acted, or failed to act, in reliance upon the representation claimed to give rise to the estoppel whereby he has changed his position for the worse. A change of position for the worse as a basis for estoppel cannot be presumed and is a matter calling for proof. Saaf v Duluth Police Pension Ass'n, ... M ....., 59 NW(2d) 883.

In order to have a proper foundation for a finding of casual connection, in cases where such connection must be established solely by expert testimony, the medical expert must, upon an adequate factual foundation, testify not only that in his professional opinion the injury in question might have caused or contributed to the subsequent death of the injured person but further that such injury did cause or contribute to decedent's death. Such medical testimony need not be couched in any particular words or by the expression of absolute certainty. Saaf v Duluth Police Pension Assn., ... M ....., 59 NW(2d) 883.

65.02 AUTOMOBILE FIRE INSURANCE POLICIES

Where the wife of the insured recovered damages for personal injuries the insurance company, having been garnisheed, pleaded in defense lack of cooperation on the part of the insured, the evidence supports the findings of the trial court that there was no lack of cooperation and the insurance company was held liable. Any ambiguity in the statement of the insured concerning details of the accident is construed against the liability insurer in view of the fact that the statement was prepared by the insurer. Johnson v Johnson, 228 M 282, 37 NW(2d) 1.

Where an endorsement attached to a policy of insurance forms part of the contract, the policy and the endorsement must be construed together, and if there is a conflict the provisions of the endorsement govern. The construction of an insurance policy which entirely neutralizes one provision should not be adopted if the contract is susceptible of another construction which gives effect to all its provisions. The exclusions in the body of a policy are as much a part of the contract as the stated coverage and cannot be ignored in construing the policy and an attached endorsement, but the stated exclusions in the endorsement cannot be used to enlarge the coverage of the policy. Wyatt v Wyatt, ... M....., 58 NW(2d) 873.

65.03 CANCELATION OF FIRE POLICY

Effect of temporary breach of radius indorsement in automobile liability insurance policy. 34 MLR 474.

65.04 VIOLATION

Double recovery of insurance; collateral contract; rights of insured lessee. 33 MLR 82.

Insurance policies are merely personal contracts between the insurer and the insured. They appertain to the person or party to the contract and not to the thing which is subjected to the risk against which the owner is protected. An insurable interest exists in both the partnership and the partners, and a partner has an insurable interest in the firm property which will support a policy taken out thereon for his own benefit. In the absence of an assignment or express stipulation of the parties to such an effect, contracts or policies of insurance do not attach to or run with the property insured, whether the property is real or personal. Where defendent sold a half interest in his medical practice to the plaintiff, and where at the time of the transaction defendant carried fire insurance coverage on his office equip-

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65.05 WHOLE AMOUNT COLLECTIBLE

Total coverage by separate insurers; contribution. 32 MLR 510.

County insurance; extent of the liability of the insurer. 32 MLR 514.

Extent of the liability of the insurer; estoppel. 32 MLR 514.

Inconsistent apportionment clauses in concurrent fire insurance policies. 34 MLR 350.

65.10 SALVAGE CORPS AND FIRE PATROLS

HISTORY. 1895 c 178; 1919 c 515 s 1.

65.21 Duplicate of 219.76.

CHAPTER 66

MUTUAL COMPANIES

66.02 PREMIUMS; CONTINGENT LIABILITY

HISTORY. 1895 c 175 s 40; 1907 c 321.

66.04 POLICIES OF INSURANCE WITHOUT CONTINGENT LIABILITY

If a policy of insurance to be purchased by the county is issued by the insurer as a policy without contingent liability and is issued in accordance with sections 66.04 and 66.09, it may be purchased by the county. If a contract of insurance subject to the contingent liability of the county as a member of the company is such that the maximum liability incurred is within the limitation permitted by section 275.27 the county may lawfully insure with the company. See also sections 375.31 and 375.32 referring to mutual companies. OAG April 28, 1949 (487-C-2).

66.13 DIVIDENDS

Classification of policies with and without disability benefits for purposes of anti-discrimination statutes; apportionment of dividends. 32 MLR 186.

66.19 MUTUAL AUTOMOBILE INSURANCE COMPANIES

If a policy of insurance to be purchased by the county is issued by the insurer as a policy without contingent liability and is issued in accordance with sections 66.04 and 66.09, it may be purchased by the county. If a contract of insurance subject to the contingent liability of the county as a member of the company is such that the maximum liability incurred is within the limitation permitted by section 275.27 the county may lawfully insure with the company. See also sections 375.31 and 375.32 referring to mutual companies. OAG April 28, 1949 (487-C-2).