

# GENERAL STATUTES

OF

# MINNESOTA

1913

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individuals having business involving the receipt, disbursement, or custody of the public funds shall at all times afford reasonable facilities for such examinations, make such returns and reports to the examiner as he may require, attend and answer under oath his lawful inquiries, produce and exhibit such books, accounts, documents, and property as he may desire to inspect, and in all things aid him in the performance of his duties. ('13 c. 555 § 10) 114-346, 131+489, 37 L. R. A. (N. S.) 1127.

**3237. Refusal, obstruction, etc.**—Every person who shall refuse or neglect to obey any lawful direction of the examiner, or his deputy, or any of his assistants; withhold any information, book, record, paper, or other thing called for by him for the purpose of examination; willfully obstruct or mislead him in the execution of his duties; or swear falsely concerning any matter stated under oath, shall be guilty of a felony, the minimum penalty whereof shall be a fine of one thousand dollars, or imprisonment in the state prison for one year. ('13 c. 555 § 11)

**3238. Biennial reports**—The examiner shall report to the governor biennially touching all his official acts, giving abstract of the statistics and condition of the various offices, institutions, municipalities, and corporations to which his duties relate, and making such recommendations as he may deem proper, which report shall be printed and included in the volume of executive documents. ('13 c. 555 § 12)

**3239. Department officers—Duties and salaries**—For the exercise of the powers and performance of the duties imposed and conferred upon him by this act, the public examiner may appoint, and at pleasure remove, a deputy examiner, ten assistant public examiners, a first and second corporation examiner and two assistants, an executive clerk, and such other employes as may be necessary for whom provision is made by law. Such deputy and assistant examiners shall each give bond to the state in the sum of \$10,000. During the absence or disability of the public examiner, the deputy examiner shall perform the duties of the office. The duties of the assistants and other employes shall be such as the examiner may prescribe, and any of them may be assigned to perform any special duty imposed by this chapter upon the examiner or his deputy. In such cases the assistants may exercise all the powers of his principal necessary to the proper discharge of such duty. The salaries of the public examiner and his appointees as above enumerated shall be such as are fixed by law. The salaries of the several other employes subject to appointment by the public examiner shall be such sums as the examiner may prescribe, and, together with the expenses of the examiner and his deputy and assistants and other employes, necessarily incurred in the discharge of their duties and in the administration of the office, shall be paid out of the contingent fund provided for such office; and such salaries and expenses shall not exceed the aggregate sums appropriated and allowed therefor by law. ('13 c. 555 § 13)

See § 294.

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## CHAPTER 19

### INSURANCE

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#### INSURANCE COMMISSIONER

**3240. Department of insurance—Commissioner, how appointed—Bond—Salary**—There is hereby established and continued a department of insurance in the State of Minnesota. Its chief officer shall be styled the commissioner of insurance and shall be appointed by the governor, by and with the advice and consent of the senate, for the term of two years beginning on the first Tuesday after the second Monday of January of each odd numbered calendar year, and who shall hold office until his duly appointed successor shall have qualified. He shall give bond, with sureties to be approved by the state treasurer, in the sum of twenty-five thousand (\$25,000.00) for the

faithful discharge of his duties and shall receive in full compensation for all his services as commissioner of insurance the sum of four thousand five hundred dollars (\$4,500.00) per annum. ('11 c. 386 § 1)

See § 294.

**3241. Same—Powers and duties of commissioner—**The commissioner of insurance shall have and exercise the power to enforce all the laws of this state relating to insurance, and it shall be his duty to enforce all the provisions of the laws of this state relating to insurance. ('11 c. 386 § 2)

**3242. Same—Official staff and salaries—Expenses—**The commissioner of insurance may appoint a deputy commissioner of insurance to assist him in his duties, who shall receive an annual salary of two thousand five hundred dollars (2,500); an actuary, who shall receive an annual salary of three thousand dollars (3,000); a chief examiner, who shall receive an annual salary of two thousand five hundred dollars (2,500); three assistant examiners, who shall receive an annual salary of two thousand dollars (2,000) each; a chief clerk, who shall receive an annual salary of one thousand five hundred dollars (\$1,500); a bookkeeper, or cashier, who shall receive an annual salary of one thousand five hundred dollars (\$1,500); two stenographers, who shall receive an annual salary of one thousand two hundred dollars (\$1,200) each; one clerk, at not to exceed an annual salary of nine hundred dollars (\$900); and at any time between the first day of January and last of June of each year, may also appoint two additional clerks at not to exceed one hundred dollars (\$100) per month each. All salaries authorized by this act shall be payable in monthly instalments, and shall be in full compensation for all services rendered in discharge of respective duties; provided, that the actual and necessary expenses incurred by the commissioner or any salaried employee of the department of insurance in connection with any examination of an insurance company, shall be repaid by the state treasurer upon proper vouchers on condition that the same shall have previously been charged to such insurance company so examined, and by such company paid into the state treasury. ('11 c. 386 § 3)

This section is superseded wholly or partly by § 294.

**3243. Same—Annual appropriation—Contingent fund—**There is hereby appropriated the amount annually required to pay the salaries authorized and provided by this act, and in addition thereto, there is hereby appropriated the sum of two thousand five hundred (\$2,500) per annum as a contingent fund for the department of insurance, which fund may be expended only in the purchase of necessary furniture, stationery, publication, postage, additional clerk hire and supplies to be used by the department of insurance, and for the payment of telephone, telegraph, and express charges actually incurred by the commissioner of insurance in connection with the official business of the department of insurance, and for the printing of necessary blanks and official reports required by laws to be used or issued by the commissioner, and the payment of which is not otherwise provided for. Provided that not to exceed five hundred dollars (\$500) of such contingent fund may be used in any one fiscal year for such other purposes, than those herein distinctly specified, as in the discretion of the commissioner of insurance shall be necessary, helpful, or advantageous to the department of insurance or the administration of its affairs; otherwise no personal expense, hotel bills, or travelling expenses of the commissioner, his deputy, or other employee of his office, shall be advanced, allowed or repaid by the state except as authorized and in the manner as provided by this act. ('11 c. 386 § 4)

As to repeal of standing appropriations, see §§ 48, 49.

**3244. Same—Duties of deputy commissioner, actuary, examiners, etc.—**In the absence or disability of the commissioner of insurance his duties shall be performed by the deputy commissioner of insurance. The actuary of the department shall, under the direction of the commissioner, make such valuations of life insurance policies as shall be necessary from time to time to the proper supervision of life insurance companies transacting business in this state, and shall perform such other actuarial duties, including the visitation and examination of insurance companies, as the commissioner of insur-

ance may prescribe. The chief and assistant examiners shall, under the direction of the insurance commissioner, devote their principal time to necessary or required examinations of insurance companies, and shall perform such other duties as the commissioner of insurance may prescribe. Other salaried employes of the department of insurance shall be under the direction of the commissioner of insurance, and shall perform such duties in connection with the department of insurance as the commissioner may prescribe. ('11 c. 386 § 5)

**3245. Same—Examination of companies—Powers of commissioner—**At least once in every two years, the commissioner of insurance shall personally, or by his deputy, actuary, examiners or other salaried employee of his office, visit each domestic insurance company, other than township mutual fire insurance companies, and carefully examine its affairs for the purpose of ascertaining its financial condition and ability to fulfill its obligations, and if it be complying with all the provisions of law. He may also make such examination at any other time that he shall have reason to believe that such company is in an unsound condition, or that it is not conducting its business according to the provisions of law. The commissioner, or person making the examination by his direction, shall have free access to all books and papers of any company, and of the books and papers of any of its agents, that may relate to its business, and may summon and examine under oath any of its directors, officers, agents, trustees, or other persons, in relation to its affairs and condition. The commissioner of insurance may in like manner, whenever he deems it necessary, make an examination of the affairs of any insurance company admitted, or applying for admission to do business under the laws of this state. ('11 c. 386 § 6)

**3246. Same—Fees for examination—Expenses—**When any such visitation or examination is made by the insurance commissioner, his deputy, actuary, or chief examiner, the company so examined, except township mutual fire insurance companies, shall pay a fee to the said department of insurance the sum of fifteen dollars (\$15.00) per day for each and every day necessarily occupied by such person, and each one thereof in making said examination; and when such visitation or examination is made, or engaged in, by any other person regularly employed in the said department of insurance and receiving a salary from the state of Minnesota, the company so examined, except township mutual fire insurance companies, shall pay as fees to the said department of insurance the sum of ten dollars (\$10.00) per day for each and every day necessarily occupied by such other person, and each one thereof, in making, or assisting to make, the said examination; and all of which fee shall be accounted for and turned into the treasury of the state of Minnesota. In case of an examination of township mutual insurance companies, the actual expenses only thereof shall be charged. Any necessary personal expenses of any such persons so engaged in connection with any such examination, consisting of actual hotel bills and actual railway, or transportation, charges between the office of the said commissioner of insurance and the home office of the company so examined, shall be repaid by the state treasurer to any such person so engaged in connection with any such examination, upon proper vouchers of same, on condition that the such necessary personal expenses shall have previously been charged to such company so examined, and the full amount thereof by it paid into the state treasury. ('11 c. 386 § 7)

**3247. Same—Professional insurance actuary, when and how appointed—Compensation—**The commissioner of insurance may, when he shall deem it necessary, appoint any experienced and competent professional insurance actuary to personally make or conduct an examination of any insurance company admitted, or applying for admission, to do business in this state, on condition that he, the commissioner of insurance, shall have previously filed with the secretary of state during the last immediately preceding month of January or July, as the case may be, or within thirty days from the passage of this act, a written declaration designating such person, by name and address, as a consulting actuary of the Minnesota department of insurance.

And in such case, the commissioner of insurance shall fix a reasonable compensation for such examiner on a per diem basis for the actual time employed in making or conducting such examination, and which including expense of any necessary appraisal or clerical assistance shall be charged to the company so examined. And the compensation for such examiner, appraisal or clerical assistance together with the amount of his necessary hotel and traveling expenses actually incurred in connection with such examination, shall, upon proper vouchers therefor, be paid to him by the state on condition that same shall have previously been charged to such company and by it paid into the state treasury. ('11 c. 386 § 8)

**3248. Same—Additional fees**—In addition to the fees and charges hereinbefore provided for, and shall be paid to the commissioner of insurance, and by him accounted for and paid into the treasury of the state of Minnesota the following fees:

1. By township mutual fire insurance companies:  
For filing certificate of incorporation, two dollars (\$2.00).  
For filing annual statements, one dollar (\$1.00).  
For each annual certificate of authority, one dollar (\$1.00).
  2. By other domestic companies:  
For filing certified copy of certificates of incorporation and accompanying documents, for obtaining license, thirty dollars (\$30.00).  
Each company's certificate of authority, one dollar (\$1.00).
  3. By foreign companies:  
For filing certified copy of charter or certificate of incorporation and by-laws, thirty dollars (\$30.00).  
For filing statement of financial condition twenty dollars (\$20).  
Each company's or agent's certificate of authority, two dollars (\$2.00).
  4. By all companies (except township mutuals):  
For filing certified copy of amendment to articles of incorporation, ten dollars (\$10.00).  
For filing annual statement, twenty dollars (\$20.00).  
For abstract, or summary of annual statements for publication, when prepared by commissioner, ten dollars (\$10.00).
  5. General fees:  
For each certificate, including certified copy of certificate of authority, renewal, valuation of life policies, corporate condition or qualification, one dollar (\$1.00).  
For each copy of paper on file in his office, twenty cents (20 cts.) per folio, and one dollar (\$1.00) for certifying same.  
For license to procure fire insurance in unadmitted foreign companies, ten dollars (\$10.00).  
For each broker's license, ten dollars (\$10.00).  
For receiving and forwarding copy of summons or process served upon commissioner of insurance, as attorney for any insurance company, two dollars (\$2.00); which amount shall be paid by the party serving same and may be taxed as other costs in the action.  
For valuing the policies of life insurance companies, one cent per one thousand of insurance so valued.
- And further provided that the commissioner of insurance may in lieu of a valuation of the policies of any foreign life insurance company admitted, or applying for admission to this state, except a certificate of valuation from such company's own actuary or from the commissioner of insurance of the state, or territory, in which such company shall be domiciled.
- For receiving and filing certificates of valuation of policies by company's actuary or by the commissioner of any other state or territory, fifty dollars (\$50.00).

All fees received by the commissioner of insurance pursuant to the provisions of this act shall be paid by him into the state treasury.

It is further provided that when by the laws of any other state or nation any fines, penalties, licenses, or fee additional to, or in excess of, those imposed by this section upon foreign insurance companies and their agents are

imposed upon insurance companies of this state or their agents doing business in such state, the same fines, penalties, licenses, and fees, shall be imposed upon all insurance companies of such state and their agents doing business in this state, so long as such laws of such other state remain in force. ('11 c. 386 § 9)

See § 3272.

**3249. Same—Laws repealed—**Sections 1592, 1593, and 1598, Revised Laws of the state of Minnesota for the year 1905, and sections 1, 2, 3, 4, 5, and 6, chapter 229, General Laws of the state of Minnesota for the year 1905, and chapter 472 of the General Laws of Minnesota for the year 1907, and all other acts and parts of acts inconsistent with this act, are hereby repealed. ('11 c. 386 § 10)

See, also, 1909 c. 349.

**3250. Garnishment of commissioner—Fees—**When garnishee process is served upon the commissioner of insurance, as attorney for any insurance company, no garnishee fee shall be paid to such commissioner. After the receipt of copy of such process the insurance company may demand of the attorney of the person making such garnishee the proper fees, and if such demand is not complied with before the day fixed for the disclosure of the garnishee, the proceeding may be dismissed. ('05 c. 229 § 7)

**3251. Insurance on public buildings of state, etc.—**On and after August 1st, 1913, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state shall pay out any public moneys or funds on account of any insurance against loss by fire or tornado, or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the public buildings, furniture, fixtures or property of any kind whatever belonging to the state except in the manner hereinafter provided. ('13 c. 549 § 1)

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

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

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

He shall certify to the state treasurer the amount of insurance upon such property to be carried by the state and order the state treasurer to credit to an account which shall be kept by the treasurer and known as the state insurance account, an amount which for the fiscal years ending July 31st, 1914, 1915 and 1916, shall be equal to the premium as fixed by the commissioner of insurance and which thereafter shall be equal to seventy-five per cent, of said premium, and the amount so credited by the state treasurer to the state insurance account shall be debited by the state treasurer to that account which shall be kept upon his books with the proper officer, agent, or board of trustees or regents which may have such public buildings and property in its charge, and the amount so debited by the state treasurer to said officer, agent or board shall be deducted by him from any funds which may be in his hands, or which may thereafter come into his hands and payable to said officer, agent or board of trustees or regents for insurance on state property.

The state commissioner of insurance shall not cause any policies to be cancelled which may be in effect on August 1st, 1913, but shall provide for the insurance of buildings and property as hereinbefore stated, increasing the amount of state insurance at such times as the policies existing on August 1st, 1913, may from time to time expire so as to maintain at all times the amount of insurance required by the provisions of this act. ('13 c. 549 § 2)

**3253. Same—Loss or damage—Duties of commissioner and treasurer—**In case any buildings or property of the state shall be damaged by fire or tornado the commissioner of insurance shall within thirty days ascertain and fix the amount of such damage and forthwith file with the state treasurer a statement of the same. The amount of loss when fixed shall by the state treasurer be debited to the state insurance account and credited to the proper fund of the officer, board of control, board of trustees or other agents, in whose control said buildings or property belongs, to be used by said officer, board or agent for the rebuilding or restoring of the property damaged and to be disbursed by the state treasurer in such manner as other state funds for the use of said officer, board or agent are paid out, and if at the time of any such award of loss or damage by the commissioner of insurance there shall not be in the state insurance account an amount equal to such award the full amount of the award shall notwithstanding this fact, be promptly paid by the state treasurer above provided. ('13 c. 549 § 3)

**3254. Same—Appropriation—Assistants, etc.—**For the purpose of carrying out the provisions of this act there is hereby appropriated ten per cent of all sums credited by the state treasurer to said state insurance account above mentioned. The commissioner of insurance may employ any of the employes in the department of insurance and such other assistants as may be found necessary, and fix the compensation of such other assistants, which compensation together with the expenses of such assistants and the commissioner and his employes shall be paid out of the state insurance account upon proper vouchers approved by the commissioner of insurance. ('13 c. 549 § 4)

See §§ 48, 49.

#### GENERAL PROVISIONS

**3255. Definitions—**In this chapter, unless the context otherwise requires, "company" or "insurance company," shall include every corporation or association engaged in insurance as principal. "Domestic" shall designate those incorporated in this state, and "foreign" when used without limitations, those in any other state or country. "Beneficiary association" shall mean a corporation, society or voluntary association organized and carried on for the sole benefit of its members and their families, relatives or dependents, but not for profit, and insure the lives of its members only upon the whole life assessment plan, so called, and in which organization admission to membership by a vote of the members or some governing body thereof, is a prerequisite to being entitled to such relief or policy of insurance and which association sells neither endowments nor annuities. "Fraternal beneficiary associations" shall mean a corporation, society or voluntary association organized and carried on for the sole benefit of the members and their beneficiaries, but not for profit, and having a lodge system and ritualistic form of work and representative form of government. "Net assets" shall mean that portion of the excess of the entire assets of an insurance company over its entire liabilities exclusive of capital and inclusive of policy liability, available for the payment of its obligations, including capital stock in this state, and including as assets deferred premiums on policies written within three months and actually in force, and in case of a mutual marine or fire and marine company, its subscription funds and premium notes not more than thirty days past due and uncollected. In case of a mutual fire insurance company there shall be included as assets premium notes absolutely payable within six months from date and given for policies actually in force, when such notes are not more than thirty days over due. Unpaid guaranty fund subscriptions shall not be included as assets, and guaranty fund certificates upon which there is no liability of the company until all its other obligations and liabilities are paid shall not be included as a liability. "Unearned premiums,"

insurance reserve, net value policies, and "premium reserve" shall severally refer to the liability of an insurance company upon its insurance contracts, other than accrued claims, computed by rules of valuation hereinafter established. "Profits" of a mutual insurance company shall mean that portion of its net earnings not required for payments of losses and expenses, nor set apart for any lawful purposes; and "commissioner" shall mean insurance commissioner. (R. L. § 1594, amended '07 c. 321 § 1)

Statute applicable to copartnerships and individuals (88-20, 92+472).

Cited and applied (102-15, 112+1050).

See note under § 3514.

**3256. Application of provisions**—Every company, domestic or foreign, shall file with the commissioner its acceptance of the provisions hereof, and, by such changes, if any, as may be necessary, conform its charter or certificate of incorporation thereto, so far as same relate to such a company; and it and every company hereafter organized shall obtain from the commissioner his certificate that such charter or certificate of incorporation, and all proceedings thereunder, comply with law, which he shall indorse thereon when approved, and thereupon each shall be governed by such provisions and those relative to corporations in general, so far as applicable and not otherwise specially provided. (1595)

**3257. Insurance defined—Unlawful contracts—Contracts deemed made in this state**—Insurance within the meaning of this chapter is any agreement whereby one party, for a consideration, undertakes to indemnify another to a specified amount against loss or damage from specified causes, or to do some act of value to the assured in case of such loss or damage. It shall be unlawful for any insurance company or its agent to solicit or make any contract of insurance not authorized by the provisions of this chapter. All contracts of insurance on property, lives or interests in this state, shall be deemed to be made in this state. (1596)

Insurance defined (48-110, 111, 50+1028; 88-20, 21, 92+472). Unlawful contract. Conflict of laws (66-205, 68+1065. See 67-245, 250, 69+916).

Contract to defend physician against suits for malpractice held of insurance (100-490, 111+396).

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

1. To insure against loss or damage to property on land, and against loss of rents and rental values, lease-holds of buildings, use and occupancy, and direct or consequential loss or damage caused by change of temperature resulting from the destruction of refrigerating or cooling apparatus, or any of its connections, by fire, lightning, hail, or tempest, or any or all of them.

2. To insure vessels, freights, goods, wares, merchandise, specie, bullion, jewels, profits, commissions, bank-notes, bills of exchange, and other evidences of debt, bottomry and respondentia interest, and every insurance appertaining to or connected with marine risks and risks of transportation and navigation, including the risks of lake, river, canal and inland transportation and navigation, insurance upon automobiles, motor cycles and other motor vehicles, whether stationary or being operated under their own power, which shall include all or any of the hazards of fire, explosion, transportation, collision, loss by legal liability for damage to property resulting from the maintenance and use of automobiles, and loss by burglary or theft or both, but shall not include insurances against loss by reason of bodily injury to the person.

3. To insure property of the assured, or life, person, or property of another for which the assured is liable, against loss or damage caused by the explosion of steam boilers, and caused by breakage or rupture of machinery.

4. To make contracts of life or endowment insurance, and grant, purchase, or dispose of annuities or endowments of any kind; but not including authority to any corporation transacting the business of life insurance in this state to take any other kinds of risks except those connected with or appertaining to insurance

on life, or against accidents to or sickness of persons, and the granting, purchasing and disposing of annuities and endowments.

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

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

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

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

9. To insure against loss or damage by burglary or theft, or attempt thereof, or loss of money or securities in course of transportation.

10. To insure against loss or damage by water, caused by accidental breakage or leakage of automatic sprinkler system.

11. To insure against loss or damage by death of live stock.

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

13. To insure against loss or damage to automobiles or other vehicles by collision, fire, theft, and other perils of operation, and against liability for damage to property of others by collision with such vehicles.

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

The paid-up capital stock of every such corporation shall not be less than one hundred thousand dollars (\$100,000) except that companies authorized to transact the business specified in subdivision 2 shall have a paid-up capital of not less than two hundred thousand dollars (\$200,000) and companies authorized to transact the business specified in subdivision 6 shall have a paid-up capital of not less than two hundred fifty thousand dollars (\$250,000) and a surplus constantly maintained of not less than fifty thousand dollars (\$50,000). But any company having a paid-up capital of not less than the aggregate capital required of two companies authorized to transact the business specified in subdivisions 1 and 2, respectively, or that specified in subdivisions 4 and 5, respectively, by so providing in its certificate of incorporation or amendment thereto, may combine the business of the two first mentioned or, of the two last mentioned, and transact the same as one corporation and any corporation having a paid-up capital of not less than two hundred fifty thousand dollars (\$250,000) and a surplus constantly maintained of not less than fifty thousand dollars (\$50,000) and authorized to transact business other than the kinds specified in subdivisions 1, 2 and 4, respectively, may also engage in any and all other kinds of insurance as herein provided except those last above specified. Any such corporation authorized to transact the business specified in subdivision 1 having a paid-up capital of not less than three hundred thousand dollars (\$300,000) by so providing in its charter or certificate of incorporation, may also engage in the kinds of business specified in subdivisions 10 and 13, or either of them; and any such corporation authorized to transact the business specified in subdivision 2 having a paid-up capital of not less than three hundred thousand dollars (\$300,000), by so providing in its charter or certificate of incorporation, may also engage in the kind of business specified in subdivision 10.

The certificate of incorporation, in addition to the general requirements shall specify the territory in which it may do business, and except in stock corporations, the qualifications of members, the methods of providing corporate funds, and the classes of property it may insure.

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

No such corporation shall transact any other business than that specified in its charter and articles of association.

Insurance on automobiles, motor cycles and other motor vehicles against loss, or damage by fire, when combined in one policy with insurance against one or more of the other hazards mentioned in subdivisions 2 and 13 of this section, need not be in accordance with section 1640 of the Revised Laws of 1905 [3318]. ('13 c. 418 § 1)

Section 2 repeals R. L. § 1597, as amended by 1909 c. 330, and 1905 c. 118.

Subd. 2 (90-383, 386, 97+110).

R. L. § 1597 cited in dissenting opinion (100-490, 111+396).

**3259. Church associations for mutual insurance**—That the members of any one church, or of any one religious denomination, may maintain for the exclusive benefit of the members thereof an unincorporated association for the mutual insurance of the property of said members against loss or damage by fire, lightning, hail or tornado, or all of them. Such association shall furnish no insurance except upon the property of an actual member of such church or denomination. It may conduct said business upon the plan and method adopted by it and shall not be required to be licensed by or report to the insurance commissioner. ('07 c. 165 § 1)

### PUBLIC SUPERVISION

**3260. Suspension of authority—Agent for unauthorized company**—If the commissioner is of the opinion, upon examination or other evidence, that a foreign insurance company is in an unsound condition, or if a life insurance company, that its actual funds are less than its liabilities, or that it is insolvent; or if a foreign insurance company has failed to comply with the law, or if it, its officers or agents, refuse to submit to examination, or to perform any legal obligation in relation thereto, he shall revoke or suspend all certificates of authority granted to it or its agents, and shall cause notification thereof to be published in a newspaper authorized by this chapter to publish annual statements of insurance companies, and no new business shall thereafter be done by it or its agents in this state while such default or disability continues, nor until its authority to do business is restored by the commissioner: Provided, however, that unless the ground for revocation or suspension relates only to the financial condition or soundness of the company or to a deficiency in its assets, he shall notify the company not less than ten days before revoking its authority to do business in this state; and he shall specify in the notice the particulars of the supposed violation. The district court of any county, upon petition of said company, brought within the ten days aforesaid, shall summarily hear and determine the question whether such violation has been committed, and shall make any proper order or decree therein, and enforce the same by any appropriate process. If the order or decree is adverse to the petitioning company, an appeal therefrom may be taken to the supreme court; and in the case of such appeal the commissioner may issue his order revoking the right of said petitioning company to do business in this state until the final determination of the question by the supreme court aforesaid. Neither this act nor any proceedings thereunder shall affect any criminal prosecution or proceeding for the enforcement of any fine, penalty or forfeiture. If, upon examination, he is of the opinion that any domestic insurance company is insolvent, or has exceeded its powers or has failed to comply with any provisions of law, or that its condition is such as to render its further proceedings hazardous to the public or to its policyholders, he shall apply to a judge of any district court to issue an injunction restraining it in whole or in part from further proceeding with its business. Such judge may, in his discretion, issue the injunction forthwith or upon notice and hearing thereon, and after a full hearing of the matter may dissolve or modify such injunction or make it perpetual, and make all orders and decrees needful in the premises, and may appoint agents or receivers to take possession of the property and effects of the company, and to settle its affairs, subject to such rules and orders as the court may from time to time prescribe, according to the course of proceedings in equity. Service of process in such proceedings shall be sufficient if made upon any person authorized by such company to write policies or accept premiums. In case any agent shall directly or indirectly make any contract of or for insurance, for or in behalf of

any company not authorized to do business in this state, save as herein otherwise expressly provided, such agent shall be personally liable thereon. (1599)

R. L. § 1598 repealed. See § 3249.

**3261. Notice to restore capital**—Whenever it appears that the capital of any company is impaired to the extent of one-fourth or more, on the basis in this chapter provided, the commissioner shall notify it to repair the same by assessment, and if, within three months after such notice, it shall not satisfy him that it has done so, or reduced it as hereinafter provided, he shall proceed against it as required in § 3260. (1600)

**3262. Notice to cease business**—If the actual funds of a domestic life company are not of a net cash value equal to its liabilities, including the net value of its policies, computed by the rule of valuation hereinafter established, the commissioner shall notify it thereof, and thereafter neither such company nor any of its agents shall issue any new policies until he is satisfied that its funds equal its liabilities, and shall have so notified it. (1601)

**3263. To report violations**—Whenever, upon examination or other evidence or information, it appears to him that any company, or any officer or agent thereof, has violated any provision of this subdivision, he shall report the facts to the governor, who shall cause proper proceedings to be taken in the premises. (1602)

**3264. Unsatisfied judgment**—Whenever a judgment has been rendered by any court in this state against any company holding the commissioner's certificate, and an execution issued thereon has been returned unsatisfied in whole or in part, and a certified transcript of the docket entry and the clerk's certificate of those facts is filed with the commissioner, he shall forthwith revoke its certificate and give one week's published notice thereof. No new certificate shall issue until such judgment has been fully satisfied and proof thereof filed with him, and the expenses and fees incurred are paid. During such revocation neither such company, nor any of its officers or agents, shall issue any new policy, take any risk, or transact any business, except such as is absolutely necessary in closing up its affairs in this state. (1603)

**3265. Computation of net value**—The commissioner shall compute, yearly, the net value on the last day of the preceding year of all outstanding policies in every company authorized to insure lives in this state, calculated upon the basis of the American experience table of mortality, with interest at not exceeding four per cent. per annum. Such net value shall be deemed its liability on account of its unaccrued policy obligations, to provide for which it shall hold funds in authorized investments, approved by the commissioner, to an amount equal to such net value above and free from all other liabilities. In computing such net value, assessment policies, or certificates of any assessment company re-incorporated to transact life insurance business, shall be valued as one-year term policies. In every case in which the actual premium charged is less than the net premium computed as aforesaid, the company shall also be charged with the value of an annuity, the amount of which shall equal the difference, and the term of which in years shall equal the number of future annual payments due on the insurance at the date of the valuation. (1604)

**3266. Valuation in other state**—The commissioner may accept the valuation made by the insurance commissioner of the state under whose authority a life company was organized, whenever such valuation has been made on sound and recognized principles and on the legal basis provided in § 3265, or its equivalent, when furnished with a certificate of such commissioner setting forth such value on the last day of the preceding year. Every such life company which fails to promptly furnish such certificate shall on demand furnish such commissioner detailed lists of all its policies and securities, and shall be liable for all charges and expenses resulting therefrom. (1605)

**3267. Fees for examination—Valuation, etc.**—In case of an examination as provided for in [R. L.] § 1598, the company so examined shall pay all proper charges of such examination. In the case of a valuation of its policies as provided for in § 3265, the company, the outstanding policies of which are so valued, shall also pay all proper charges of such valuation. When any such examination or valuation is made by a person connected with said insurance

department, and receiving a salary from the state, the proper charges so to be paid by the company shall be ten dollars per day for each and every day necessarily occupied by such person in making such examination or valuation. The company shall pay said charges to the insurance department, and it shall account for the same and turn them into the state treasury. But the state shall pay therefrom on proper vouchers all expenses necessarily incurred by said department in making such examinations or valuations. When the person employed to make such examination or valuation is not a salaried employee of said department, the proper charges therefor shall be his reasonable compensation and expenses. The amount thereof shall be determined by the insurance commissioner with the approval of the governor, and a duplicate receipt therefor shall be filed in the office of the insurance commissioner and entered upon the books of said department. (1606)

As to R. L. § 1598, see § 3249.

**3268. Reserve for reinsurance**—To determine the policy liability of any company, other than life or title insurance, and the amount such company shall hold as reserve for reinsurance, the commissioner shall take 50 per cent of the aggregate premiums, on policies running one year or less from date of policy, and a pro rata amount on policies running more than one year from date of policy, except upon inland and marine risks, which he shall compute by charging 50 per cent of the amount of premium written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other inland and marine risks not terminated. In case of any fire and marine company with less than \$200,000 capital, admitted to transact in this state, fire business only, the full amount of premiums written in its marine and inland navigation and transportation policies shall be charged as liability.

In case of a mutual fire insurance company with a policy holders' contingent liability fixed by its by-laws and in its policies as provided by law, to determine the amount of such reinsurance reserve the commissioner shall take twenty-five (25) per cent of the aggregate premiums on policies running one year or less from date of policy, and fifty (50) per cent of the pro rata amount on policies running more than one year from date of policy. A policy for a term of years on which the premium is payable annually, shall be considered a policy for one year.

In case of a casualty insurance company writing insurance against loss or damage resulting from accident, to or injuries suffered by an employé or other person and for which the insured, is liable, and under insurance against loss from liability on account of the death of, or injury to an employé not caused by the negligence of an employer, it shall carry as a liability an additional reserve to provide for the payment of its unpaid losses, the amount of which shall be determined as follows: Each corporation which writes policies covering any of said kinds of insurance shall include in the annual statement a schedule of its experience thereunder, in the United States and foreign countries in the case of corporations organized in the United States, and in the United States only in the case of corporations organized outside of the United States giving each calendar year's experience separately, and crediting or charging each item to the year in which the policy to which it relates was written, as follows: (1) the earned premiums on all such policies written during the period of ten years immediately preceding the date as of which the statement is made, being the gross premiums on all such policies including excess and additional premiums and premiums in course of collection, less return premiums and premiums on canceled policies, and less the unearned premiums on policies in force as shown in such annual statement; (2) the amount of all payments of whatsoever nature made, by reason or on account of injuries covered by such policies written during said period. This amount shall include medical and surgical attendance, payments to claimants, legal expenses, salaries and expenses of investigators, adjusters, and field men, rents, stationery, telegraph and telephone charges, postage, salaries and expenses of office employees, home-office expenses, and all other payments made on account of such injuries, whether such payments are allocated to specific claims or are unallocated; (3) the number of suits being defended at the date as of

which the statement is made under policies written during said period, except suits in which liability is not dependent upon negligence of the insured, and a charge of seven hundred and fifty dollars for each suit; (4) the number of deaths for which the insured are liable without proof of negligence, covered by policies written during said period, and not paid for at the date as of which the statement is made and a charge of the amount necessary to pay for such deaths; (5) the number of unpaid claims at the date as of which the statement is made on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written during said period, and a charge equal to the present value of the estimated future payments; (6) the loss ratio determined from the foregoing as to each year separately using as the divisor the earned premiums shown in item (1) and as the dividend the amount of payments shown in item (2) plus the amounts charged in items (3), (4), and (5); (7) the number of suits being defended at the date as of which the statement is made under policies written more than ten years prior to such date, except suits in which liability is not upon negligence of the insured; (8) the number of deaths for which the insured are liable without proof of negligence, covered by policies written more than ten years prior to the date as of which the statement is made, and not paid for at such date; (9) the number of unpaid claims at the date as of which the statement is made on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written more than ten years prior to such date.

All unallocated payments in item (2) made in a given calendar year subsequent to the first four years in which a corporation has been issuing such policies shall be distributed as follows: thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, ten per centum to the policies written in the second year preceding, ten per centum to the policies written in the third year preceding, and five per centum to the policies written in the fourth year preceding, and such payments made in the first four calendar years in which a corporation has been issuing such policies shall be distributed as follows: in the first calendar year one hundred per centum shall be charged to the policies written in that year, in the second calendar year fifty per centum shall be charged to the policies written in that year and fifty per centum to the policies written in the preceding year, in the third calendar year forty per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, and twenty per centum to the policies written in the second year preceding, and in the fourth calendar year thirty-five per centum shall be charged to the policies written in that year, forty per centum to the policies written in the preceding year, fifteen per centum to the policies written in the second year preceding, and ten per centum to the policies written in the third year preceding, and a schedule showing such distribution shall be included in such annual statement.

Each such corporation shall be charged with indebtedness for outstanding losses upon such policies determined as follows: (10) for all suits being defended under policies written more than ten years prior to the date as of which the statement is made, except suits in which liability is not dependent upon negligence of the insured, one thousand dollars for each suit; (11) for all suits being defended under policies written more than five years and less than ten years prior to the date as of which the statement is made, except suits in which liability is not dependent upon negligence of the insured, seven hundred and fifty dollars for each suit; (12) for all deaths for which the insured are liable without proof of negligence, covered by policies written more than five years prior to the date as of which the statement is made, the amount necessary to pay for such deaths; (13) for all unpaid claims on account of non-fatal injuries for which the insured are liable without proof of negligence under policies written more than five years prior to the date as of which the statement is made, the present value of the estimated future payments; (14) for the policies written in the five years immediately preceding the date as of which the statement is made an amount determined as follows: multiply the earned premiums of each of such five years as shown in item (1) by the loss ratio ascertained as in item (6) on all the policies written in the first five years of the said ten year period using as the

divisor the sum of the earned premiums shown in item (1) for such first five years; and as the dividend the sum of the payments shown in item (2) for such first five years plus the sum of the charges in items (3), (4), and (5) for such first five years but the ratio to be used shall in no event be less than fifty per centum at and after December 31, 1911, nor less than fifty-one per centum at and after December 31, 1912, nor less than fifty-two per centum at and after December 31, 1913, nor less than fifty-three per centum at and after December 31, 1914, nor less than fifty-four per centum at and after December 31, 1915, nor less than fifty-five per centum at and after December 31, 1916, and from the amount so ascertained in each of the last five years of said ten-year period deduct all payments made under policies written in the corresponding year as shown in item (2), and the remainder in the case of each year shall be deemed the indebtedness for that year, provided, however, that if the remainder in the case of any year of the first three years of the five years immediately preceding the date as of which the statement is made shall be less than the sum of the three following items for that year at that date—(a) the number of suits, except suits in which liability is not dependent upon negligence of the insured, being defended under policies written in that year and a charge of seven hundred and fifty dollars for each suit, (b) the amount necessary to pay for all deaths for which the insured are liable without proof of negligence, covered by policies written in that year, and (c) the present value of estimated unpaid claims on account of non-fatal injuries for which the insured are liable without proof of negligence, covered by policies written in that year—then the sum of said items (a), (b), and (c) shall be the indebtedness for that year.

A corporation which has been issuing such policies for a period of less than ten years shall nevertheless include in its annual statement, a schedule as hereinbefore required for the years in which it shall have issued such policies, and shall be charged with an indebtedness determined in the same manner, but in determining the indebtedness for policies written in the five years immediately preceding the date as of which the statement is made, the minimum ratios hereinbefore prescribed shall be used subject to the same deductions and provisions as in the case of corporations that have been issuing such policies for ten years or more. (R. L. § 1607, amended '07 c. 321; '11 c. 315 § 1)

**3269. What assets admissible**—In valuing the assets which compose the legal reserve of a life company, its real estate, stocks, and bonds shall be so rated that the average annual income thereof shall not be less than three per cent., and if any asset produces less it shall be rated at its value upon a three per cent. basis. Loans and credits shall not be allowed for more than their face value, nor shall any asset be appraised for more than its market value. Only such assets shall be allowed as are available for payment of losses in this state; but any deposit or fund set apart as security for a particular liability may be set off to an amount not exceeding such liability. The amount of any interest bearing lien against any policy or loan thereon, not exceeding the net value or premium reserve of such policy, computed under the provisions of this chapter, may likewise be allowed against liability thereunder. Stockholders' obligations of any description shall not be rated as part of the assets of any company, unless secured by sufficient approved collateral. (1608)

**3270. Increase or decrease of capital**—Upon application, the commissioner shall examine the proceedings of any domestic company to increase or reduce its capital stock, and when found conformable to law shall revoke the old and issue a new certificate of authority to such company to transact business upon such increased or reduced capital. (1609)

**3271. Accounts of assignees, etc.**—The commissioner or his deputy, annually, or oftener when deemed necessary, shall examine the transactions and accounts of all assignees and receivers of insolvent companies, and also the accounts of such assignees or receivers referred to him under the provisions of this chapter, and in each case shall make report thereof to the court. For this purpose, he or his deputy shall have free access to the official papers of such assignees or receivers relative to their transactions, and may examine them under oath as to all matters connected therewith. Whenever in his

opinion any assignee or receiver has violated his official duty, or further proceedings to collect an assessment will not afford substantial relief to creditors, he shall report the facts to the court. (1610)

**3272. Fees**—Domestic and foreign companies shall pay to the commissioner fees as follows:

1. Domestic companies: For filing certificates of incorporation and accompanying documents, twenty dollars.

For filing annual statement, ten dollars.

For each certificate, including certified copy of authority, renewal, valuation of life policies, corporate condition, or qualification, one dollar.

2. Foreign companies: For filing certificate, copy of charter, or certificate of incorporation and by-laws, thirty dollars.

For filing statement of its financial condition, twenty dollars.

Each agent's certificate of authority, one dollar.

Receiving and filing each annual statement, twenty dollars.

3. For each copy of paper on file in his office, twenty cents per folio and one dollar for certifying the same.

4. For license to procure fire insurance in unadmitted foreign company, ten dollars.

5. Township mutual companies: For filing articles of incorporation, two dollars.

For filing each annual statement, one dollar.

For issuing certificate of authority and each annual renewal thereof, one dollar.

6. Brokers: For each certificate of authority to act as an insurance broker, ten dollars.

All the foregoing fees shall be paid in the first instance to the insurance commissioner, and by him shall be accounted for and turned into the state treasury. (1611)

See § 3248.

**3273. Report to governor**—The annual report of the commissioner shall include a statement of the receipts and expenditures of his department, a statement of the financial condition and business transactions of the several insurance companies doing business in the state, as disclosed by official examinations and by their annual statements, abstracts of such statements, the valuation of life policies, the condition of the receiverships of insolvent companies, and such other information as he thinks proper. (1612)

**3274. Deposits of securities**—He shall receive and hold in official trust deposits made by any domestic company in compliance with the laws of any other state, to enable it to do business in such state, and in like manner hold deposits made by a foreign company under any law of this state. The company making such deposit shall be entitled to the income thereof, and from time to time, with his consent, when not inconsistent with the law under which it was made, may exchange, in whole or in part, the securities composing such deposit for other approved securities of equal value. Upon application by any such domestic company, he may return the whole or any portion of the securities so deposited by it, if satisfied that they are subject to no liability. Upon like application, he may return to a foreign company any deposit made by it whenever it appears that such company has ceased to do business in this state or the United States, and he is satisfied that it is not subject to any liability in this state, or upon the order of any court of competent jurisdiction. A foreign company which has made such deposit, its trustees, receiver, resident manager, or any creditor or policyholder thereof, may at any time institute in the district court of Ramsey county an action against the state and other proper parties to enforce or terminate the trust created by such deposit. The commissioner shall immediately notify the governor of such action, and furnish the necessary information to answer in behalf of the state, and shall carry out such order and decree as the court shall make therein. (1613)

**3275. Sale of certain securities—Companies included**—Every corporation, company, co-partnership or association, all of which are in this act termed

company, organized, proposed to be organized, or which shall hereafter be organized, within or without this state, whether incorporated or unincorporated, doing or intending to do an insurance business, or selling or holding, or intending to sell or hold, any stocks, bonds or other evidences of property or interest in any other company organized, proposed to be organized, or which shall hereafter be organized to transact the business of insurance, which shall in this state sell or negotiate for the sale of any stocks, bonds or other evidences of property or interest in itself or any other company, all of which are in this act termed securities, upon which sale or proposed sale the whole or any part of the proceeds are used, or to be used, directly or indirectly, for the payment of any commissions or other expenses incidental to the organization or promotion of any such company, shall be subject to this act. ('13 c. 385 § 1)

**3276. Same—Documents to be filed with commissioner before sale, etc.—Fees—**Before offering or attempting to sell any such securities to any corporation, person or persons and before doing or offering to do any business whatever in this state, excepting that of preparing the documents hereinafter required, every such company, domestic or foreign, shall file in the office of the commissioner of insurance of this state, together with a filing fee of thirty dollars (\$30.00), the following documents, to-wit:

(1) A statement showing in full detail the plan upon which it proposes to transact business.

(2) A copy of all applications for securities and forms of contracts, securities, and other instruments which it proposes to take, enter into, sell or execute.

(3) A statement which shall show the name of officers and location of the principal office of the company.

(4) An itemized account of its actual financial condition, and the amount and nature of its property and liabilities.

(5) Such other information and in such form touching its affairs as said commissioner of insurance may require.

If it shall be a company organized under the laws of any other state, territory or government, it shall also file with the said commissioner of insurance a copy of the laws of such state, territory or government under which it is organized or incorporated, and also a copy of its charter, or articles of incorporation, all amendments thereof, and a certificate of the proper officer of such foreign state, territory or government that it is authorized to do business therein; its constitution and by-laws and all amendments thereof which have been made, and all other papers pertaining to its organization. ('13 c. 385 § 2)

**3277. Same—Foreign companies—Appointment of attorney—Fees—Process—**Before any foreign company is licensed to sell securities in this state, it shall, by a duly executed instrument, to be filed in the office of the proper commissioner of insurance, constitute and appoint the said commissioner of insurance and his successor in office its true and lawful attorney in fact, and therein irrevocably agree that summonses and lawful processes in any action or proceeding against it may be served upon him with the same force and effect as if personally served upon it, so long as any of its liability exists in this state, and the authority thereof shall continue in force irrevocably.

Said instrument shall contain a provision and agreement declaring that such company desires to sell such securities in this state and that it will accept a license therefor according to the laws of this state, and that it will not remove or make application for removal into any court of the United States any action or proceeding commenced in any court of this state upon a claim or cause of action arising out of any business or transaction done therein.

In case of the failure of any such company to comply with any of the provisions of this section, or if it shall violate any of the conditions or agreements contained in the instrument filed as aforesaid, its right to sell securities in this state shall cease, and it shall be the duty of the commissioner of insurance to immediately revoke its license; and in case of such revocation said company shall not be again licensed for the period of one year from date of such revocation.

The commissioner of insurance shall be entitled to charge and receive a fee of two dollars (\$2.00) for each summons or other process served upon him under the provisions of this act, to be paid by the person serving the same. The fees so collected shall be paid into the state treasury as is now provided for by law for other fees collected by such commissioner of insurance.

Summons and process served on the commissioner of insurance shall be in duplicate, one for filing in the office of the commissioner of insurance, the other to be mailed to the company to be served. Summons and process so served shall be of the same force and effect as though served on the company personally. ('13 c. 385 § 3)

**3278. Same—Advertisements, etc.**—No advertisement, pamphlet, circular or other document relative to such securities or the financial condition of such company shall be issued, circulated or delivered by such company, or its agent, within this state, unless the same shall bear a serial number and a copy thereof shall first have been filed with such commissioner of insurance. ('13 c. 385 § 4)

**3279. Same—Contract of subscription—Deposit of funds**—No person, for the purpose of organizing or promoting any company, or promoting the sale of securities of such company by it after organization as principal or agent, shall sell or agree or attempt to sell within this state any securities of such company unless the contract of subscription or of sale shall be in writing and contain a provision which shall state either by way of a percentage (or the amount per share) what sum out of the purchase price of such securities shall be used for commission, promotion and organization expenses, and shall be in the following language:

No sum shall be used for commission, promotion and organization expense on account of any share of stock in this company in excess of \_\_\_\_\_ per cent of the amount actually paid upon separate subscriptions (or in lieu thereof, there may be inserted, \$\_\_\_\_\_ per share from every fully paid subscription) for such securities, and the remainder of such payments shall be held or invested as authorized by the law governing such company and held by the organizers (or trustees as the case may be), and the directors and officers of such company after organization, as bailees for the subscriber, to be used only in the conduct of the business of such company after having been duly authorized and licensed to transact the business of insurance.

Funds held by such organizers, trustees, directors or officers of a domestic company as bailees shall be deposited with a solvent bank or trust company of this state until such company has been duly licensed to transact the business of insurance. Funds held by such organizers, trustees, directors or officers of a foreign company as bailees shall be deposited with a solvent bank or trust company of any other state until such company has been duly licensed to transact the business of insurance.

All funds so deposited by the organizers (or trustees) as bailees, shall be held in trust for the subscribers of such company severally and individually, and shall not be subject to execution, garnishment or attachment. ('13 c. 385 § 5)

**3280. Same—Agents for sale, etc.**—No person shall receive, directly or indirectly, any commission, remuneration or reward for his services in selling or in aiding in the sale of any such securities, unless the name of such person and the fact of his interest in such commissions or rewards shall appear upon such contract of subscription. The omission of such statement from any such contract shall, in addition to the penalty herein provided, make such person liable to the purchaser or his assignees for all sums paid by such purchasers with interest at the legal rate from the date of payment, upon the assignment or tender of assignment of the securities so purchased. ('13 c. 385 § 6)

**3281. Same—Powers of commissioner—License**—The said commissioner of insurance shall have power to make such examinations of said company at its expense, including actual expenses and a per diem of the examiners of ten dollars, and to require such further information as to its financial condi-

tion as he may deem advisable, and if he shall find that the provisions of this act have been complied with and is satisfied that the said company is solvent, and that its business is lawful, he may license the said company, its officers and agents to sell its securities in this state. No such company or representative thereof shall sell or offer to sell any securities within this state unless a license shall have been issued to such company, and to each officer and agent thereof authorized to sell or contract for the sale of its securities. Such license shall recite in bold type that the said commissioner of insurance in no wise recommends the securities to be offered for sale by such company. ('13 c. 385 § 7)

**3282. Same—Changes in company to be filed with commissioner, etc.—**No such company shall sell or offer to sell any securities within this state during any time after the adoption of any change in its articles of organization, by-laws or plan of doing business, or the making of any change in the form of its applications, or other contracts, before the same shall have been filed with such commissioner of insurance. ('13 c. 385 § 8)

**3283. Same—Issue of licenses, etc.—**No person shall sell or offer to sell any securities in this state, as officer of or agent for such company, unless such company shall hold a license therefor, issued by such commissioner of insurance; nor shall any officer or agent sell or offer to sell any securities in this state unless he shall also hold a license from such commissioner of insurance. A license to an officer or agent shall only be issued upon the filing with such commissioner of insurance by such officer or agent of a bond in the sum of one thousand dollars, (\$1,000.00), with such conditions as may be prescribed by such commissioner of insurance and with two sureties to be approved by such commissioner of insurance. Such license shall expire on the first day of March following its issuance, unless it shall sooner be revoked by the said commissioner of insurance. Such license shall be subject to revocation at any time by the said commissioner of insurance for cause appearing to him sufficient. The fee for such license shall be two dollars (\$2.00). ('13 c. 385 § 9)

**3284. Same—Annual statements, etc.—Accounts—**Every such company shall on or before the first day of March, file with such commissioner of insurance a statement as of the 31st day of December preceding, in such form as required by him, and in addition thereto such other statements and information shall be filed in such form and within such time as may be required by such commissioner of insurance.

The accounts of such company shall be kept in such form as may be required by such commissioner of insurance. ('13 c. 385 § 10)

**3285. Same—False statements, etc.—**No officer, employee or agent of any such company shall make or cause to be made any false statement in any report required of him, or a false entry in any book of such company, or exhibit any false paper with the intent to deceive any person authorized to examine into the affairs of such company, or shall make or publish any false statement of its condition or regarding its securities. ('13 c. 385 § 11)

**3286. Same—Revocation of license—**The license of any company, officer or agent violating any provision of this act may be revoked by such commissioner of insurance. ('13 c. 385 § 12)

**3287. Same—Penalty for violation—**Any officer or agent of any such company knowingly or wilfully violating any provision of this act shall be punished by a fine not exceeding one hundred dollars (\$100.00) or by imprisonment in the county jail for not exceeding ninety (90) days. ('13 c. 385 § 13)

**3288. Same—Disposition of fees—Clerks, deputies, etc.—**All fees herein provided for shall be collected by the said commissioner of insurance and by him shall be turned into the state treasury, and all fees so turned into the state treasury are hereby re-appropriated to the said commissioner of insurance for the purpose of paying all salaries and expenses necessary for carrying this act into effect; and the said commissioner of insurance is hereby authorized to appoint such clerks and deputies as are actually and absolutely necessary to carry this act into full force and effect. All money actually and necessarily paid out by the said commissioner of insurance to any

clerk or deputy appointed under this act, as salaries, or any money actually and necessarily paid out by the said commissioner of insurance, or by any deputy or clerk appointed under this act for traveling or incidental expenses shall be paid by the state treasurer out of such fees upon the state auditor's warrants, to be issued upon vouchers containing an itemized account of such salaries and expenses, and approved by the commissioner of insurance. ('13 c. 385 § 14)

**3289. Same—Foreign companies—License—**No person shall sell or offer for sale in this state stock in any insurance company organized under the laws of any other state or country unless such company has been licensed to do business in this state. ('13 c. 385 § 15)

#### PROVISIONS COMMON TO ALL COMPANIES

**3290. Corporate name—Advertisements—**Every company, domestic or foreign, shall conduct its business, display all signs and advertisements, and issue all policies, circulars, and other documents and publications in this state in its own corporate name, and every foreign company shall state conspicuously upon a sign at each agency the state or country of its organization. Whenever a company publishes its assets, it shall in the same connection, and with equal conspicuousness, publish its liabilities, computed on the basis allowed for its annual statements; and any publication purporting to show its capital shall state only the amount thereof which has been actually paid in cash. (1614)

**3291. Real estate—**The real estate acquired or held by any domestic company for the convenience and accommodation of its business shall not exceed in value twenty-five per cent. of its cash assets; nor shall any foreign company acquire or hold for like purposes real property in this state in greater proportion. All other real estate shall be disposed of within five years after title thereto is acquired, unless the company obtains a certificate from the commissioner that its interests will be materially prejudiced by such sale, and extending the time to a date named, and then within the time so specified. (1615)

**3292. Policy to embrace conditions—**A statement in full of the conditions of insurance shall be incorporated in or attached to every policy, and neither the application of the insured nor the by-laws of the company shall be considered as a warranty or a part of the contract, except in so far as they are so incorporated or attached. (1616)

Conditions in application not in policy inoperative. Policy alone constitutes the contract. Description of property in policy not limited by description in application (77-31, 79+588; 92-234, 236, 99+892).

Benevolent fraternal associations are not included (107-12, 119+425).

1895 c. 175 § 52 did not authorize parties to modify or add to statutory form (99-190, 108+871).

See note under § 3318.

**3293. Reinsurance—Reports—Penalty—**If any company other than life shall, directly or indirectly, effect the reinsurance of any risk taken by it, or any part thereof, it shall make a sworn report thereof to the commissioner, at the time of filing its annual statement, or at such other time as he may request. No fire company shall insure or reinsure in a single risk a larger sum than one-tenth of its assets. Every company effecting any reinsurance in violation of the foregoing provision, and every agent effecting or negotiating the same, shall severally be guilty of a misdemeanor. (R. L. § 1617; amended '07 c. 321 § 1)

**3294. Annual statement—**Every fire company shall transmit to the commissioner annually, on or before February 1, and every other company on or before February 15, unless for good cause shown, the commissioner extends the time within which any such statement may be filed to March 1, upon blanks furnished by him, a verified statement of its entire business and condition, during the preceding calendar year, including, in case of a fire company, the amount of premiums received in each municipality, having an organized, or a partly paid, or a voluntary fire department, but limited in case of a foreign company, except one engaged in life insurance, to its business

and condition in the United States. Such statements shall also contain, in a separate verified schedule, all details required by law for assessment, for taxation. If approved by the commissioner, a summary of such statement, prepared by the commissioner, together with his certificate of approval, shall be published, and proof of publication filed with him before May 1 following, in default whereof he shall have such publication and proof made at the expense of the company. Upon the approval of such statement the commissioner shall issue a renewal license for the succeeding year beginning on said March 1. In the case of a domestic mutual company, such license shall not be effective until filed for record with the register of deeds and shall contain a condition to that effect. Any license to a company or its agent, issued after the approval of said statement, shall expire March 1 of the year following. No company or agent thereof shall transact any new business in this state after March 1 in any year unless it shall have previously transmitted such statement to the commissioner; but no fraternal beneficiary association, nor any social corporation paying only "sick benefits" not exceeding two hundred and fifty dollars in any one year or "funeral benefits," or aiding those dependent on a member not more than three hundred and fifty dollars, nor any subordinate lodge or council which is, or whose members are, assessed for benefits which are payable by a grand body, shall be required to make such statement. (R. L. § 1618, amended '07 c. 11 § 1)

1907 c. 11 § 2 repeals 1905 c. 248.

Indictment for perjury in verifying statement (78-311, 81+3).

**3295. Place of publication**—The publication required by section 1618 shall be made in the place of the company's home office, if within the state, otherwise in each of the three most populous counties of the state, and in all cases at least three times, and in a daily newspaper, conforming to the requirements of section 5515, Revised Laws 1905 [9413], which will accept and publish such advertisement, at the rates prescribed by law for legal publications, if there be one, but if not, then in a weekly newspaper having a general circulation in the county of its publication. Such newspaper shall be entitled to charge and receive for such publication not to exceed the rate prescribed by law for legal publications. (R. L. § 1619, amended '07 c. 61 § 1)

1907 c. 61 § 2 repeals 1905 c. 248 and other inconsistent acts, etc.

**3296. Annual report—Additional matters**—In addition to any other matter which may be required by law or pursuant to law by the commissioner of insurance to be stated therein, every annual report of every life insurance company doing business in this state, shall contain an accurate, concise and complete statement of the following matters, to-wit: (1) All the real property held by the company, the dates of acquisition, the names of the vendors, the actual cost, the value at which it is carried on the company's books, the market value, the amounts expended during the year for repairs and improvements, the gross and net income from each parcel, and if any portion thereof be occupied by the company, the rental value thereof, a statement of any certificate issued by the commissioner extending the time for the disposition thereof, and all purchases and sales made since the last annual statement, with particulars as to dates, names of vendors and vendees, and the consideration. (2) The amount of existing loans upon the security of real property, stating the amount loaned upon property in each state and foreign country. (3) The moneys loaned by the company to any person other than loans upon the security of real property above mentioned and other than loans upon policies, the actual borrowers thereof, the maturity and rate of interest of such loans, the securities held therefor, and all substitutions of securities during the current year in connection therewith, and the same particulars with reference to any loans made or discharged since the last annual statement. (4) All other property owned by the company or in which it has interest (including all securities, whether or not recognized by the law as proper investments), the dates of acquisition, from whom acquired, the actual cost, the value at which the property is carried upon the books, the market value, the interest or dividends received thereon during the year; also all purchases and sales of property other than real estate made since the last annual statement, with par-

particulars as to dates, names of purchasers and sellers, and the consideration; and also the income received and outlays made in connection with all such property. (5) All commissions paid to any person in connection with loans or purchases or sales of any property, and a statement of all payments for legal expenses, giving particulars as to dates, amounts and names and addresses of payees. (6) All moneys expended in connection with any matter pending before any legislative body or any officer or department of government, giving particulars as to dates, amounts, names and addresses of payees, the measure or proceeding in connection with which the payment was made, and the interest of the company therein. (7) The names of the officers and directors of the company, the proceedings at the last annual election, giving the names of candidates and the number of votes cast for each and whether in person, by proxy or by mail. (8) The salary, compensation and emoluments received by officers or directors, and where the same amounts to more than five thousand dollars, that received by any person, firm or corporation, with particulars as to dates, amounts, payees and the authority by which the payment was made; also all salaries paid to any representative, either at the home office, or at any branch office, or agency, for agency supervision. (9) The largest balances carried in each bank or trust company during each month of the year. (10) All death claims resisted or compromised during the year, with particulars as to sums insured, sums paid and reasons assigned for resisting or compromising the same in each case. (11) A complete statement of the profits and losses upon the business transacted during the year and the sources of such gains and losses, and a statement showing separately the margins upon premiums for the first year of insurance and the actual expenses chargeable to the procurement of new business insured since the last annual statement. A foreign company issuing both participating and non-participating policies, shall make a separate statement of profits and losses, margins and expenses, as aforesaid, with reference to each of said kinds of business, and also showing the manner in which any general outlays of the company have been apportioned to each of such kinds of business. (12) A statement separately showing the amount of the gains of the company for the year attributable to policies written after Dec. 31st, 190. . and the precise method by which the calculation has been made. (13) The rates of annual dividends declared during the year for all plans of insurance and all durations and for ages at entry, twenty-five, thirty-five, forty-five and fifty-five, and the precise method by which such dividends have been calculated. (14) A statement showing the rates of dividends declared upon deferred dividend policies completing their dividend periods for all plans of insurance and the precise methods by which said dividends have been calculated. (15) A statement showing any and all amounts set apart or provisionally ascertained or calculated or held awaiting apportionment upon policies with deferred dividend periods longer than one year for all plans of insurance and all durations and for ages of entry as aforesaid, together with the precise statement of the methods of calculation by which the same have been provisionally or otherwise determined. (16) A statement of any and all reserve or surplus funds held by the company and for what purpose they are claimed respectively to be held. ('07 c. 243 § 1)

Section 2 repeals inconsistent acts, etc.

3297. Agents and brokers—License—Revocation, etc.—Whosoever, not being the appointed agent or officer of the insuring company, for compensation acts for or in any manner aids another in effecting insurance or reinsurance, shall be deemed an insurance broker; but no person shall act as such except as hereinafter provided. The commissioner, upon payment of the prescribed fee, may issue to any person a license to act as an insurance broker for one year, unless revoked, to effect insurance and reinsurance with any authorized company. Whenever it appears to the commissioner of insurance upon due proof, after hearing, upon such notice as he may direct, that any such licensee has unreasonably failed to pay over to the company or agent entitled thereto the whole or any part of any premium collected by him, or has been guilty of misrepresentation, fraud, deceit, dishonesty or of any vio-

lation of any of the provisions of the insurance law or any lawful ruling of the commissioner of insurance, the commissioner shall revoke his license and give notice thereof in such manner as he deems will best protect the public. No commission shall be paid by any person, firm or corporation to any person who assumes to act as an insurance broker without a license therefor. (R. L. § 1620, amended '13 c. 514 § 1)

94-86, 102+213; 104-76, 116+221, 124 Am. St. Rep. 608.

**3298. Liability of officers**—No director or other officer of any company shall either officially or privately guarantee a policy holder thereof against an assessment to which he would otherwise be liable. Whenever the directors of any company fail for thirty days after entry of any judgment, or for six months after the accruing of any other indebtedness against it, to levy and deliver for collection any assessment required by law for payment thereof, or to apply the proceeds thereof in either case, each shall be personally liable for the amount thereof, and for all debts and claims then outstanding or which may accrue until such assessment shall be levied and put in process of collection. Whenever the treasurer unreasonably fails to collect and properly apply the proceeds of any such assessment he shall be personally liable, not exceeding the total assessment, to any person entitled thereto, and shall be repaid only out of funds thereafter collected thereon. (1621)

**3299. Compensation of person accepting risks**—No officer or other person employed to determine the character of a risk, and decide the question of its acceptance by any mutual fire company, other than a town or farmers' company, shall receive a commission or other payment therefrom, but his compensation shall be by fixed salary and such share, if any, of the net profits as the directors may determine; and such officer or person shall not be an employee of any other officer or agent of the company, nor interested in his business. (1622)

**3300. Misrepresentation by applicant**—No oral or written misrepresentation made by the assured, or in his behalf, in the negotiation of insurance, shall be deemed material, or defeat or avoid the policy, or prevent its attaching, unless made with intent to deceive and defraud, or unless the matter misrepresented increases the risk of loss. (1623)

71-338, 73+849; 77-474, 480, 80+630; 90-264, 95+1118; 94-293, 102+715.

**3301. Receivers—Accounts—Deposit of records**—All accounts of receivers or assignees of insolvent companies rendered to the district court shall be referred to the commissioner, before allowance, for examination and report thereon, and at the completion of their duties they shall deposit with him all books, records, and papers relating to such insolvency. (1624)

**3302. Taxation—Salvage corps**—Every domestic and foreign company, except town and farmers' mutual insurance companies, shall pay to the state treasurer on or before March 1st, annually, a sum equal to two per cent of the "gross" premiums less return premiums "on all direct business" received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year. In the case of every domestic company such sums shall be in lieu of all other taxes, except those upon real property, owned by it in this state, which shall be taxed the same as like property of individuals, and in the case of every foreign company such sums shall be in lieu of all other taxes, except those upon real and personal property owned by it in this state, which shall be taxed the same as like property of individuals, and except that in addition thereto, every foreign fire company doing business in any city wherein a salvage corps has been established pursuant to law for which such company or its agents for it are not otherwise subject to taxation, shall at the same time pay to the treasurer of the duly authorized board of underwriters therein a tax equal to two per cent of the gross amount of premiums received by it, or for it, in such city, which shall be used by such board for the equipment and maintenance of such corps. The provisions of this section shall not apply to any domestic mutual company insuring its members against loss or damage by fire, lightning, tornado, hail or cyclone, or loss of live stock from disease or accident, which pays as salary and compensation

to any one officer or member in any year no more than the aggregate sum of one thousand dollars. (R. L. § 1625, amended '07 c. 321 § 1)

The 2 per cent. paid on premiums by a foreign insurance company is not a tax on gross earnings. Its property within the state is taxable like property of individuals (104-179, 116+572).

See note under § 2303.

### CERTAIN MUTUAL COMPANIES

**3303. Membership—Meetings—Notice—**Every policyholder in a mutual fire, hail, tornado, cyclone and hurricane insurance company shall be a member thereof while his policy is in force, and entitled to one vote for each policy he holds, and shall be notified of the time and place of holding its meetings, either personally or by imprint upon the back of every policy, receipt, and certificate of renewal, substantially as follows, viz.: "The beneficiary hereunder is hereby notified that he is a member of the .....!.... Insurance Company, and that its annual meetings are held at its home office in the ..... (town or city) of ....., on the ..... day of ..... in each year, at ..... o'clock, ....m." (1626)  
90-9, 11, 95+579.

**3304. Premiums—Contingent liability—**Every mutual fire company shall charge and collect on each policy a premium, in cash, or in notes absolutely payable, or it may accept a deposit of cash equal to one year's premium on the policy issued, and while such deposit remains intact collect all future premiums on such policy by assessments thereon, and shall also provide in its by-laws, and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. Such contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium, nor more than a sum equal to five times the amount of such annual premium or, in case of a policy written for less than one year, the contingent liability shall not exceed the amount of premium written in the policy. The total amount of the liability of the policy-holder shall be plainly and legibly stated upon each policy. Whenever any reduction shall be made in the contingent liability of members, such reduction shall apply proportionally to all policies in force. Provided that mutual fire insurance companies maintaining a full fifty (50) per cent reinsurance reserve and having a fully paid in and unimpaired guaranty fund of not less than \$100,000, may issue policies without a contingent liability; but the fact that there is no such contingent liability must be plainly and legibly stated in such policies. (R. L. § 1627, amended '07 c. 321 § 1)

87-392, 92+227; 90-9, 11, 95+579.

**3305. Requirements when note given—**Except as provided in section 3304, whenever a note or other written evidence of indebtedness is given for any premium due, or to become due upon any insurance of property, except marine, the same shall be full payment therefor and operate to continue the same in full force during the term thereof, except that when any such note or written evidence of indebtedness is not paid at maturity, the policy for which the same was premium in whole or in part may be cancelled upon notice and in same manner as though said premium was paid in cash and the surrender of said note or other written evidence of indebtedness shall constitute a return or payment of the unearned portion of premium, and in such event the parties liable on such note or evidence of indebtedness shall be liable for and shall pay the premium earned prior to such cancellation, and no more. Provided further, that in case of any cancellation of a policy, any note or notes, or written evidence of indebtedness, given for whole or part of the premium thereon, may be by insurer returned to the insured in lieu of cash to the extent of the unpaid amount thereof plus accrued interest. No note given for premiums or deposit for assessment or both, or for any part of either, shall be negotiable, and every assignment thereof shall be subject to all existing defenses. Nor shall any such notes be valid for any purpose unless the words "not negotiable" are plainly and legibly written or printed across the face thereof. (R. L. § 1628, amended '07 c. 321 § 1)

**3306. Provisions as to policies lapsing**—Any mutual company insuring property may provide by its certificate or by-laws that upon failure by any member for sixty days after notification thereof to pay any premium or assessment made upon his policy such policy shall lapse and become void without notice or further act by or on behalf of the company. Such condition shall be plainly and legibly specified in each policy. Whereupon such company may recover the amount of earned premium or assessment, or both, but no more. Nothing herein contained shall prevent the reinstatement of such lapsed policy by voluntary acceptance of any delinquent assessment before suit. (1629)

Mutual fire insurance companies may waive by-law made pursuant to this section (112-418, 128+462).

**3307. Assessments, when and how made**—Whenever the net assets of any mutual insurance company are insufficient for the payment of incurred losses and expenses above its reinsurance reserve, as provided by law, it shall make an assessment for the amount required ratably upon its members liable thereto. The order for assessment shall be duly entered upon its records, with a statement of its condition at the date thereof, including all cash assets, deposit notes, and contingent amount liable to such assessment, the amount of the assessment, and the particular losses or other liabilities for which it is made. Such records shall be signed by each director voting for the order before any part of the assessment is collected, and any person liable thereto may inspect and take a copy thereof. (R. L. § 1630, amended '07 c. 321 § 1)

**3308. Same—Guaranty fund**—Whenever, by reason of depreciation, loss, or otherwise, the net assets after providing for other debts, are less than the required premium reserves upon policies, the deficiency shall be restored by assessment as above provided, notice of which shall be filed with the commissioner. Whenever the board of directors, or the commissioner, shall be of the opinion that the insolvency of any company is probable, such board, or upon their failure so to do, the commissioner, may order two assessments made, the first to determine what each policy holder should equitably pay or receive in case of withdrawal from the company and cancellation of his policy; the second, such further sum as each should pay to reinsure the unexpired term at the same rate as the first insurance. The directors shall forthwith cause written notice and demand of payment to be served personally or by mail upon each policy holder subject thereto. After adjustment of the first assessment, every policy upon which the second assessment shall not be paid shall be cancelled; but in no case shall there be credited upon a policy more than if cancelled by the board of directors under the by-laws. If within two months after the last assessment is payable, the amount of the policies whose holders have paid the same is less than five hundred thousand dollars, all other policies shall be void, and the company shall continue only for the purpose of adjusting the deficiency or excess of premiums and settling outstanding claims. No assessment shall be valid against a policy holder who has not been duly notified thereof in writing within one year after the expiration or cancellation of his policy. A mutual fire insurance company may be formed with, or an existing fire insurance company may establish a guaranty fund divided into certificates of ten dollars each, or multiples thereof, and such guaranty fund shall be invested in the same manner as is provided for the investment of capital stock of insurance companies. The certificate holders of such guaranty fund shall be entitled to an annual dividend of not more than ten per cent on their respective certificates, if the net profits or unused premiums left after all losses, expenses or liabilities, then incurred, with reserves for reinsurance, are provided for, shall be sufficient to pay the same; and if the dividends in any one year are less than ten per cent, the difference may be made up in any subsequent year or years from the net profits. The guaranty fund shall be applied to the payment of losses and expenses when necessary, and if the guaranty fund be impaired, the directors may make good the whole or any part of such impairment from future profits of the company, but no dividend shall be paid on guaranty fund certificates while the guaranty is impaired. The holder of the guaranty fund certificates

shall not be liable for any more than the amount of his certificate which has not been paid in and such amount shall be plainly and legally stated on the face of the certificate. Each certificate holder of record shall be entitled to one vote in person or by proxy in any meeting of the members of the company for each ten dollars invested by him in guaranty fund certificates. The guaranty fund may be reduced or retired by vote of the policyholders of the company and the assent of the insurance commissioner, if the net assets of the company above its reinsurance reserve and all other claims and obligations, and the amount of its guaranty fund certificates and interest thereon for two years last preceding and including the date of its last annual statement, shall be not less than fifty per cent of the premiums in force. Due notice of such proposed action on the part of the company shall be mailed to each policy holder of the company not less than thirty days before the meeting when such action may be taken. In mutual fire insurance companies with a guaranty fund, the certificate holders shall be entitled to choose and elect from among their own number or from among the policy holders at least one-half of the total number of directors. If any mutual fire insurance company with a guaranty fund ceases to do business, it shall not divide among its certificate holders any part of its assets or guaranty fund, until all its debts and obligations have been paid or cancelled. Foreign mutual fire insurance companies having a guaranty fund shall not be required to make their certificates of guaranty fund conform to the provisions of this section, but when such certificates do not conform therewith, the amount thereof shall be charged as a liability. (R. L. § 1631, amended '07 c. 321 § 1)

#### DOMESTIC COMPANIES

**3309. Deposit with commissioner**—No company in this state other than fire, marine or fire and marine, hail, farmers' mutual or real estate title insurance companies shall do business in this state unless it has on deposit with the insurance commissioner of this state as security for all its policy holders, 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 of 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 one hundred thousand dollars, except in case of companies organized to insure bicycles against loss from theft, the amount of such deposits for such companies shall never be less than ten thousand dollars, which stocks, bonds or mortgages shall be retained by the insurance commissioner and be disposed of as directed by law. Provided, however, that the deposit of mortgages on real estate shall not exceed the amount of fifty thousand dollars. As long as any policies of the depositing company remain in force, the insurance commissioner shall hold the said deposit as security for all holders of its policies. Provided, any insurance company of any other state of the United States may file with the insurance commissioner of this state a certificate of the insurance commissioner of such other state, that, as such officer, he holds in trust and on deposit for the benefit of all the policy holders of such company a deposit of not less than one hundred thousand dollars par value of such securities as are required or permitted to be deposited with him by the laws of such state, such securities to be of the character in which insurance companies are authorized to invest under the laws of this state, stating the items of the securities so held, and that he is satisfied that such securities are worth one hundred thousand dollars. No deposit shall be required in this state while the said deposit, so certified, remains. ('95 c. 175 § 97, amended '99 c. 234 § 4; '05 c. 181 § 1)

**Historical**—1905 c. 181 § 2 repeals inconsistent acts.

1895 c. 175, and 1899 c. 234, were repealed by §§ 9451, 9453; the provisions of said amended § 97 being incorporated in part in R. L. § 1632. So far as the above section differs from that section, it is to be construed, by virtue of § 9398, as amendatory or supplementary, and its effect appears to be to supersede that section.

Interest of policyholders and creditors in securities (65-283, 68+28, 33 L. R. A. 511; 78-214, 80+966; 79-486, 82+976). Transfer of securities held unauthorized (67-245, 69+916). Action

by commissioner for receiver to administer trust fund of insolvent company. Intervention by stockholders denied (72-364, 75-596).

**3310. Management of company**—The secretary and the treasurer of every such company shall give bond, which shall be approved by resolution of the directors. All of its funds shall be invested in its corporate name, and no officer, director, or member of any committee passing on investments shall borrow any of such funds, or become directly or indirectly liable as a surety or indorser for or on account of loans thereof to others, or receive to his own use any fee, brokerage, commission, gift, or other consideration for, or on account of, any loan made by or on behalf of such company. All its policies shall be signed by the secretary, or, in his absence, by a secretary pro tem., and by its president or vice-president, or, in their absence, by two directors. Whenever it establishes any agency in a place other than that of its principal place of business, all signs, cards, pamphlets, or other printed matter issued shall designate such principal place. (1633)

**3311. Agents—License**—Every such domestic company shall secure a license from the commissioner of insurance for each person employed as its agent in this state. Such license, if otherwise warranted, shall be granted upon written application by such company upon forms prescribed by the commissioner of insurance and the payment of a fee of twenty-five cents. Any officer of such company may, without license or other qualification, act in its behalf in the negotiation of insurance. (R. L. § 1634, amended '13 c. 113 § 1)

**3312. Investments by fire and marine companies**—Any domestic insurance company authorized to transact the business of fire insurance or fire and marine insurance, and lawfully transacting business in any foreign state or country, may invest its funds in the bonds or other equivalent obligations issued by the national government of such foreign state or country, and for the payment of which the faith and credit of such foreign state or country is pledged. ('09 c. 345 § 1)

### STOCK COMPANIES

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

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

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

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

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

5. Loans on pledge of any such securities, but not exceeding eighty per cent. of the market value of any of those specified in subd. 3; and in all loans

reserving the right at any time to declare the indebtedness due and payable when in excess of such proportion or upon depreciation of security. (1635)

**3314. Reduction, how made**—Whenever the capital of any such company is impaired, it may, upon a vote of the majority of the stock, reduce the same to not less than the legal minimum. In such case no part of its assets shall be distributed to the stockholders. Any such company whose capital is not impaired may, by a two-thirds vote of its stock and with the consent of the commissioner, reduce the same to not less than one hundred thousand dollars. In either case, within ten days after the meeting at which such reduction was made, the company shall submit to the commissioner a certified statement of the proceedings thereof, including the amount of such reduction and its assets and liabilities, verified by its president, secretary, and a majority of its directors. The commissioner shall examine the facts, and if they conform to law, and he is of opinion that injury to the public will not result, he shall indorse his approval upon the statement. Upon filing the same with the secretary of state, and paying a filing fee of five dollars, and duly amending its certificate of incorporation in conformity therewith, it may transact business upon such reduced capital as though the same were its original capital, and the commissioner shall issue a license to that effect. Such company may thereafter, by a majority vote of its directors, require the return of every original stock certificate in exchange for a new certificate for such number of shares as each stockholder is entitled to, in the proportion that the reduced capital bears to the original. (1636)

**3315. Liability of directors and officers**—If a company be at any time under liability for losses exceeding its net assets, and the president and directors, or any of them, knowing it, directly or indirectly issue or consent to the issue of further insurance, each shall be personally liable for any loss under such insurance; and if any of them insures or allows to be insured on a single risk a larger sum than is authorized by law, he shall be personally liable for any loss thereon above the amount which might lawfully be insured. (1637)

**3316. Impairment of assets—Assessments**—Whenever the net assets of a company, other than life, do not exceed three-fourths of its original capital, it may restore such capital by assessment. Shares on which such assessment is not paid within sixty days after demand shall be forfeited and may be canceled by the directors and new shares issued in place thereof. If it shall not, within three months after notice from the commissioner to that effect, so restore its capital or reduce it as provided by law, its authority to transact new business shall cease. (1638)

**3317. Dividends—When and how made**—No domestic company shall declare a dividend either in cash or stock, except from its actual net surplus computed as required by law in its annual statement; nor shall any such company which has ceased to do new business divide any portion of its assets, except surplus, until it shall have performed or canceled its policy obligations. It may declare and pay, annually or semiannually, from its surplus, cash dividends of not more than ten per cent. of its capital stock in any year, and if the dividends in any one year are less than ten per cent. the difference may be made up in any subsequent year or years from surplus accumulations. But it may pay such dividend as the directors deem prudent out of any surplus remaining after charging in addition to all liabilities except unearned premiums, an amount equal to the whole amount of premiums on unexpired risks, and deducting from the assets all securities and accounts receivable on which no part of the principal or interest has been paid within the preceding year, or for which foreclosure or suit has been commenced, or upon which judgment obtained has remained more than two years unsatisfied and on which interest has not been paid, and also deducting all liens due and unpaid on any of its property. (1639)

#### FIRE INSURANCE COMPANIES

**3318. Standard policy**—No fire company shall issue on property in this state any policy other than the standard form herein set forth, the blanks

for which may be filled in print or in writing, and no condition, stipulation, or term, other than those therein provided for; whether as to jurisdiction, limitation, magistrate, certificate, or otherwise, shall be valid if inserted in any such policy, except as follows:

1. It may print on or in its policy its name, location, and date of incorporation, the amount of its paid-up capital, the names of its officers and agents, the number and date of the policy, and, if it is issued through an agent, the words, "This policy shall not be valid until countersigned by the duly authorized agent of the company at ....."

2. It may print or use in its policy printed forms of description and specification of the property insured, including permits for the use of electricity, gasoline, acetylene, or storage of other extra hazardous product or material, for repairs and improvements, for the operation or ceasing to operate, for the maintenance of sprinkling or other improvements, and for the use of the premises for ordinary work and materials incident to the business.

Any permit for the use or storage of a hazardous product may contain a caution giving instructions as to the proper method of use or storage.

It may print or use in its policy printed forms for insurance against loss of rents and rental values, leaseholds of buildings, use and occupancy, and indirect or consequential loss or damage caused by change of temperature resulting from the destruction of refrigerating or cooling apparatus, or any of its connections.

It may also use a form specifically excluding the last mentioned hazard.

When the policy covers a lumber risk upon the request of the insured in writing, of which fact such writing shall be the only evidence, and if in consideration thereof a reduction in the rate of premium is made by the company, the form known as the "clear space lumber clause" may be used, said form to be in the following terms, to-wit:

The rate of premium upon the within policy has been reduced from the sum of \$. . . . . to the sum of \$. . . . ., and in consideration of such reduction the assured agrees that a continuous space of . . . . . feet shall hereafter at all times be maintained between the property hereby insured and any wood-working or manufacturing establishment; said space shall, in all cases, exclude and be measured from the exterior boundary of any permanent structure or addition connected with or attached to (here insert description of nearest wood-worker); said space not to be occupied by any independent or disconnected building or structure (here insert exceptions if any), or by accumulation of combustible materials of any kind and except the loading or unloading only within or transportation of lumber or timber products across such clear space. It shall not be used for handling, piling or sorting lumber for temporary purposes or otherwise. This clause shall not be construed to prohibit the maintenance or operation within said clear space of tramways used exclusively for the transportation of lumber, provided, that lumber is neither piled or stored thereon. Sorting platforms shall not be held tramways within the meaning of this clause, and failure upon the part of the insured to comply with the terms of this clause shall not avoid this policy, nor in any manner lessen the liability of the company hereunder but in case of such failure the assured shall be liable to the company for the difference in the premium hereinbefore set forth.

It may also print or use in its policy a permit containing what is known as the "Watchman Clause," said clause to be in the following words, to-wit:

The insured agrees that during the continuance of this policy he will uniformly and constantly maintain a watch service in connection with said premises, and in consideration of such uniform and constant watch service the rate of premium charged upon the policy has been reduced from \$. . . . . to \$. . . . . and it is hereby expressly agreed and understood that the failure of the assured to maintain such uniform and constant watch service or comply with this clause or agreement, shall in no manner nor to any extent avoid this policy, or in case of loss lessen the liability of the company under this policy; but in the event of the failure of the assured to maintain such watch service or perform his part of this agreement, he shall then be liable,

and hereby agrees to pay said full premium for the unexpired term of said policy.

It may also print or use in its policy a printed form providing that in case of a risk equipped with automatic sprinklers the assured shall use due diligence in seeing that the equipment is properly maintained; also a permit that the premises may remain vacant or unoccupied for a stipulated number of days beyond the thirty (30) days provided in the policy, for which permit an additional premium may be charged; also a form whereby the assured agrees that, for a reduction in the rate of premium, barrels and buckets of water shall be kept at hand at all times; that failing so to do, the assured shall be liable for the highest rate written in the policy; also a form may be attached excluding liability for loss or damage to dynamos and other electrical appliances caused by electric current, either natural or artificial.

It may also print or use in its policy printed forms providing that in case of loss, such loss shall be payable to the mortgagee, as his, her, its, or their interest may appear, a printed form in the following words to-wit:

"Subject to the stipulations, provisions, and conditions contained in this policy, the loss, if any, is payable to . . . . ., mortgagee, as his, her, its or their interest may appear."

It may also print or use in its policy in case the assured desires liability to attach to several buildings, divisions or locations under one item, a printed form in the following words, to-wit:

It is hereby agreed in case of loss, this policy shall attach in or on each building, division or location in such proportion as the value in or on such building, division or location bears to the aggregate value of the subject insured.

It may also print or use in its policy the following clause, to-wit:

The insured has relinquished all rights to recover for loss or damage by fire from (Here insert name of individual, partnership, association or corporation).

3. If insuring against damage by lightning, it may print in the clause enumerating the perils insured against the additional words, "also any damage by lightning, whether fire ensues or not," and, in the clause providing for apportionment of loss in case of other insurance, the words, "whether by fire, lightning or both."

4. If incorporated or formed in the state, it may print in its policy any provision which it is authorized or required by law to insert therein; if not incorporated in this state, it may, with the approval of the commissioner, so print any provision required by its charter or deed of settlement, or by the laws of its own state or country, not contrary to the laws of this state.

5. It may print upon any policy issued in compliance herewith the words "Minnesota Standard Policy."

6. No provision shall be attached to or included in such policy limiting the amount to be paid in case of total loss on buildings to less than the amount of insurance on the same.

7. When two or more authorized companies unite in the issue of a joint policy, the heading thereof may show the severalty of the contract, and also the proportion of premium to be paid to each, and the proportion of liability which each assumes.

In the printed conditions of such standard policy the necessary changes may be made from the singular to the plural number when reference is had to the companies issuing such policy. It shall be plainly printed, no portion thereof in smaller than long primer type, and shall be as follows, to wit:

No. . . . . \$ . . . . .

(Corporate name of the company or association, its principal place or places of business.)

In consideration of . . . . . dollars, to be paid by the insured hereinafter named, the receipt whereof is hereby acknowledged, does insure . . . . . and . . . . . legal representatives, against loss or damage by fire, to the amount of . . . . . dollars.

(Description of property insured.)

Bills of exchange, notes, accounts, evidences and securities of property of every kind, books, wearing apparel, plate, money, jewels, metals, patterns, models, scientific cabinets and collections, paintings, sculpture, and curiosities are not included in said insured property unless specially mentioned.

Said property is insured for the term of ....., beginning on the ..... day of ....., in the year nineteen hundred and ....., at noon, and continuing until the ..... day of ....., in the year nineteen hundred and ....., at noon, against all loss or damage by fire originating from any cause except invasion, foreign enemies, civil commotions, riots, or any military or usurped power whatever; the amount of said loss or damage to be estimated according to the actual value of the insured property at the time when such loss or damage happens, except in case of total loss on buildings; but not to include loss or damage caused by explosion of any kind, unless fire ensues, and then to include that caused by fire only.

The policy shall be void if any material fact or circumstance stated in writing has not been fairly represented by the insured, or if the assured now has or shall hereafter make any other insurance on the said property without the assent of the company, or if without such assent the property shall be removed, except that, if such removal shall be necessary for the preservation of the property from fire, this policy shall be valid without such assent for five days thereafter, or if without such assent the situation or circumstances affecting the risk shall, by or with the knowledge, advice, agency, or consent of insured, be so altered as to cause an increase of such risks, or if, without such assent, the property shall be sold or this policy assigned, or if the premises hereby insured shall become vacant by the removal of the owner or occupant, and so remain vacant for more than thirty days without such assent, or if it be a manufacturing establishment running in whole or in part extra time, except that such establishment may run in whole or in part extra hours, not later than 9 o'clock p. m., or if such establishment shall cease operations for more than thirty days without permission in writing indorsed hereon, or if the insured shall make any attempt to defraud the company, either before or after the loss, or if gunpowder or other articles subject to legal restrictions shall be kept in quantities or manner different from those allowed or prescribed by law, or if camphene, benzine, naphtha, or other chemical oils or burning fluids shall be kept or used by the insured on the premises insured, except that what is known as refined petroleum, kerosene, or coal oil may be used for lighting, and in dwelling houses kerosene oil stoves may be used for domestic purposes, to be filled when cold, by daylight, and with oil of lawful fire test only.

If the insured property shall be exposed to loss or damage by fire, the insured shall make all reasonable exertions to save and protect the same.

In case of any loss or damage under this policy, a statement in writing, signed and sworn to by the insured, shall be forthwith rendered to the company, setting forth the value of the property insured, except in case of total loss on buildings the value of said buildings need not be stated, the interest of the insured therein, all other insurance thereon, in detail, the purposes for which and the persons by whom the building insured, or containing the property insured, was used, and the time at which and manner in which the fire originated, so far as known to the insured.

The company may also examine the books of account and vouchers of the insured, and make extracts from the same.

In case of any loss or damage, the company, within sixty days after the insured shall have submitted a statement as provided in the preceding clause, shall either pay the amount for which it shall be liable, which amount, if not agreed upon, shall be ascertained by award of referees, as hereinafter provided, or replace the property with other of the same kind and goodness, or it may, within fifteen days after such statement is submitted, notify the insured of its intention to rebuild or repair the premises or any portion thereof separately insured by this policy, and shall thereupon enter upon said premises and proceed to rebuild or repair the same with reasonable expedition.

It is moreover understood that there can be no abandonment of the proper-

ty insured to the company, and that the company shall not in any case be liable for more than the sum insured, with interest thereon from the time when the loss shall become payable, as above provided.

If there shall be any other insurance on the property insured, whether prior or subsequent, the insured shall recover on this policy no greater proportion of loss, except in case of total loss on buildings, sustained than the sum hereby insured bears to the whole amount insured thereon.

And whenever the company shall pay any loss the insured shall assign to it, to the extent of the amount so paid, all rights to recover satisfaction for the loss or damage from any person, town, or other corporation, excepting other insurers, or the insured, if requested, shall prosecute therefor at the charge and for the account of the company.

If this policy shall be made payable to a mortgagee of the insured real estate, no act or default of any person other than such mortgagee, or his agents or those claiming under him, shall affect such mortgagee's right to recover in case of loss on such real estate.

Provided, that the mortgagee shall, on demand, pay according to the established scale of rates for any increase of risks not paid for by the insured; and whenever this company shall be liable to a mortgagee for any sum for loss under this policy, for which no liability exists as to the mortgagor or owner, and this company shall elect by itself, or with others, to pay the mortgagee the full amount secured by such mortgage, then the mortgagee shall assign and transfer to the company interested, upon such payment, the said mortgage, together with the note and debts thereby secured.

This policy may be canceled at any time at the request of the insured, who shall thereupon be entitled to a return of the portion of the above premium remaining, after deducting the customary monthly short rates for the time this policy shall have been in force.

The company also reserves the right, after giving written notice to the insured, and to any mortgagee to whom this policy is made payable, and tendering to the insured a ratable proportion of the premium, to cancel this policy as to all risks subsequent to the expiration of ten days from such notice, and no mortgagee shall then have the right to recover as to such risks.

In case of loss, except in case of total loss on buildings, under this policy and a failure of the parties to agree as to the amount of the loss, it is mutually agreed that the amount of such loss shall, as above provided, be ascertained by two competent, disinterested and impartial appraisers who shall be residents of this state, the insured and this company each selecting one within fifteen days after a statement of such loss has been rendered to the company, as herein provided, and in case either party fail to select an appraiser within such time the other appraiser and the umpire selected, as herein provided, may act as a board of appraisers and whatever award they shall find shall be as binding as though the two appraisers had been chosen; and the two so chosen shall first select a competent, disinterested and impartial umpire; provided that if after five days the two appraisers cannot agree on such an umpire, the presiding judge of the district court of the county where the loss occurs may appoint such an umpire upon application of either party in writing by giving five days notice thereof in writing to the other party. Unless within fifteen days after a statement of such loss has been rendered to the company, either party, the assured or the company, shall have notified the other in writing that such party demands an appraisal, such right to an appraisal shall be waived; the appraisers together shall then estimate and appraise the loss, stating separately sound value and damage and, failing to agree, shall submit their differences to the umpire; and the award in writing of any two shall determine the amount of the loss; the parties thereto shall pay the appraisers respectively selected by them and shall bear equally the expenses for the appraisal and umpire. The fees of any appraiser or umpire shall in no case exceed ten dollars (\$10.00) per day.

No suit or action against the company for the recovery of any claim by virtue of this policy shall be sustained in any court of law or equity in this state, unless commenced within two years from the time the loss occurred.

In witness whereof the said ..... Company has caused this policy

to be signed by its president and attested by its secretary (or by such proper officers as may be designated), at its office in .....

Date .....

(R. L. § 1640, amended '09 c. 331 § 1; '13 c. 405 § 1; '13 c. 421 § 1)

**1. In general**—To be construed as similar contracts voluntarily entered into (92-234, 99+892). "Legal representatives" include a receiver (88-478, 93+517). When interest begins to run on loss (91-210, 218, 97+875, 98+100). Form of policy to be used by mutual company (87-392, 92+227). Misstatement as to interest in property (71-338, 73+849). Effect of statement in policy that premium has been paid (78-284, 80+976). A policy insuring the "estate of A. B., deceased" is valid (86-486, 91+5, 91 Am. St. Rep. 370).

The form prescribed by 1895 c. 175, as amended by 1897 c. 254 § 53, contained the only terms and conditions which could be incorporated in a contract of fire insurance. Effect of "space clause," attached as rider (99-190, 108+871).

The words "and in no case to include loss or damage by cyclone, tornado, or windstorm," in a lightning clause, attached as a rider did not apply to or vary the contract contained in the policy (100-528, 111+400, 10 L. R. A. [N. S.] 326).

See note under § 3292.

**2. Notice and proof of loss**—"Forthwith" means within a reasonable time (78-46, 80+839; 79-337, 82+647). Waiver by insurer (80-527, 83+409, 81 Am. St. Rep. 286; 95-492, 104+560). Claim as to amount of loss need not be specific. Substantial compliance with policy sufficient (83-398, 86+425). Failure to furnish proof of loss within prescribed time does not forfeit rights of insured but merely postpones payment (82-336, 85+13, 83 Am. St. Rep. 433; 84-116, 119, 86+888). Misrepresentation in proof of loss (68-335, 71+388). Books of account as evidence of value of stock. When company objects to sufficiency of proof of loss on specified grounds other objections are waived (66-138, 68+855).

**3. Increased risk**—78-240, 80+971; 88-231, 92+952; 96-81, 104+687.

**4. Limitation of actions**—Two year limitation runs from time of fire (84-116, 86+888).

**5. Requisite exertions to save property**—84-419, 87+932.

**6. Other insurance**—Prohibition against (29-347, 13+164, 42 Am. Rep. 216; 54-162, 167, 55+909; 86-371, 90+766; 86-486, 91+5, 91 Am. St. Rep. 370; 92-390, 100+88; 96-81, 104+687). Where a person suffering a partial loss was insured by several companies it was held that he might join them all in a single action to determine their liability (94-486, 103+495).

**7. Mortgage clause—Rights of mortgagee**—68-170, 70+979; 81-478, 84+334; 86-486, 91+5, 91 Am. St. Rep. 370; 100-374, 111+260.

**8. Vacancy**—Provision as to vacancy unaffected by § 3322 (77-474, 80+630). Effect (53-549, 55+740).

**9. What constitutes total loss**—85-48, 88+265, 56 L. R. A. 108; 85-65, 88+272; 85-118, 88+438.

**10. Arbitration**—Not a condition precedent to action on policy when no disagreement as to amount of loss (79-337, 82+647; 94-141, 102+380, 110 Am. St. Rep. 351). When a building is destroyed by fire, if the total insurance thereon, exclusive of foundation, is less than its insurable value as designated by the insurer in its policy the insured is not required to submit to arbitration (82-426, 85+212. See 85-48, 63, 88+265, 56 L. R. A. 108). In an action on a policy it is unnecessary, when there is no disagreement as to the amount of loss, to allege in the complaint that an arbitration was or was not had or was waived by the insurer (94-141, 102+380, 110 Am. St. Rep. 351; 94-486, 103+495). Insured is entitled to appear before referees and submit evidence of his loss (92-306, 99+886). Referees not bound by the same strict rules as courts in their investigations. Presumption that referees did their duty. Must be impartial and disinterested (91-210, 214, 97+875, 98+100). Board of referees a quasi court subject to rules governing common law arbitration. Should sit in a body and receive evidence offered by the parties with right of cross-examination but are not limited to such evidence. May examine locus in quo and within reasonable limits pursue their investigations independently (84-526, 530, 88+16, 87 Am. St. Rep. 379. See 50-341, 52+932). Notice of refusal to accept reward. Procedure (84-526, 88+16, 87 Am. St. Rep. 379). Requisites of pleading to charge fraud and misconduct in referees. Compensation of referees (83-21, 85+824). Waiver of right to arbitration by insurer (68-335, 71+388; 77-291, 79+1005; 96-154, 104+900. See 66-138, 68+855). A refusal by the insured to submit to arbitration held a waiver of his right to an appraisal but not to extinguish his right to recover on the policy (77-291, 79+1005). Effect of refusal of referee to serve (96-154, 104+900). Actions to set aside award (66-138, 68+855; 84-526, 88+16, 87 Am. St. Rep. 379; 91-210, 97+875, 98+100; 92-306, 99+886).

The right to demand arbitration is waived by a denial of liability on the policy (96-477, 105+675).

**11. Proximate cause of loss**—What constitutes (100-528, 111+400, 10 L. R. A. [N. S.] 326).

**3319. Violation of preceding section**—Every company and every agent who shall wilfully make, issue, or deliver a policy in violation of § 3318 shall be guilty of a gross misdemeanor; but every stipulation of such policy in favor of the insured shall nevertheless be binding upon the company issuing the same. (1641)

**3320. Unjust discrimination in rates**—No fire insurance company shall charge or receive, directly or indirectly, a higher or greater rate or premium

for insurance against destruction or damage by fire of any property within this state than it charges for other risks in this state of the same kind or class, taking into consideration the local fire loss record, the nature of the risk, the exposures and hazards thereof, and the means of fire prevention applicable thereto. ('05 c. 331 § 1)

**3321. Same—Penalty for violation—Action—**If any fire insurance company, or any of its officers or agents, shall violate any provisions of the preceding section, the attorney general, upon request of the insurance commissioner, may bring a civil action against the offender, in the name of the state and in any district court thereof, for the recovery of the penalty hereinafter prescribed. Such action shall be tried by the court unless a jury trial be demanded by the defendant. If the cause of action be sustained, the defendant shall be adjudged guilty of unlawful discrimination, and the plaintiff shall recover in said action such sum as the court may deem proper, not exceeding five hundred dollars, with disbursements and costs. And for a second offense in respect to the same risk, the insurance commissioner shall revoke the license of the offending company to do business in this state. ('05 c. 331 § 2)

**3322. Whole amount collectible—Co-insurance, etc.—**Every company insuring any building or other structure against loss or damage by fire, lightning, or other hazard, by the issue of a policy or renewal of one theretofore issued, or otherwise, shall cause such structure to be previously examined, a full description thereof to be made, and its insurable value to be fixed, all by the insurer or his agent, and the amount thereof to be stated in the policy. In the absence of any change increasing the risk, without the consent of the insurer, of which the burden of proof shall be upon it, and in the absence of intentional fraud on the part of the insured, the whole amount mentioned in the policy or renewal upon which the insurer receives a premium, shall be paid in case of total loss, and in case of partial loss, the full amount thereof. If there are two or more policies upon the property, each shall contribute to the payment of the whole or partial loss in proportion to the amount specified. Any policy where the entire risk covered by the same amounts to five thousand dollars (\$5,000.00) or more may contain a co-insurance clause, if the insured requests the same in writing, of which fact such writing shall be the only evidence, and if in consideration thereof, a reduction in the rate of premium is made by the company. When so demanded and attached to the policy, said agreement shall be binding upon both insured and the company, and in case of loss the actual cash value of the property so insured at the time of the loss, including the buildings, shall be the basis for determining the proper amount of such co-insurance and the amount of loss, notwithstanding any previous valuation of such building. Every person who solicits insurance and procures an application therefor shall be held to be the agent of the party afterwards issuing insurance thereon or a renewal thereof. (R. L. § 1642, amended '07 c. 446; '13 c. 79 § 1)

Nature of duty to examine premises defined. Insurer not charged with notice of vacancy by failure to examine. "Occupied as a dwelling" in a policy are words of warranty (92-337, 100+8). Provision in standard policy as to vacancy not affected by second sentence of this section (77-474, 88+630). Effect of valuation fixed under this section on right of arbitration (82-426, 85+212). Cited as to who is an "agent" (94-86, 102+213).

This section must be construed with § 3607. It does not enlarge the authority of a broker to represent the company as defined in § 3607 (104-76, 116+221, 124 Am. St. Rep. 608).

Insured may sue as for total loss, and allege actual damage, and if evidence fails to establish total loss, may recover for actual damage proved (100-374, 111+260).

Where the coinsurance clause is attached, and the insured maintains insurance on the building to the amount required by such clause, in case of a total loss the insurable value as stated in the policy, and not the actual value at the time of the fire, is the basis of determining the amount of recovery on the policy (119-417, 138+777).

**3323. Insurance in excess of value—**No company shall knowingly issue any policy upon property in this state for an amount which, together with any existing insurance thereon, exceeds the fair value of the property, nor for a longer term than five years. Any company wilfully insuring property for more than its real value shall forfeit to the state, for the benefit of the school fund, double the premium collected on such policy. (1643)

**3324. Payment to mortgagee**—Whenever the whole or any part of the loss is payable, in terms or otherwise, to or for one or more mortgagees, upon proof before payment of the rights of the parties the company shall pay the same in the order of priority to the extent of its liability, and every such payment to such extent shall be payment and satisfaction of its liability under the policy. (1644)

**3325. Adjustment—Reference**—Any person who shall not, within five days after written request, appoint a qualified referee as provided in the policy, shall be deemed to have waived the right to reference, and, if it be the insurer, shall be liable to suit. If any two such referees fail for ten days to agree upon a third, either party may within the next ten days make written application to a judge of the district court of the county wherein the fire occurred, setting forth the facts; whereupon said judge shall make the appointment. No person shall be a qualified referee who is not a resident of the state, disinterested, and willing to act. (1645)

The provision that referees must be residents is jurisdictional (109-388, 124+5).

**3326. Liability of company**—Notwithstanding any penalty prescribed for the making, issuing, or delivery of any policy in violation of any provision of law, every such policy shall be binding upon the company issuing the same. (1646)

**3327. "Lloyds"—Authority to do business**—Associations of individuals, citizens of the United States, whether organized within this state or elsewhere, within the United States, formed upon the plan known as Lloyds, whereby each associate underwriter becomes liable for a proportionate part of the whole amount insured by a policy, may be authorized to transact insurance other than life in this state in such manner and on such terms as the insurance commissioner may direct, providing that if such organization shall be possessed of cash on hand and securities of the underwriters satisfactory to the insurance commissioner after deducting all liabilities except insurance reserve, to the amount of not less than \$250,000.00, and in addition thereto shall be possessed of guaranteed subscriptions or other securities of the underwriters satisfactory to the insurance commissioner to an amount of not less than \$250,000.00, making a total of \$500,000.00 so possessed, and if the net cash on hand shall be equal to the reinsurance reserve calculated on a basis of 50 per cent of the premiums in force on policies running one year or less from date of policy, and a pro rata amount on policies running more than one year from date of policy, except upon inland and marine risks, which shall be computed by charging 50 per cent of the amount of premium written in its policies upon yearly risks and upon risks covering more than one passage not terminated, and the full amount of premiums written in policies upon all other inland and marine risks not terminated, and such other reserves as may be required by law and the insurance commissioner, and if evidence shall be furnished to the insurance commissioner that the underwriters are men of good financial standing, responsible for their obligations, and that the organization does not issue policies of insurance on any one risk in greater sums than one-fifth of the aggregate of the cash paid in, the aforesaid securities and the subscriptions of the several underwriters or the amount to which they may become liable, unless the excess shall be provided for by reinsurance, the commissioner shall license them under similar requirements as are made and prescribed in this act for the admission of foreign mutual fire insurance companies so far as the same may reasonably apply. Said association of individuals known as Lloyds are herein expressly authorized to transact insurance known as sprinkler leakage insurance. ('95 c. 175 § 85, amended '05 c. 130; '13 c. 534 § 1)

By 1913 c. 534 § 3 provisions of all inconsistent acts or parts of acts are repealed. This act supersedes R. L. § 1647.

**3328. Same—Companies under prior law—Renewal of license**—No Lloyds not now licensed to do business in this state shall hereafter be licensed except upon complying with the provisions of this act, but Lloyds heretofore licensed and now doing business under the provisions of said section 85 of chapter 175 of Laws of 1895 as amended by chapter 130 of the

Laws of 1905 [3327], may have their license renewed without increasing their cash and securities and subscription on hand to the amount herein required, provided they shall set aside the reserves required by this act. ('13 c. 534 § 2)

**3329. Mutual companies—When permitted—**No policy shall be issued by a mutual fire company, other than a town or farmers' company, until not less than seven hundred and fifty thousand dollars of insurance, in not less than three hundred separate risks upon property in this state, has been subscribed for and entered upon its books, except in the following cases:

1. Those organized to insure creamery and cheese factory buildings, their contents and equipments, exclusively, which may issue policies when not less than fifty thousand dollars, in not less than twenty-five separate risks, upon such buildings and contents in this state have been subscribed for and so entered. The name of every such company shall include the words "Mutual Creamery Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

2. Those organized to insure the stock in trade, tools, and fixtures of retail hardware dealers, or the buildings containing the same, when owned by the owner of the stock, tools, and fixtures, or both, which may issue policies when not less than five hundred thousand dollars of insurance, in not less than two hundred separate risks, upon such property in this state, has been subscribed for and entered upon its books. The name of every such company shall include the words "Mutual Retail Hardware Fire Insurance Company," and it shall issue no policy except as above specified.

3. Those organized to insure dwelling houses, their contents, barns, live stock, and vehicles, which may issue policies when not less than two hundred and fifty thousand dollars of insurance, in not less than two hundred separate risks, upon such property located within the state, has been subscribed for and entered upon their books. The name of every such company shall include the words "Mutual Dwelling House Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

4. Those organized to insure printing material, machinery and stock in trade of newspaper publishers and printers, or the building containing same, or the dwelling house and contents when owned by the owner of the printing material, machinery and stock in trade, or both, which may issue policies when not less than two hundred thousand dollars of insurance, in not less than two hundred separate risks upon such property located within this state, has been subscribed for and entered upon their books. (1648)

See following section.

**3330. Same—**No policy shall be issued by a purely mutual fire insurance company hereafter organized, until not less than seven hundred and fifty thousand dollars of insurance, in not less than three hundred separate risks; upon property located in this state, has been subscribed for and entered upon the books and the premiums thereon for one year to be paid in cash, which premium shall aggregate not less than seven thousand five hundred dollars in cash, except that where such mutual insurance company is organized to issue policies exclusively upon dwelling houses, their contents, barns, live stock and vehicles, or exclusively upon the stock in trade, tools, fixtures, buildings containing the same of one specified line of business, and the dwelling houses, barns and buildings appurtenant thereto and vehicles and live stock contained therein, and when the same are owned and occupied by the person so engaged in said business, trade or avocation it may issue policies insuring such stock in trade, tools, fixtures, buildings containing the same, said dwelling houses and the contents thereof, barns, live stock and vehicles, when there has been subscribed the amount of insurance hereinafter specified:

1. Those organized to insure creamery and cheese factory buildings, their contents and equipments, and the dwelling house and contents, and barn, live stock and vehicles, of the owner of such creamery or factory, may issue policies when not less than fifty thousand dollars, in not less than twenty-five separate risks, upon such buildings and contents in this state, has been sub-

scribed for and so entered and the premiums thereon for one year paid in cash, which premium shall aggregate not less than one thousand dollars in cash. The name of every such company shall include the words "Mutual Creamery Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

2. Those organized to insure the stock in trade, tools and fixtures of retail hardware dealers, the buildings containing the same, and the dwelling house and its contents, barns, live stock and vehicles, owned by such dealers, may issue policies when not less than five hundred thousand dollars of insurance, in not less than two hundred separate risks upon such property in this state, has been subscribed for and entered upon its books and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than five thousand dollars in cash. The name of every such company shall include the words "Mutual Retail Hardware Fire Insurance Company," and shall issue no policy except as above specified.

3. Those organized to insure dwelling houses, their contents, barns, live stock and vehicles, exclusively, may issue policies when not less than two hundred and fifty thousand dollars of insurance, in not less than two hundred separate risks upon such property located within this state, has been subscribed for and entered upon their books and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than two thousand five hundred dollars in cash. The name of every such company shall include the words "Mutual Dwelling House Fire Insurance Company," and it shall issue no policy except upon the class of risks aforesaid.

4. Those organized to insure printing material, machinery and stock in trade of newspaper publishers and printers, the buildings containing the same, and the dwelling house and its contents, barns, live stock and vehicles, when such buildings and contents are owned and occupied by the owner of such printing material, machinery and stock in trade, may issue policies when not less than two hundred thousand dollars of insurance, in not less than two hundred separate risks, when such property located in this state has been subscribed for and entered upon such companies' books and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than two thousand dollars in cash. The name of every such company shall include the words "Mutual Publishers' Fire Insurance Company," and shall issue no policy except upon the class of risks aforesaid.

5. Those organized to insure grain elevators, warehouses and cribs, machinery, grain, sacks and tools appurtenant to or contained in such elevators, warehouses and cribs and dwelling house and contents, barns, live stock and vehicles, when such buildings and contents are owned and occupied by the owner of such grain elevator, may issue such policies when not less than one hundred thousand dollars of insurance; in not less than fifty separate risks upon such property in this state, has been subscribed for and entered upon the books of such companies and the premiums thereon for one year paid in cash, which premiums shall aggregate not less than one thousand dollars in cash. The name of such company shall include the words "Mutual Grain Dealers' Fire Insurance Company," and shall issue no policy except upon the class of risks aforesaid. ('95 c. 175 § 36, amended '97 c. 258; '99 c. 198; '03 cc. 92, 347; '05 c. 117 § 1)

**Historical**—The several acts above mentioned, except 1905 c. 117, were repealed by §§ 9451-9453, 9456; the provisions of said amended § 36 being incorporated in part in the preceding section. So far as the above section differs from that section, it is to be construed, by virtue of § 9398, as amendatory or supplementary.

**3331. Insurance from unlicensed foreign companies**—Whenever any person, firm, or corporation desires to obtain insurance upon any property in this state in companies not authorized to do business therein, he or they shall give bond to the commissioner in such sum as he shall deem reasonable, with satisfactory resident sureties, conditioned that the obligors, on the expiration of a license to obtain such insurance, shall pay to the commissioner, for the use of the state, a tax of two per cent. upon the gross premiums paid by such licensee. Thereupon the commissioner shall issue such license, good for one year, and all insurance procured thereunder shall

be lawful and valid, and the provisions of all policies thereof shall be deemed in accordance, and construed as if identical in effect, with the standard policy prescribed in this chapter, and the insurers may enter the state to perform any act necessary or proper in the conduct of such business. Such bond may be enforced by the commissioner in his own name in any district court. The licensee shall file with the commissioner, on June 30 and December 31 annually, a verified statement of the aggregate premiums paid and return premiums received on account of such insurance. (1649)

**3332. Guaranty surplus and special reserve fund**—Any insurance company organized under the laws of this state, authorized to transact a fire insurance business, may create the funds herein provided for, to be known and designated as the guaranty surplus fund and the special reserve fund, and may avail itself of the provisions of this section and the following sections of this chapter, upon complying with the requirements thereof. ('09 c. 437 § 1)

**3333. Same—Fund, how created—Resolution—Certificate of commissioner**—Any such insurance company, desiring to create such funds, may do so if such action is authorized by its stockholders, upon the adoption of a resolution to that effect by its board of directors at a regular meeting of such board or at any special meeting called for that purpose, and filing with the insurance commissioner of the state a copy thereof, declaring the intention of such company to create such funds and to do business under the provisions of this chapter; and, as soon after the filing of such copy of the resolution as convenient, the insurance commissioner shall make, or cause to be made, an examination of such company, and he shall make a certificate of the result thereof, which shall particularly set forth the amount of surplus funds held by such company at the date of such examination, the whole or any part of which, under the provisions of this chapter, may be equally divided between and set apart to constitute guaranty surplus and special reserve funds, which certificate shall be recorded in the insurance department. ('09 c. 437 § 2)

**3334. Same—Dividends—Penalty**—After the date of filing any such resolution with the insurance commissioner, such company shall not make or declare or pay in any form any dividend upon its capital stock, exceeding eight per cent. per annum thereupon and six per cent. per annum upon the surplus funds to be formed hereunder, until after its guaranty surplus fund and its special reserve fund shall have together accumulated to an amount equal to its capital stock; and any part of the surplus profits of such company above such annual dividend, may be equally divided between and set apart to constitute the said guaranty surplus fund and the said special reserve fund, which funds shall be held and used as hereinafter provided, and not otherwise. And any company doing business under this chapter, whose guaranty surplus fund and special reserve fund shall have together accumulated to an amount equal to its capital stock, may, from time to time, declare dividends out of its surplus profits in such amounts as its board of directors may prescribe, subject only to the limitation that the payment of such dividends shall not deplete its capital, nor reduce the aggregate amount of the guaranty surplus and special reserve funds to an amount less than the amount of its capital stock; and subject to the further limitation that no dividends exceeding 10% upon the capital stock shall be declared in any year if the payment thereof would reduce the aggregate amount of all surplus funds, including guaranty surplus and special reserve funds, below an amount equal to twice the capital. And any company doing business under this chapter, which shall declare or pay any dividend contrary to the provisions herein contained, shall forfeit its charter and be liable to be proceeded against by the attorney general for its dissolution. ('09 c. 437 § 3, amended '11 c. 263 § 1)

**3335. Same—Examination by commissioner—Certificate**—Whenever such company shall notify the insurance commissioner that it has fulfilled the requirements already expressed in this act, and that its guaranty surplus fund and its special reserve fund, taken together, equal its capital stock, the commissioner shall make an examination of such company and make a certificate

of the result thereof, and file the same in his office, and if the commissioner shall find that said combined funds shall equal the capital stock of such company, thereafter such company may continue, out of any subsequent profits of its business, to add to such funds; provided, that whenever any addition is made to the special reserve fund an equal sum shall be carried to the guaranty surplus fund. ('09 c. 437 § 4)

**3336. Same—Investment of guaranty surplus—**Said guaranty surplus shall be held and be invested by such company in the same manner as its capital stock and surplus accumulation may be held and be invested, and shall be liable and applicable in the same manner as the capital stock to the payment generally of the losses of such company. ('09 c. 437 § 5)

**3337. Same—Investment of special reserve fund—**Said special reserve fund shall be invested according to existing laws relating to investments of capital by fire insurance companies, and shall be deposited, from time to time as the same shall accumulate and be invested, with the insurance commissioner of the state, who shall permit the company depositing the same to change such deposits by substituting for those withdrawn others of equal amount and value, and to collect and receive the interest or dividends upon such securities as the same may accrue; and said fund shall not be regarded as any part of the assets in possession of said company, so as to be or render the same liable for any claim for loss by fire or otherwise, except as herein provided. ('09 c. 437 § 6)

**3338. Same—Items to be considered in estimating profit—**In estimating the profit of any such company for the purpose of making a division thereof between said guaranty surplus fund and such special reserve fund, until such funds shall together amount to a sum equal to the capital stock of such company, there shall be deducted from the gross assets of the company, including for this purpose the amount of the special reserve fund, the sum of the following items:

First.—The amount of all outstanding claims.

Second.—An amount sufficient to meet the liability of such company for the unearned premiums upon its unexpired policies, which amount shall at least equal one-half the premiums received on policies having one year or less to run from the date of policy, and a pro rata proportion of the premiums received on the policies having more than one year to run from the date of policy, and shall be known as the reinsurance liability.

Third.—The amount of its guaranty surplus fund and of its special reserve fund.

Fourth.—The amount of the capital of the company; and

Fifth.—Interest at the rate of eight per centum per annum upon the amount of the capital, and six per centum per annum upon the amount of the said funds for whatever time shall have elapsed since the last preceding cash dividend. And the balance shall constitute the net surplus of the company, any portion of which is subject to an equal division between the said funds as is herein provided. ('09 c. 437 § 7)

**3339. Same—When claims exceed guaranty surplus and capital stock—**Whenever the claims upon such company shall exceed the amount of its capital stock and of the guaranty surplus fund provided for by this chapter, the said company shall notify the insurance commissioner of the fact, who shall then make or cause to be made an examination of said company, and shall issue his certificate of the result, showing the amounts of capital, of guaranty surplus fund, of special reserve fund, of reinsurance liability and of other assets; and upon his issuing such certificate in duplicate, one copy to be given to the company and one to be recorded in the insurance department, the said special reserve fund shall be immediately held to protect all policy holders of said company other than such as are claimants upon it at the date of said certificate, and said special reserve fund, together with other assets, certified by the insurance commissioner as equal in value to the amount of the unearned premiums of such company, to be ascertained as hereinbefore provided, shall constitute the capital and assets of such company for the protection of policy holders other than such claimants and for the further conduct of

its business, and any official certificate of the insurance commissioner herein provided for shall be binding and conclusive upon all parties interested in such company, whether as stockholders, creditors or policy holders, and upon the payment to claimants who are such at the date of said certificate, of the full sum of the capital of such company and of its guaranty surplus fund and of its assets at said date, excepting only such special reserve fund and an amount of its assets equal to the liability of the company for unearned premiums, as so certified by such insurance commissioner, such company shall be forever discharged from any and all further liability to such claimants and to each of them, and the said insurance commissioner shall, after issuing his said certificate, upon the demand of such company, transfer to it all such securities as shall have been deposited with him by such company as such special reserve fund, and if the amount of such special reserve fund be less than fifty per centum of the full amount of the capital of the company, a requisition shall be issued by the said insurance commissioner upon the stockholders, to make up such capital to that proportion of its full amount; provided, that any capital so impaired shall be made up at least to the sum of one hundred thousand dollars, and in case said company, after such requisition shall fail to make up its capital at least to said sum of one hundred thousand dollars, as therein directed, said special reserve fund shall still be held as security and liable for any and all losses occurring upon policies of such company. Such company shall, in its annual statement to the insurance commissioner of this state, set forth the amount of such special reserve fund and of its guaranty surplus fund. If, in consequence of the payment of losses by fires, or of the expenses of the business, or of the interest or dividends payable under the provisions of this act to stockholders, or from any cause, the guaranty surplus fund shall be reduced in amount below the amount of the special reserve fund the directors of the corporation shall make no additions to the special reserve fund until the guaranty surplus fund is equal to the special reserve fund. The policy registers, insurance maps, books of record and other books in use by such company in its business, and its policy and other blanks, office furniture, fixtures and supplies are not to be considered as assets, but shall be held by the company for its use in the protection of its policy holders. Provided, however, that if any amount greater than a sum equal to one-half of its capital stock shall by such company, under the provisions of this chapter, have been deposited with such commissioner, he shall retain of such securities an amount equal to one-half of what amount he shall so hold thereof in excess of a sum equal to such one-half of such capital stock, and he shall transfer the balance thereof to such company as herein provided, and the amount so transferred to such company shall from the time of such transfer, provided the amount thereof shall not be less than one hundred thousand dollars, constitute the capital stock of such company for the further conduct of its business as hereinbefore provided, and the securities so retained shall be regarded as the special reserve fund of such company, to which additions may be made as herein provided, and shall be held in the same manner, and for the same purpose, and under the same conditions as the original special reserve fund of such company was held. The provisions of this section, providing for discharge of the company from further liability to existing claimants upon application to the payment of such claims of its capital, surplus and assets, excepting the special reserve fund, and an amount equal to the liability for unearned premiums, shall not be construed to relieve the stockholders of said corporation from any liability imposed by the constitution of this state. ('09 c. 437 § 8)

**3340. Same—Impairment of capital—Stock liability—Amount insurable—** If at any time after said special reserve fund shall have been accumulated by any company, the directors of such company shall present evidence satisfactory to the insurance commissioner that the capital of such company has become impaired, he shall order the directors to call upon the stockholders to make up such impairment, and the board of directors may thereupon require the necessary payment by the stockholders to make good the whole of such impairment, or they may apply for that purpose the whole or any part of

the special reserve fund and require of the stockholders payment of such amount as may be necessary to make up the balance of such impairment not made up out of the special reserve fund. The stock of every stockholder shall be pledged and liable for the amount assessed upon him to make up such impairment, either in whole or in part, and in case any stockholder refuses to pay such assessment, the stock standing in his name may be sold at public auction, after thirty days' notice, in such manner as the directors may provide. If the board of directors elect to make good such impairment or any part thereof out of the special reserve fund, the insurance commissioner shall, upon request of said board, transfer to said company so much of said special reserve fund as is necessary for the purpose. No company doing business under this chapter shall insure any larger amount upon any single risk that is permitted by law to a company possessing the same amount of capital irrespective of the fund herein provided for. ('09 c. 437 § 9)

**3341. Same—Statement on policy—**From and after the date when this act goes into effect, every policy not then in the hands of agents issued by a company which has constituted and set apart a guaranty surplus and special reserve fund, under this or any prior law of this state, shall have printed thereon by such company a statement that the same is issued under and in pursuance of the laws of the state of Minnesota relating to guaranty surplus and special reserve funds, and every such policy shall be deemed to have been issued and received subject to the provisions hereof. ('09 c. 437 § 10)

#### FIRE DEPARTMENT AID.

**3342. Certificate of municipal officer—**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 water 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. (1650)

**3343. Report of premiums—Certificate of commissioner—**The commissioner shall include in the blank form furnished to each fire insurance company for its annual statement a list of all such municipalities, and each company shall report therein the amount of premiums received by it during the preceding year in each municipality. Before July 1 following the commissioner shall certify to the state auditor the name of each municipality which has had for not less than one year an organized fire department, and which has been so reported to him, and the amount of premiums received in each municipality and taxes paid on account thereof in such year by each company. (1651)

**3344. Auditor's warrant—**At the end of the fiscal year the state auditor shall issue and deliver to the treasurer of every such municipality his warrant for an amount equal to the total amount of the existing two per cent. tax so paid upon premiums received therein, and the same shall be paid out of the general revenue fund. (1652)

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

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

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

But if there shall be a duly incorporated fire department relief association in such municipality, organized with consent of the governing body thereof, such amount shall be paid to the treasurer of said relief association, to be disbursed as herein above prescribed for municipalities, and as hereinafter provided for service pensions. In case any fire department relief association or any trustee having any of said funds in its hands shall resign its trust in relation thereto, or shall be dissolved, or shall have been heretofore or shall be hereafter removed as such trustee, the district court of the proper county may appoint a trustee or trustees of said funds, or cause such trust to be executed by its officers under its direction, or such court may direct

that such trust funds be paid to the treasurer of the proper municipality, and all funds so held in trust or so paid to any such treasurer shall be kept as a special fund and disbursed only for the purposes provided in this section. (R. L. § 1653, amended '09 c. 237 § 1)

Cited (112-298, 127+1133).

**3346. Annual report—Examination of books—**The secretary and treasurer of every such association shall annually prepare a detailed report of its receipts and expenditures for the preceding year, showing to whom and for what purpose the money has been paid and expended, and file it with the clerk of the municipality and a duplicate with the state auditor. No money shall be paid to such municipality until such report is so filed. No one serving as a substitute or on probation, nor any fireman in a municipality having such association who is not a member thereof, shall be deemed a fireman within the meaning of this subdivision. No treasurer of any such association shall enter upon his duties until he shall have given to the association a good and sufficient bond for the faithful discharge of his duty according to law. All the financial books and accounts of such association and municipality shall be subject at all times to examination by the public examiner, and he is hereby authorized and empowered to make such examination when complaint is duly made to him that the money, or any part thereof, paid under the provisions of this chapter to the treasurer of any municipality or relief association, has been or is being expended for an unauthorized purpose, shall so report to the governor, upon whose direction to the auditor no further warrants shall be issued to such municipality until the money so expended has been replaced. (1654)

Cited (112-298, 127+1133).

**3347. Service pensions—**Every fire department relief association organized under any law of this state, whenever its certificate of incorporation or by-laws so provide, may pay out of any funds received from the state, or other source, a service pension, in such amount, not exceeding forty dollars, per month, as may be provided by its by-laws, to each of its members, who have heretofore retired or may hereafter retire, who has reached or shall hereafter reach the age of fifty years, and who has done, or hereafter shall do, active duty for twenty years or more as a member of a volunteer paid, or partially paid and partially volunteer fire department in the municipality where such association exists, and who has been, or shall hereafter be, a member of such fire department relief association at least ten 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. Such pensions shall be uniform in amount, but all may be decreased or increased, within the amount above specified, whenever the amount of funds on hand render such action advisable. No such pension shall be paid to any person while he remains a member of a fire department, and no person receiving such pension shall be entitled to other relief from such association. No payments made or to be made by said association to any member on the pension roll shall be subject to judgment, garnishment or execution, or other legal process, and no person entitled to such payment shall have the right to assign the same, nor shall the association have the authority to recognize any assignment or pay over any sum which has been assigned. (R. L. § 1655, amended '07 c. 331 § 1)

Cited (112-298, 127+1133).

**3348. Fireman's relief associations in cities having 50,000 inhabitants—Pensions—**Every fireman's relief association, now or hereafter organized in any city in this state having a paid fire department and now or hereafter having a population of more than fifty thousand inhabitants, which is now incorporated, or which may hereafter be incorporated under chapter 58, Revised Laws of Minnesota 1905, may pay out from any funds it may have heretofore received, or which it may hereafter receive, from the state of Minnesota, or any other source, pensions, and relief money to any of its sick and disabled members, or for service pensions as hereinafter provided, in such amounts, and in such manner, as its articles of incorporation and

by-laws shall designate, not exceeding, however, the sum of \$40.00 per month to any of its pensioned members; provided, however, that any one who has served or is serving, on a paid municipal fire department, shall be placed on the service pension roll, upon his making application for the same, when he has complied with the following conditions—He shall have done active duty for a period of 20 years or more; he shall have arrived at the age of 50 years, or more; he shall have been, or shall be, entitled to be retired, from the service in the fire department; and provided further, that no service pension shall be paid to any person while he remains a member of the fire department. ('07 c. 24 § 1)

The provisions of R. L. 1905 c. 58 are included in chapter 58 hereof.

Section 12 repeals inconsistent acts, etc.

See §§ 1832, 1833.

Who entitled to relief (112-298, 127+1133).

**3349. Same—Pension for injuries or disabilities—**The qualification as to age and term of service, shall not apply to members of such fire department, who make application for a pension on account of injuries or disabilities which unfit them for the duties of an active fireman, and such relief association shall pay a pension to such members or to the widows and orphans of deceased firemen, in such sum, and under such limitations and conditions as its articles of incorporation and by-laws shall provide and permit; provided, however, that all applications for a pension on account of such injuries or disabilities shall be made within sixty (60) days after such applicant has ceased to be a member of the fire department. ('07 c. 24 § 2, amended '13 c. 318 § 1)

**3350. Same—Reduction or increase of pensions—**Every such association shall at all times have and retain the right to reduce the amount of pensions or to increase them whenever because of the amount of funds on hand or for other good reasons, such reduction or increase seems advisable or proper to such relief association, but said pension shall not exceed the amount of \$40.00 per month to any pensioner or to any one family. ('07 c. 24 § 3)

**3351. Duty of city clerk—Annual report—**The clerk of any city of the class named herein having an organized fire department shall on or before the 31st day of October in each year, make and file with the insurance commissioner his certificate, stating the existence of such department, the number of steam engines, hook and ladder trucks, hose carts, and number of feet of hose in actual use, the number of organized companies, and the system of water supply in use in such department, together with such other facts as the insurance commissioner may require. ('07 c. 24 § 4)

**3352. Same—Annual report of commissioner—**The insurance commissioner shall embody in his annual statement blank, a blank form, with the names of the cities thereon entitled to benefits under this act, and require the companies to report at the time of making their annual statements the amount of premiums received by them during the year ending Dec. 31st, in each and of the cities named in said blank, and thereafter and before the 1st day of July the insurance commissioner shall certify to the state auditor the names of the cities which have organized fire departments as reported to him under section 4 [3351] of this act, and the amount of premiums received by said companies in each of said cities, and the amount of tax paid in such year by said companies upon such premiums. ('07 c. 24 § 5)

**3353. Same—Auditor's warrant—**The state auditor at the end of the fiscal year, shall issue and deliver to the treasurer of any such city his warrant upon the state treasurer for an amount equal to the total amount of the existing 2 per cent tax so paid by fire insurance companies upon the premiums by them received in any such city, as specified in said certificate of said insurance commissioner. ('07 c. 24 § 6)

**3354. Same—Duty of state treasurer—**The state treasurer is hereby authorized and directed to and upon the presentation to him of the said warrant of the said auditor, he shall pay to the treasurer of any such city, out of the general revenue fund of this state, the amount in such warrant specified. ('07 c. 24 § 7)

**3355. Same—Disposition of fund—Relief association, etc.**—The amount so paid to any city under the provisions of this act shall be by it set aside as a special fund and may be appropriated, and disbursed in the same manner that other funds belonging to such city are appropriated or disbursed, but only for the following purposes, viz.:

First:—For the relief of sick, injured and disabled members of any fire department in such city, and their widows and orphans.

Second:—For the payment of pensions pursuant to the provisions of sections 1 and 2 [3348, 3349] of this act.

Provided, that in case there exists, or shall exist a fire department relief association, duly organized or incorporated in any such city as aforesaid, shall be paid to the treasurer of such relief association, instead of to the treasurer of such city.

But the secretary and treasurer of every such relief association shall prepare annually a report of all receipts and expenditures of such association for the previous year, showing for what purpose the money was paid and expended, and to whom, which report shall be filed in the office of the city clerk of the city in which such association is situated, and a duplicate of such report shall also be filed with the state auditor before any money shall be paid to any such relief association. The money paid to such relief association shall be expended only for the pensioning and relief of sick, injured, disabled and retired members of any fire department in such city, and their widows and orphans as authorized and permitted by this act.

For the purpose of this act no substitute fireman, or anyone serving on probation, or any fireman in a city having a relief association in its fire department who is not a member of such association, shall be deemed to be a fireman within the meaning of this act.

The term widow, shall mean the wife of a fireman or pensioner who was married to the fireman or pensioner during the time that he was an active fireman, and shall not include a wife who has deserted such pensioner, or fireman and has not been depending upon him for support, and shall not include the surviving common law wife of such fireman or pensioner.

The term orphan, shall mean children under sixteen (16) years of age, born to a wife who has been married to the fireman during the time of his active service as a fireman, and shall not include children the issue of a marriage contracted subsequent to his term as an active fireman.

The treasurer of every such relief association, before entering upon the duties of his office, shall give a good and sufficient bond to said relief association conditioned for the faithful discharge of the duties of his office, and for the safe-keeping and paying over, according to laws, of all moneys which come into his hands as such treasurer.

Provided further that no such moneys shall be paid to any such relief association hereafter organized, unless such organization is made with the consent of the council of the city to which such organization belongs. ('07 c. 24 § 8, amended '13 c. 318 § 2)

**3356. Same—Pension not subject to garnishment, assignment, etc.**—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. ('07 c. 24 § 9)

**3357. Same—Duties and powers of association—Funds—Tax levy—Disposition of taxes**—Said association, through its board of trustees and officers, shall have full charge, management, and control, of said funds herein provided for; which said funds shall be derived from the following sources:

First—From interest, rents, gifts or money from other sources;

Second—From funds received from the state of Minnesota;

Third—All money raised by taxation as follows: The city council or other governing body of every city of said class in which a fireman's relief association exists as aforesaid, 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 one-tenth of a mill on all the taxable property of the city. The tax so levied shall be transmitted to the auditor of the county in which the city levying the tax is situated, at the time all other tax levies are transmitted; and shall be collected and payment thereof be enforced with and like manner as state and county taxes are paid and the payment thereof enforced. The county treasurer of each county in which such tax is levied and collected, or the city treasurer, in case such tax is collected by him, in any city of the class covered by this act, shall pay over the same, together with all interest and penalties collected on account of the same when collected, and all interest paid thereon between the time of collection and the time the same is paid over to the treasurer of the fireman's relief association. ('07 c. 24 § 10)

**3358. Same—Duties of public examiner and governor—**It shall be the duty of the public examiner to annually examine the books and accounts of the secretary and treasurer of each relief association receiving funds under the provisions of this act, and if he finds that the money or any part of it has been or is being expended for an unauthorized purpose, he shall report the same to the governor. The governor shall thereupon direct the state auditor not to issue any warrant for the benefit of such city, or to such relief association, until it shall be made to appear to the public examiner, who shall report the fact to the governor, that all money wrongfully expended has been replaced. And the governor may take such further action as the emergency may demand. ('07 c. 24 § 11)

**3359. Salvage corps and fire patrols—**Every authorized board of fire underwriters in any municipality containing five thousand or more inhabitants may provide a salvage corps, a fire patrol, with a competent superintendent, for the purpose of discovering and preventing fires, suitable rooms for their accommodation, and necessary apparatus to save and preserve property and life at and after a fire. Such superintendent and patrol, subject to the control of the chief of the fire department of the municipality, may enter any building on fire or in danger of taking fire, and endeavor to protect, save, or remove the contents or any part thereof during or after the fire. (1656)

64-287, 67+62, 36 L. R. A. 305; 66-393, 69+141, 35 L. R. A. 90.

### INDEMNITY CONTRACTS

**3360. Reciprocal or inter-insurance contracts—**Individuals, partnerships and corporations of this state, hereby designated subscribers, are hereby authorized to exchange reciprocal or inter-insurance contracts with each other, or with individuals, partnerships and corporations of other states and countries, providing indemnity among themselves from any loss which may be insured against under other provisions of the laws, excepting life and marine insurance. ('13 c. 464 § 1)

**3361. Execution by attorneys, etc.—**Such contracts may be executed by an attorney, agent or other representative, herein designated attorney, duly authorized and acting for such subscribers. ('13 c. 464 § 2)

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

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

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

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

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

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

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

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

Provided, however, that in case of liability or compensation insurance all subscribers shall be engaged in the same class of business and have an annual pay roll in Minnesota of not less than four million (\$4,000,000.00) dollars and a deposit with such attorney and available for the payment of losses of not less than one hundred thousand (\$100,000.00) dollars. ('13 c. 464 § 3)

**3363. Instrument to be filed by attorney for service of process**—Concurrently with the filing of the declaration provided for by the terms of section 3 [3362] hereof, the attorney shall file with the insurance commissioner an instrument in writing executed by him for said subscribers, conditioned that upon the issuance of certificate of authority provided for in section ten [3369] hereof, service of process may be had upon the insurance commissioner in all suits in this state arising out of such policies, contracts or agreements, which service shall be valid and binding upon all subscribers exchanging at any time reciprocal or inter-insurance contracts through such attorney. Three copies of such process shall be served and the insurance commissioner shall file one copy, forward one copy to said attorney and return one copy with his admission of service. ('13 c. 464 § 4)

**3364. Statements to be filed by attorney**—There shall be filed with the insurance commissioner of this state by such attorney a statement under the oath of such attorney showing the maximum amount of indemnity upon any single risk and such attorney shall, whenever and as often as the same shall be required, file with the insurance commissioner a statement verified by his oath to the effect that he has examined the commercial rating of such subscribers as shown by the reference book of a commercial agency having at least one hundred thousand subscribers, and that from such examination or from other information in his possession it appears that no subscriber has assumed on any single risk an amount greater than ten per cent of the net worth of such subscriber. ('13 c. 464 § 5)

**3365. Reserve to be maintained**—There shall at all times be maintained as a reserve a sum in cash or convertible securities equal to fifty per cent of the net annual deposits collected and credited to the accounts of the subscribers on policies having one year or less to run and pro rata on those for longer periods. Net annual deposits shall be construed to mean the advance payments of subscribers after deducting therefrom the amounts specifically provided in the subscribers' agreements, for expenses. Said sum shall at no time be less than twenty-five thousand (\$25,000.00) dollars, and if at any time fifty per cent of the deposits so collected and credited shall not equal that amount, then the subscribers, or their attorney for them, shall make up any deficiency. ('13 c. 464 § 6)

**3366. Reports**—Such attorney shall make a report to the insurance commissioner for each calendar year, on the first day of March showing the financial condition of affairs at the office where such contracts are issued and shall furnish such additional information and reports as may be required.

Provided, however, that such attorney shall not be required to furnish the names and addresses of any subscribers nor the loss ratio.

The business affairs and assets of such organizations shall be subject to examination by the insurance commissioner. ('13 c. 464 § 7)

**3367. Corporations authorized to exchange insurance contracts**—Any corporation now or hereafter organized under the laws of this state shall, in addition to the rights, powers and franchises specified in its articles of incorporation have full power and authority to exchange insurance contracts

of the kind and character herein mentioned. The right to exchange such contracts is hereby declared to be incidental to the purposes for which such corporations are organized and as much granted as the rights and powers expressly conferred. ('13 c. 464 § 8)

**3368. Penalty for violation**—Any attorney who shall, except for the purpose of applying for certificate of authority as herein provided, exchange any contracts of indemnity of the kind and character specified in this act, or directly or indirectly solicit or negotiate any applications for same without first complying with the foregoing provisions shall be deemed guilty of a misdemeanor, and, upon conviction thereof, shall be subjected to a fine of not less than one hundred (\$100.00) dollars nor more than one thousand (\$1000.00) dollars. ('13 c. 464 § 9)

**3369. Certificates of authority**—Each attorney by or through whom are issued any policies or contracts for indemnity of the character referred to in this act shall procure from the insurance commissioner annually a certificate of authority stating that all the requirements of this act have been complied with, and upon such compliance and the payment of the fees required by this act the insurance commissioner shall issue such certificate. In case of a breach of any of the conditions imposed by the provisions of this act the insurance commissioner may revoke the certificate of authority issued hereunder. ('13 c. 464 § 10)

**3370. Fees**—Such attorney, in lieu of all taxes, state, county and municipal, shall pay to the state with the filing of each annual report, as an annual license fee 2 per cent of the gross premiums or deposits for the preceding calendar year, deducting all amounts returned to subscribers or credited to their accounts; and he shall pay a filing fee of \$2.00. ('13 c. 464 § 11)

**3371. Provisions not applicable**—Except as herein provided no law of this state shall apply to the exchange of such indemnity contracts. ('13 c. 464 § 12)

#### TOWN AND FARMERS' MUTUAL COMPANIES

**3372. Town companies—Property insurable**—The incorporators of a town insurance company shall not be less than twenty-five in number, residing in towns adjoining that in which its principal place of business is situated, or separated by not more than one town therefrom, and owning in the aggregate movable property worth at least fifty thousand dollars. Every such company may insure, for a term not exceeding five years, farm property in any part of any county in which any of its incorporators reside: Provided, that it shall not operate in more than fifty towns in the aggregate at the same time. (1657)

Sections 3372-3381, so far as they relate to town insurance companies, appear to be superseded by §§ 3383-3409. But see § 3382.

Amendment of by-laws. Notice to member (63-420, 65+655).

**3373. Officers**—Every company so formed shall choose of their number not less than five (5) nor more than nine (9) directors to manage the affairs of such company who shall hold their office for such period as may be fixed by the by-laws of the company, not exceeding three (3) years, and until their successors are elected and qualified, and such directors shall choose one of their number president, one vice-president, and one secretary; they shall also choose a treasurer who may or may not be a member of said board, but shall be a member of the company. And the said treasurer shall give bonds to such company in such sum as the directors shall determine to be approved by said president and secretary, and such directors may authorize said treasurer to loan on first real estate securities such sums of money in his hands as they may determine, or authorize him to deposit any or all sums of money in his hands as such treasurer in such bank or banks as they may designate. Provided, that the articles of incorporation of such company may provide that the president, vice-president, secretary and treasurer may be chosen by the direct vote of the members at the annual meeting. In such case the election of such persons as president, vice-president and secretary shall constitute them members of said board of directors, and the remaining members of said

board shall be elected as above provided. ('75 c. 83 § 2, amended '97 c. 164 § 2; '01 c. 172 § 1; '05 c. 284 § 1)

The above acts, except 1905 c. 284, were repealed by §§ 9438, 9452, 9454. As to the effect of Laws 1905 c. 284, see § 9398.

See note under § 3372.

**3374. Effect of application—Who may accept—**The president and secretary of such company may accept all applications and sign and issue policies, agreeing in the name of the company to pay all losses and damages, not exceeding the sums named in the policies, sustained by reason of fire or lightning, for the term therein specified, and every application for insurance made to any authorized officer or agent, until refused by the proper officer, shall be of the same force and effect as a regularly issued policy and contract of insurance, and from the time of its receipt by an officer or agent, the property specified in such application shall be deemed insured in the same manner and to the same extent as if covered by a regular policy issued according to law and the regulations of the company; Provided, that there shall be no liability on such application against any company that has not at any annual or special meeting, by proper resolution, adopted the plan of making such applications of equal force and effect with regularly issued policies. (1658)

See note under preceding section.

**3375. Report to commissioner—Cash premium—**The annual meeting shall be held before July 1 in each year, and the annual report shall then be read in full, and within thirty days thereafter filed with the commissioner. Before the delivery of any policy the company shall collect the regular cash premium and policy fee, and take the written agreement of the insured, of even date therewith, which shall be embodied in his application, to pay a pro rata share of losses or damages sustained by any member. The same shall be kept on file with the secretary. (1659)

See note under § 3372.

**3376. Joint or partial risks—**Such town insurance companies may issue joint or partial risks in conjunction with adjoining companies of the same class, and in such case they are not confined to the towns in which they are otherwise authorized to do business; but no such insurance of a joint or partial risk shall be valid or binding upon the company insuring the same until approved by all such companies holding prior risks on the property so insured, and the total amount of such joint insurance on any one piece of property shall in no case exceed the total percentage of its value for which such property is insurable by such company. (1660)

See note under § 3372.

**3377. Emergency fund—**The directors of any such company may collect by advance assessment and maintain in its treasury an emergency fund not exceeding two mills on a dollar of the total amount of insurance in force, to be used in payment of losses and for other purposes for which assessments may be used. (1661)

See note under § 3372.

**3378. Losses—Notification—Agreement—**Every member sustaining loss or damage by fire or lightning shall immediately notify the secretary, who, if the claim exceeds three hundred dollars, may forthwith convene the directors. The directors shall appoint a committee of three members, of whom the secretary shall be one, to ascertain the amount of such loss, with authority to examine witnesses, to whom the secretary is hereby authorized to administer oaths. Whenever the by-laws so provide, he may act in place of and with all the authority of such committee; and when the claim does not exceed three hundred dollars, the loss may be ascertained by the president and secretary, or either, with like authority. If the parties cannot agree upon the damages, the insured may apply to a judge of the district court of the county, who may appoint three disinterested persons, who shall make an award which shall be final, and deliver the same to the company. (1662)

See note under § 3372.

**3379. Classification of property—Assessments—**Every such company may classify property insured under different rates, corresponding as nearly as

possible to the greater or less risk from fire by reason of location or construction, and issue its policies in accordance with such differences. Whenever any loss shall be ascertained which exceeds in amount the cash funds of the company, the secretary, or in his absence the president, shall convene the directors, who shall levy an assessment upon each policyholder for the proportionate amount which he should pay to cover such excess; or the company may borrow not to exceed two mills on each dollar of insurance written by it and then in force, and from such fund pay such losses, and afterwards levy assessments to pay such loans. If the fund for the payment of expenses is insufficient, the amount of the deficiency may be added to any assessment. (1663)

See note under § 3372.

**3380. Property insurable**—Every such company shall insure only dwellings and their contents, farm buildings and contents, live stock, hay and grain in the bin and stack, churches, schoolhouses, country blacksmith shops and barns, and society and town halls. It shall not insure property within the limits of any city or village, except that located upon lands actually used for farming or gardening purposes. But whenever the dwelling house of any person insured is within the limits of a town where the company is authorized to do business, and the farm upon which such dwelling is situated is partly within and partly without such town, it may include in such insurance any outbuildings, hay, grain, stock, or other farm property on such farm outside such limits. (1664)

See note under § 3372.

Insurance of standing grain against loss by hail unauthorized (56-240, 57+656). Hay in stack not on land described in policy held within policy (51-24, 52+979).

**3381. Non-resident members—Withdrawal—Notice**—Non-residents owning property in any town may become members with all rights except eligibility to office. Membership may be terminated at any time by giving written notice to the secretary and paying the withdrawing members' share of all existing claims. Or by the annulment of any policy by a majority of the directors and written notice thereof to the holder. In either case the secretary shall record the same in a separate book. (R. L. § 1665, amended '07 c. 209)

See note under § 3372.

**3382. Farmers' mutual fire companies**—The provisions of §§ 3372-3381 shall also apply to farmers' mutual fire insurance companies, save that its incorporators and members may reside and own insurable property, and its insurance be effected, anywhere in this state, upon property of like character. (1666)

See note under § 3372.

**3383. Township mutual fire insurance companies**—It shall be lawful for any number of persons, not less than twenty-five, residing in adjoining towns in this state, who shall collectively own property worth at least fifty thousand dollars, to form themselves into a company or corporation for mutual insurance against loss or damage by fire or lightning. No such company shall operate in more than fifty towns in the aggregate at the same time. ('09 c. 411 § 1)

Section 28 repeals inconsistent acts, etc.

See note under § 3372.

**3384. Same—Certificate of incorporation**—The persons who desire to form a township mutual fire insurance company as defined by this act shall make, sign and acknowledge before some officer, competent to take acknowledgment of deeds, a certificate of incorporation which shall specify:

1. The name.
2. The location of the principal office.
3. The general nature of the business.
4. The territory in which it desires to transact business.
5. Who may become members.
6. Source from which the corporate funds shall be derived.
7. The class of property it desires to insure.
8. In what board its management shall be vested.

9. The date of its annual meeting.

10. The corporate existence.

It may also contain any other lawful provision defining and regulating the powers or business of the corporation, its officers, directors and members. ('09 c. 411 § 2)

**3385. Same—When incorporation complete—**The certificate of every such corporation shall be presented to the commissioner of insurance for his approval and if he approve of the same he shall endorse thereon such approval and the certificate shall then be filed in his office and shall be recorded in a book kept therein for that purpose. Upon the approval of said certificate and the filing of the same with the commissioner the corporate organization of such incorporation shall be complete. ('09 c. 411 § 3)

**3386. Same—Powers of corporation—**Every corporation formed under the provisions of this chapter shall have power:

1. To have succession by its corporate name for the time stated in its certificate of incorporation.

2. To sue and be sued in any court.

3. To have and use a common seal and alter the same at pleasure.

4. To acquire by purchase or otherwise, and to hold, enjoy, improve, lease, encumber and convey all real and personal property necessary for the purposes of its organization, subject to such limitations as may be imposed by law or by its articles of incorporation.

5. To elect or appoint in such manner as it may determine all necessary or proper officers, agents, boards and committees, to fix their compensation and define their powers and duties.

6. To make and amend, consistently with law, by-laws providing for the management of its property and the regulation and government of its affairs.

7. To wind up and liquidate its business in the manner provided by law. ('09 c. 411 § 4)

**3387. Same—Adoption of by-laws—**The first board of directors shall adopt by-laws which shall remain effective until and except as amended by the members at any regular or special meeting called therefor. ('09 c. 411 § 5)

**3388. Same—By-laws to be filed—Existing companies—**A copy of the by-laws of every such corporation, certified to by the president and secretary of the corporation, shall be filed with the commissioner of insurance, and any amendment to the by-laws shall within a reasonable time after such amendment shall have been adopted by the members of the corporation, certified to by its president and secretary, be filed with the commissioner. Within ninety days after the passage of this act every township mutual insurance company doing business within this state shall cause a copy of its by-laws to be certified to by its president and secretary and shall file the same with the commissioner of insurance, and thereafter every amendment to the by-laws of any township mutual insurance company heretofore organized, duly certified to by its president and secretary, shall, within a reasonable time after its adoption, be filed in the office of the commissioner of insurance. ('09 c. 411 § 6)

**3389. Same—Corporate Existence—Renewal—Attempted renewals legalized—**Every corporation organized pursuant to this act shall be for a period not exceeding thirty (30) years in the first instance, and the corporate existence of any township mutual fire insurance company organized under the provisions of this chapter or any prior act may be renewed from time to time for a further term not exceeding thirty (30) years, by adopting a resolution expressing such proposed renewal by a two-third (2-3) vote of all its members present and voting at any regular meeting of such corporation, or at any special meeting called for that purpose, the notice for which shall clearly specify the object of the meeting.

When any such resolution for renewal shall be adopted the same shall not take effect until a copy thereof, duly certified to by the president and secretary of such corporation, under its corporate seal, if it have one, shall have

been approved, filed and recorded in the same manner as is provided herein in case of the original certificate of incorporation.

Any township mutual fire insurance company which has heretofore attempted to extend or renew its corporate existence by filing a resolution so providing with the commissioner of insurance shall be deemed and considered to have extended and renewed its corporate existence to all intents and purposes as fully as though such action had been taken subsequent to the passage of this act and such attempted extension or renewal of corporate existence is in all things legalized. ('09 c. 411 § 7, amended '13 c. 80 § 1)

See §§ 3410-3412.

**3390. Same—Amendment of certificate—**The certificate of incorporation of any township mutual fire insurance company may be amended in respect to any matter which the original certificate of incorporation might lawfully have contained, or which is authorized by the provisions of this chapter, by the adoption of a resolution specifying the proposed amendment at the regular meeting or a special meeting called for that expressly stated purpose, by a majority vote of its members present and voting; or by a majority vote of its entire board of directors, within one year after having been thereby duly authorized by a specific resolution duly adopted at such meeting of the members, and by causing such resolution to be embraced in a certificate duly executed by its president and secretary under the corporate seal of the company, if it have one, and approved, filed and recorded in the manner prescribed by this chapter for the approval, filing and recording of the original certificate. ('09 c. 411 § 8, amended '13 c. 80 § 2)

**3391. Same—Change of business office—**Any township mutual fire insurance company heretofore or hereafter organized under the laws of this state may at any regular annual meeting of its members, or at any special meeting called for that purpose, by a majority vote of those present, amend its certificate or articles of incorporation so that the business office of said company may be located in any town, or any city or village in any town in which said company is authorized to do business. ('09 c. 411 § 9)

**3392. Same—Directors and officers—Proxies—**Every company shall choose of their members no less than five and not more than nine directors, to manage the affairs of the company, who shall hold their office for such period as may be fixed by the by-laws of the company, not exceeding three years, and until their successors are elected and qualified, such directors shall choose one of their number as president, one as vice-president, and one as secretary; they shall also choose a treasurer who may or may not be a member of said board, but must be a member of the company. The certificate or articles of incorporation of such company may provide that the president, vice-president, secretary and treasurer may be chosen by the direct vote of the members of the company at the annual meeting. In such case the election of such persons as president, vice-president and secretary shall constitute them members of said board of directors, and the remaining members of said board shall be elected as above provided. 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 member as fully as if she were personally present at such meeting. ('09 c. 411 § 10)

**3393. Same—Treasurer to give bonds—**The treasurer of such company shall give such bonds to the company in such sum as the directors shall determine, to be approved by the president and secretary. ('09 c. 411 § 11)

**3394. Same—Loans, etc.—**The directors may authorize said treasurer to loan on first real estate securities such sums of money in his hands as they may determine, or authorize him to deposit any and all sums of money in his hands in such bank or banks as they may designate. ('09 c. 411 § 12)

**3395. Same—Property insurable—**No township mutual fire insurance company heretofore organized and no company organized pursuant to this act shall insure any property outside of the limits of the town or towns in which such company is authorized by its certificate or articles of incorporation to

transact business, except personal property temporarily outside of such authorized territory and except as hereinafter further provided; nor shall any township mutual fire insurance company insure any property other than dwellings and their contents, farm buildings and their contents, live stock, farm machinery, automobiles, farm produce anywhere on the premises, churches, schoolhouses, society and town halls, country blacksmith shops and their contents, parsonages and their contents, and the barns and contents used in connection therewith, buttermakers' dwelling houses and contents, and barns and contents used in connection therewith.

No such company shall insure any property within the limits of any city or village except that located upon lands actually used for farming or gardening purposes, but whenever the dwelling house of any person insured is within the limits of a town where the company is authorized to do business, and the farm on which such dwellings is situated is partly within and partly without such town, it may include in such insurance any out buildings, farm produce, stock or other farm property on such farm outside of such limits. ('09 c. 411 § 13, amended '13 c. 80 § 3)

**3396. Same—Termination of membership—Nonresidents—Annulment of policy**—Any member may terminate his membership in the company by giving written notice to the secretary and paying the withdrawing member's share of all existing claims. Nonresidents owning property in any town where any such company is authorized to do business may become a member with all rights thereof except eligibility to office. The board of directors may, by a majority vote thereof, annul and cancel any policy by giving written notice of the cancellation to the member holding such policy. In case of annulment of any policy the action of the board of directors shall be recorded in the minutes of the meeting of the directors. ('09 c. 411 § 14)

**3397. Same—Risks insured against, etc.**—A township mutual fire insurance company shall insure only against loss or damage by fire or lightning and it shall not issue any policy for a term of more than five years. ('09 c. 411 § 15)

**3398. Same—Advance assessments—Emergency fund**—The directors of any such company may collect by advance assessment and maintain in its treasury an emergency fund not exceeding two mills on a dollar of the total amount of insurance in force, to be used in payment of losses and for other purposes for which assessments may be used. ('09 c. 411 § 16)

**3399. Same—Joint or partial risks**—Such town insurance companies may issue joint or partial risks in conjunction with adjoining companies of the same class, and in such case they are not confined to the towns in which they are otherwise authorized to do business; but no such insurance of a joint or partial risk shall be valid or binding upon the company insuring the same until approved by all such companies holding prior risks on property so insured, and the total amount of such joint insurance on any one piece of property shall in no case exceed the total percentage of its value for which such property is insurable by such company. ('09 c. 411 § 17)

**3400. Same—Authority to accept applications and issue policies**—The president and secretary of such company may accept all applications and sign and issue policies, agreeing in the name of the company to pay all losses and damages, not exceeding the sums named in the policies, sustained by reason of fire or lightning, for the term therein specified, and every application for insurance made to any authorized officer or agent, until refused by the proper officer, shall be of the same force and effect as a regularly issued policy and contract of insurance, and from the time of its receipt by an officer or agent, the property specified in such application shall be deemed insured in the same manner and to the same extent as if covered by a regular policy issued according to law and the regulations of the company; provided, that there shall be no liability on such application against any company that has not at any annual or special meeting, by proper resolution, adopted the plan of making such applications of equal force and effect with regularly issued policies. Before the delivery of any policy the company shall collect regular cash premium and policy fee and take the written agreement of the

insured of even date therewith, which shall be embodied in his application, to pay a pro rata share of losses or damages sustained by any member. The same shall be kept on file with the secretary. ('09 c. 411 § 18)

Laws relating to use of standard form not applicable (116-68, 133+163).

**3401. Same—Classification of property—Assessments—**Every such company may classify property insured under different rates, corresponding as nearly as possible to the greater or less risk from fire by reason of location or construction, and issue its policies in accordance with such differences. Whenever any loss shall be ascertained which exceeds in amount the cash funds of the company, the secretary, or in his absence, the president, shall convene the directors, who shall levy an assessment upon each policy-holder for the proportionate amount which he should pay to cover such excess; or the company may borrow not to exceed two mills on each dollar of insurance written by it and then in force, and from such fund pay such losses, and afterwards levy assessments to pay such loans. If the fund for the payment of expenses is insufficient the amount of the deficiency may be added to any assessment. Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of any company so formed who shall willfully neglect or refuse to perform the duties imposed upon them by law shall be liable in their individual capacity to the person sustaining such loss. It shall be the duty of the secretary whenever such assessment shall have been completed, to immediately notify every person composing such company, by letter sent to his usual postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and of the time when and to whom such payment is to be made, but such time shall not be less than sixty nor more than ninety days from the date of such notice, and every person designated to receive such money may demand and receive two per cent. in addition to the amount due on such assessment as aforesaid, for his fees in receiving and paying over the same. ('09 c. 411 § 19)

**3402. Same—Losses, how adjusted—**Every member sustaining loss or damage by fire or lightning shall immediately notify the secretary, who, if the claim exceeds three hundred dollars, may forthwith convene the directors. The directors shall appoint a committee of three members of whom the secretary shall be one, to ascertain the amount of such loss, with authority to examine witnesses, to whom the secretary is hereby authorized to administer oaths. Whenever the by-laws so provide, he may act in place of and with all the authority of such committee; and when the claim does not exceed three hundred dollars, the loss may be ascertained by the president and secretary, or either, with like authority. In case of failure of the parties to agree as to the amount of loss it is mutually agreed that the amount of such loss shall be referred to three disinterested men, the company and the insured each choosing one, the third to be selected by the two so chosen. The award, in writing, by a majority of the referees shall be conclusive and final upon the parties as to the amount of loss or damage, and such reference, unless waived by the parties, shall be a condition precedent to any right of action, in law or equity, to recover for such loss; but no person shall be chosen to act as referee against the objection of either party who has acted in like capacity within four months. The referees shall have full authority to examine witnesses and determine all matters of dispute and shall make their award in writing to the president or secretary of such company. The said referees shall each be allowed the sum of \$2.00 per day for each day's service so rendered, and the sum of five cents per mile for every mile necessarily traveled in discharge of such duties which shall be paid by the claimant, together with the fees of any witnesses that may have been called by the company, unless the award of such referees shall exceed the sum offered in liquidation of such loss or damage, in which case said expenses shall be paid by the company. ('09 c. 411 § 20)

**3403. Same—Annual meeting—**The annual meeting of every such company shall be held before July 1st in each year and the fiscal year of the company shall be from the first day of January to the thirty-first day of the fol-

lowing December, both dates inclusive. The secretary shall prepare and read at the annual meeting a full report of the business of the company transacted during the previous fiscal year, and on or before February 1st, following the end of each fiscal year the president and secretary shall file with the commissioner of insurance a verified statement of the entire business and condition of the company, and which statement shall contain such data and information in reference to the business of the preceding fiscal year as shall be required by the commissioner of insurance. The commissioner of insurance may at other times require any further statement he may deem necessary to be made relating to the business of the company. ('09 c. 411 § 21)

**3404. Same—Fees of commissioner—**There shall be paid to the commissioner of insurance and by him accounted for and paid to the state of Minnesota the following fees:

1. For filing certificate of incorporation, \$2.00.
2. For filing annual statement, \$1.00.
3. For certificate of authority, annually, \$1.00. ('09 c. 411 § 22)

**3405. Same—Existing companies—**Any township mutual fire insurance company heretofore organized may exercise after the passage of this act all of the rights conferred thereby that are within the powers and privileges of its certificate or articles of incorporation, or it may be re-incorporated hereunder. But no such company already organized shall be required to re-incorporate hereunder in order to avail itself of the privileges of this act. Every township mutual fire insurance company now doing business in this state shall have the right to continue transacting such business until the first day of March succeeding the passage of this act, and if the commissioner of insurance is satisfied that the company is transacting its business in accordance with this act he shall, on the first day of each succeeding March issue a license to each company authorizing it to transact business until the first day of March following the date of such license. ('09 c. 411 § 23)

**3406. Same—All companies governed by act—**Except as herein provided all township mutual fire insurance companies heretofore or hereafter organized in this state shall be governed by this act and shall be exempt from all provisions of the insurance laws of this state not, only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to such company unless it shall be expressly designated in such law that it is applicable to township mutual fire insurance companies. ('09 c. 411 § 24)

**3407. Same—Consolidation—**That two or more township mutual fire insurance companies of the same county, which have been or may hereafter be authorized to transact the business of fire insurance exclusively upon farm property, within the same townships, or where one of said companies is authorized to and actually has transacted such insurance business in every town in which such other company is authorized to transact such business, may consolidate as a corporation in the manner provided in this act. To effect such consolidation it shall be necessary:

First. That the board of directors or managing body of each of said corporations pass a resolution to the effect that such consolidation is advisable and containing the proposed name of the corporation, as consolidated, its principal office, and the names of its first board of directors and officers.

Second. That a special meeting of the policy holders of each of said corporations shall be held, a notice of which meeting shall be mailed to each of the policy holders thereof at least thirty days prior to the holding thereof, and which notice shall embody the resolution adopted by said board of directors, as provided for in subdivision one.

Third. That a majority of the policy holders of each of said corporations present or represented at said special meetings shall by resolution approve and ratify the action of said directors, as provided for in subdivision one hereof.

Fourth. That said proceedings and resolutions be filed with the commissioner of insurance of this state and approved of by him.

Fifth. Complete copies of said proceedings, certified to by the president

and secretary of said respective corporations, shall be filed with the town clerk in each of the towns in which said company proposes to transact business.

When full copies of said proceedings have been filed with the commissioner of insurance, which copies shall be certified by the president and secretary of said respective corporations and duly verified by said officers, and approved of by him, the consolidation of said corporations shall be deemed to be complete, and the company so continuing said business shall be deemed to have fully assumed all of the obligations, liabilities and risks, and to be the owners of all the assets of the companies so consolidating. If such consolidation is made under any new name, the filing of said proceedings and the approval of same by the commissioner of insurance shall be sufficient to constitute said consolidated company a corporation, with all the powers, privileges, and subject to all the limitations of a township mutual fire insurance company under the laws of this state. ('09 c. 411 § 25)

This section appears to supersede 1905 c. 312.

**3408. Same—Examination by commissioner—Winding up—**The commissioner of insurance whenever requested by five or more members shall make an examination of the affairs of any township mutual insurance company doing business within this state, and any such company so examined shall pay the actual expenses of the person making such examination. Whenever, after examination, the commissioner of insurance is satisfied that any such company has failed to comply with any provisions of this law, or is exceeding its powers, or is not carrying out its contracts in good faith; or is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or its policy holders, he may present the facts relating thereto to the attorney general who shall, if he deems the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction and such court shall thereupon notify the officers of such company of a hearing, and, unless it shall then appear that some special and good reason exists why such company should not be closed, said company shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such company and shall proceed at once to take possession of the books, papers, moneys, and other assets of the company and shall forthwith, under the direction of the court, proceed to close the affairs of the company and to distribute its funds to those entitled thereto. ('09 c. 411 § 26)

**3409. Same—False statements—Violation of act—Penalties—**Any person, officer or member who shall knowingly or wilfully make any false or fraudulent statement or representation in reference to any application for membership under this act, or any false or fraudulent statement as to the transaction or condition of the company of which he is a member or officer shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than ninety days, in the discretion of the court. Any officer of any such company, or employé thereof, who shall neglect or refuse to comply with, or who shall violate any of the provisions of this act, shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine of not more than \$100.00, or by imprisonment in the county jail for not more than ninety days in the discretion of the court. ('09 c. 411 § 27)

**3410. Renewal of corporate existence—**That in all cases where any township mutual fire insurance association organized under chapter eighty-three of the General Laws of the state of Minnesota for the year 1875, being an act authorizing the formation of town insurance companies, and acts amendatory thereof, whose period of existence has heretofore expired without renewal of the same, and which company or association is still doing business as such, may renew the period of its corporate existence not exceeding the term originally limited therefor at any time within ninety days after the passage of this act by adopting a resolution expressing such proposed renewal by a two-thirds vote of all of its members present and voting at any regular meeting

of such corporation or association or at any special meeting called for that purpose and clearly specifying such purpose. ('09 c. 3 § 1)

See § 3389.

**3411. Same—Meetings, how called**—Such special meeting may be called by written notice specifying the time, place and purpose of the meeting, signed by the secretary and mailed to the members at least ten days before the meeting, according to the postoffice address as it appears upon the books of the company. ('09 c. 3 § 2)

**3412. Same—Duties of officers**—When any such resolution for a renewal shall be so adopted pursuant hereto, the same shall not take effect until a copy of such resolution duly certified by the president and secretary of such corporation, under its corporate seal, if it has one, shall have been filed, published and recorded in the same manner as is provided for the filing, publication and recording of original articles of incorporation. ('09 c. 3 § 3)

#### MUTUAL HAIL, TORNADO, ETC., COMPANIES

**3413. Formation—Conditions before issue of policies**—No company for insurance against loss or damage by hail, tornadoes, cyclones, and hurricanes, or any of said causes, shall issue any policy until at least two hundred thousand dollars of insurance, in not less than four hundred separate risks, upon property located in not less than ten counties, and upon not more than fifteen risks of one hundred and sixty acres each in any one township, have been actually subscribed for and entered on its books, and each subscriber has paid a membership fee of three dollars, for which duplicate receipts have been executed, conditioned for the return thereof at the end of one year if the company has not then completed its organization. Immediately thereafter one of said duplicates shall be delivered to the member, and the other, together with such fee, deposited in a solvent bank approved by the commissioner, where such fee shall remain until the company has been licensed to do business, not exceeding such year, when it shall be delivered to it; otherwise to the member. Such duplicate and a certificate of such deposit shall be filed with the commissioner within ninety days after such deposit. (1667)

**3414. Limit of premiums and assessments**—The premium of every such company in its hail department shall not be less than two and one-half per cent. per annum of the amount insured. In addition to the premium, every policyholder shall be liable to a ratable assessment for all losses and expenses incurred while a member, in a sum equal to such premium, but not exceeding in any one year five per cent. of his insurance, if notified thereof within ninety days after the expiration or cancellation of his policy; or if such policy be for more than one year, within ninety days after the expiration of the year in which assessment is made thereunder. (1668)

98-13, 107+555.

**3415. Notice and payment of assessments**—Whenever any assessment has been completed the secretary shall immediately notify each member by mail, directed to his last known address, of the purpose and amount of such assessment and of his share thereof, and the person to whom and the time when such payment must be made, which shall not be less than thirty nor more than ninety days thereafter; and such person, if the by-laws so provide, may collect a commission of not more than two per cent of each amount in addition thereto. (R. L. § 1669, amended '07 c. 471 § 1)

**3416. Officers—Compensation**—The officers shall perform such duties, receive such compensation, and give such bonds as shall be provided in 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. (1670)

**3417. Proxies**—No proxy shall be received unless dated and actually executed within the preceding thirty days, and filed with the secretary at least ten days before the meeting, nor if made to any director or officer. (1671)

**3418. What property insured—Limit of expenses**—No such company shall insure any other property than country churches and school houses, farm

dwellings, barns, and other buildings, and hay, grain, and other farm products therein, or stored or growing on the premises, or live stock thereon or running at large. No company, in its hail department, shall insure more than thirty-two hundred acres in any one township; there shall be at least one-half mile between each risk assumed by such company, except that risks may be assumed which cover the growing crops upon not more than three hundred and twenty acres of contiguous or immediately adjacent lands. No such company shall incur, lay out or expend, in any one calendar year, as and for the expenses of conducting such business more than its application or survey fees and forty per cent of its total premiums or assessments actually collected. But no company shall be required to limit its annual expenses to less than one thousand dollars. (R. L. § 1672, amended '07 c. 471 § 2)

**3419. Report of company—Power of commissioner—**The commissioner shall demand a report of any such company whenever in his judgment the interests of the public or policyholders so require, and the proper officers of the company shall make prompt reply to such demand, and answer fully all interrogations regarding its business methods, financial condition, and other matters pertaining to its business. If any officer having charge of the books and papers of such company shall fail to make such report promptly, or if the company carries on its business in a fraudulent, extravagant, or unsafe manner, so as not to afford its policyholders protection against loss or damage, or if it violates any provisions of this subdivision; or if its expenses, other than the absolute payment of its losses, shall in any one year exceed the limit prescribed in section 1672 as amended, being section 2 of this act [3418], the commissioner shall revoke its license to do business in this state. And whenever the commissioner shall have reason to doubt the solvency of any such company, or to believe that it is doing fraudulent, extravagant, or unsafe business, he may, at its expense, cause an examination of its books, records, papers and securities, and if upon such examination he shall find that it is not paying its legal obligations, or is conducting its business in a fraudulent, extravagant, or unsafe manner, or is violating any provisions of law, he may bring an action in the district court of the county where the principal office of the company is located for the appointment of a receiver of such company and for the winding up of its affairs, and for such other order and relief as shall be equitable and proper under the circumstances. (R. L. § 1673, amended '07 c. 471 § 3)

**3420. Guaranty surplus fund—Dividends—**Every such company shall create and maintain a guaranty surplus fund and shall annually set aside and credit thereto, on the day its annual assessment falls due, all the income of the preceding year in excess of the amount required for the payment of its losses and its legal expenses. Whenever such fund has to its credit one hundred twenty thousand dollars, the directors shall by resolution declare a dividend to its members of twenty thousand dollars thereof. The remaining one hundred thousand dollars shall be invested according to law. (R. L. § 1674, amended '07 c. 471 § 4)

98-13, 107+555.

**3421. Provisions of policy—**Every policy shall provide as follows: "In case of loss under this policy, and failure of the parties to agree as to the amount of such loss, it is mutually agreed that such amount shall be referred to three disinterested men, the company and the insured each choosing one out of three persons named by the other, the third being selected by such two. The written award of a majority of such referees shall be final and conclusive upon the parties as to amount of loss, and such reference, unless waived by the parties, shall be a condition precedent to any right of action to recover for such loss, and no suit for the recovery of any claim by virtue of this policy shall be sustained unless commenced within six months after the loss occurred;" and shall also provide the form, manner, and length of notice to be given to the company by the insured of any loss sustained. (1675)

**3422. Transfer of risks and reinsurance—**Every company may transfer its risks to, or reinsure them in, any other domestic or foreign company at the

time authorized to do such business in this state, on the mutual or stock plan, by a contract of transfer or reinsurance approved by the commissioner, and by a two-thirds vote of the members present or duly represented and voting at a meeting of such company. (1676)

**3423. Reinsurance and consolidation**—Any such mutual company may at any time reinsure its business in, and consolidate with, any domestic stock company organized wholly or partly for the same purpose, in the manner following:

1. By a two-thirds vote of its members or stockholders, respectively, present or duly represented and voting at any meeting; and each company shall adopt a resolution stating what mutual company proposes to reinsure and consolidate, and with what stock company, and the terms and conditions thereof.

2. A copy of such resolution, and a certificate by the proper officers thereof, specifying the date of the meeting, the notice thereof, the number of members or stockholders, as the case may be, present and voting thereon, and the fact of its adopting such resolution, shall be filed by each company with the commissioner for his approval. (1677)

**3424. Same**—Upon such approval the commissioner shall issue to each company his certificate thereof, and they shall proceed to carry into effect the terms of such resolution; and such stock company shall thereupon acquire all the property of such mutual company, and become liable for all its contracts, but shall keep such property separate from its own for the protection of the members of such mutual company, until all its contracts have been discharged. (1678)

#### MARINE INSURANCE COMPANIES

**3425. Subscription liability fund**—Every mutual marine company, before issuing any policy, shall have an agreement duly executed by solvent subscribers to the amount of at least three hundred thousand dollars, substantially as follows: "We, the subscribers, severally agree to pay to the (name of company), on demand, the whole or such part of the amounts set opposite our names, respectively, as may be called from time to time for its use, to pay losses and expenses not otherwise provided for;" and such agreement, indorsed with the certificate of the president and a majority of the directors that such subscribers are known to them, and that they believe each to be solvent, shall be filed with and approved by the commissioner. (1679)

*Requisites of organization. Nature of liability on subscription. What constitutes marine insurance business (87-59, 91+266; 90-383, 97+110). Policy held not to render holder liable as a member of a mutual company (87-392, 92+227).*

*Liability of directors (97-340, 106+312).*

**3426. Subscriptions to be kept good—Dividends**—Whenever, from death or other cause, a deficiency exists in the subscription fund, the same shall be made good by new subscriptions, certified in the same manner as the original. Subscribers shall be entitled to annual dividends of two per cent. upon the amount of their subscriptions from the profits of the company, and shall also be reimbursed from future profits for all money they shall pay to the company for its uses under their agreement, with interest thereon. (1680)

**3427. Same—Net profits—Accumulations**—The net profits or dividend surplus of every such company shall be annually divided among the insured whose policies terminated during the year, in proportion to their contribution thereto. Such dividends shall be made only in scrip certificates payable out of the accumulated profits or surplus, and such accumulation shall be kept and invested as a separate fund, in trust for the redemption of such certificates, and for losses and expenses, as herein provided. Until redeemed, such certificates shall be subject to future losses and expenses, and be reduced in case the redemption fund is drawn upon for payment of such losses and expenses; but no part of such fund shall be used for payment of losses or expenses, except when and to the extent that the cash assets are insufficient therefor; and whenever any portion thereof is so used the outstanding certificates shall be reduced proportionally, so that such fund shall at all times equal the unredeemed certificates. The net income of the redemption fund

shall be divided annually among the holders of its certificates, or it may make such certificates with a special rate of interest payable from the income of its invested funds. As such profits accumulate and are invested, subscriptions of an equal amount shall be canceled. The maximum of accumulations and profits shall be three hundred thousand dollars, and all excess of profits beyond that amount shall be applied annually to the payment of the certificates in the order of their issue. The certificates shall be forthwith payable when the company ceases to issue policies, and the fund is no longer liable to be drawn upon for the payment of losses. (1681)

**3428. How governed—Liability of officers—**Every domestic mutual marine company shall be governed by the provisions applicable to mutual fire companies, and each subscriber to the subscription fund shall be a member during the term of his subscription and entitled to one vote. If a subscriber fails to pay his subscription or any assessment thereon, and it is shown that any director or officer knowingly certified falsely as to him, the person so certifying shall be liable for the amount thereof. If any such company is at any time liable for losses beyond the amount of its net assets, the president and directors shall be personally liable for all losses on insurance effected while the company remains in such condition. (1682)

#### BURGLARY AND THEFT INSURANCE COMPANIES

**3429. Formation or admission—Conditions—**No mutual company for insuring against loss or damage from burglary or robbery, or attempt to commit the same, or against loss of money or securities in course of transportation by registered mail, shall be licensed to do, or shall do, any business except soliciting and receiving applications, until it shall have received at least five hundred bona fide applications for policies, if a domestic company; or, if a foreign company, shall have in force in the state where created at least five hundred policies; upon which, in either case, not less than twenty per cent. of the premiums shall have been paid in cash, and the remainder in the form of written contracts, which shall constitute part of the assets, and which cash and contracts in either case shall aggregate at least fifty thousand dollars. (1683)

**3430. Limitation—Reserve—**No such company shall transact other business than that stated in § 3429, nor insure in this state other than banks, bankers, loan companies, and municipal treasurers. Every such company shall set aside a reserve fund of fifty per cent. of its premiums, in cash and contracts. No policyholder shall be liable, except by written contract, for any assessment or claim other than membership fee and premium, which shall be paid in cash when the policy is issued. (1684)

#### TITLE AND FIDELITY COMPANIES

**3431. Capital—Guaranty—**The capital of every real estate title insurance company shall not be less than two hundred thousand dollars, and before issuing any policy or other contract of guaranty or insurance it shall set apart and keep separate not less than two-fifths thereof, and not less than one hundred thousand dollars in any case, as a guaranty fund, and invest the same according to law. The principal of such fund shall be applied only to the payment of losses and expenses by reason of its guaranty and insurance contracts. Two-fifths of every increase of capital shall be likewise set apart and added to such fund, so that the same shall always be at least two-fifths of its entire capital, and it shall make no contract of guaranty or insurance when it is less. (1685)

Taxation of company engaged in trust, safety deposit, etc., business (64-101, 66+206).

**3432. Fidelity companies—**No company for guaranteeing the fidelity of persons in fiduciary positions, public or private, or for acting as surety, shall transact any business in this state until it shall have satisfied the commissioner that it has complied with all the provisions of law relative to security prescribed for foreign life companies, so far as applicable, and obtained his certificate to that effect. Thereupon it shall be authorized to execute, as sole or joint surety, any bond, undertaking, or recognizance which, by any municipal or other law, or by the rules or regulations of any municipal or other board, body, organization, or officer, is required or permitted to be made, given, tendered, or filed for the security or protection of any person, corporation, or municipality, or any department thereof, or of any other organization whatever, conditioned for the doing

or omitting of anything in such bond or other instrument specified or provided; and any and all courts, judges, officers, and heads of departments, boards, and municipalities, required or permitted to accept or approve of the sufficiency of any such bond or instrument, may in their discretion accept the same, when executed, or the conditions thereof guaranteed solely or jointly by any such company, and the same shall be in all respects full compliance with every law or other provision for the execution or guaranty by one surety or by two or more sureties, or that sureties shall be residents or householders, or freeholders, or all or either. (1686)

**3433. Title and trust companies ceasing to do business—Distribution of assets—**Any corporation heretofore organized under the laws of this state, transacting both a title insurance and trust company business, which now or at any time hereafter has ceased to do new business by majority vote of its stockholders, or otherwise, and has not issued a policy of insurance for a period of ten years, and has fully executed or surrendered and been discharged from its trusts and has satisfied all obligations on account thereof and all other of its debts and obligations other than its contingent liability on its outstanding policies of insurance, may make distribution of its assets to stockholders by complying with the provisions of this act. ('11 c. 253 § 1)

**3434. Same—May petition district court—**Any such corporation may petition the district court of the county of its principal place of business to ascertain and determine the legal nature and character of its liability on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge such liability. ('11 c. 253 § 2)

**3435. Same—Notice and hearing—Contingent liability on outstanding policies—Guaranty fund—Distribution of other assets—**Upon the presentation of such petition, the court shall fix a time and place for hearing thereon and order six weeks published notice thereof, to be given and such other notice to parties interested as it may deem proper. At the time and place so fixed, the court shall hear the allegations and evidence of all parties interested and if it shall appear to the satisfaction of the court that such corporation has ceased to do new business and has not issued a policy of insurance for a period of ten years and has fully executed or surrendered and been discharged from its trusts and has satisfied all obligations on account thereof and all other of its debts and obligations other than its contingent liability on its outstanding policies of insurance, the court shall find and determine the legal nature and character of the liability of said corporation on its policies of insurance and the amount of securities to be set apart and deposited as a guaranty fund to pay and discharge such liability. Evidence as to the percentage of loss to the amount of insurance issued, sustained by other title insurance companies doing business in this state or elsewhere, and evidence of the cost of reinsuring the holders of all outstanding policies of insurance shall be competent evidence at said hearing; the court may require such other and further evidence as to it may seem wise and proper. The court shall make and enter its order and decree upon said petition, authorizing and directing said corporation, upon depositing with the insurance commissioner securities of the character described in subdivisions 1, 2, 3, 4, 7 and 8 of section 3022 of the Revised Laws of the state of Minnesota for 1905 [6393], of the market value and in an amount equal to the amount so found and determined by the court to be deposited as aforesaid, to distribute to its stockholders such part of its other assets as its board of directors may, by resolution, from time to time determine. ('11 c. 253 § 3)

**3436. Same—Deposit with insurance commissioner—**Said corporation shall file with the insurance commissioner a certified copy of the order and decree of said court and shall deposit with said insurance commissioner securities of the character and amount specified in said order and receive therefor the receipt of said commissioner; thereupon it may distribute its other assets, or such part thereof as it may deem proper, to its stockholders. Such deposit of securities shall be maintained by said corporation unimpaired as a guaranty fund for creditors of said corporation and for the holders of all its policies of insurance and for the faithful discharge of all the duties and obligations of said corporation, with the right to collect the income thereof and to substitute from time to time other like authorized securities of equal amount and value. ('11 c. 253 § 4)

3437. **Same—Documents to be filed with superintendent of banks—Return of securities**—Said corporation shall also file with the superintendent of banks a certified copy of the order and decree of said court and the receipt of the insurance commissioner to said corporation for the securities aforesaid; thereupon said superintendent of banks shall return to said corporation all securities which may have been by it theretofore deposited with him under any law of this state. ('11 c. 253 § 5)

3438. **Same—Liability of corporation and stockholders**—The liability of such corporation, the liability of any stockholder therein upon any contract or obligation, whether of insurance or otherwise, and the right of the holder of any policy of insurance issued by said corporation, shall not be in any manner affected hereby. ('11 c. 253 § 6)

#### EMPLOYERS' MUTUAL LIABILITY INSURANCE ASSOCIATIONS

3439. **Who may incorporate—Purpose**—Twenty or more persons may form an incorporated mutual employers' liability insurance association for the purpose of insuring themselves and such other persons, firms or corporations as may become subscribers to the association against liability for compensation payable under the terms of the workmen's compensation law and for the purpose of insuring against loss or damage by the sickness, bodily injury or death by accident of any person employed by or for whose injury or death the insured is responsible. ('13 c. 122 § 1)

3440. **Certificate of incorporation**—They shall subscribe and acknowledge a certificate specifying:

1. The name, the general nature of its business, and the principal place of transacting the same. Such name shall distinguish it from all other corporations, domestic or foreign, authorized to do business in this state, and shall end with "company," "corporation," "association," or the word "incorporated."

2. The period of its duration.

3. The names and places of residence of the incorporators.

4. In what board its management shall be vested, and the names and addresses of those composing the board until the first election, a majority of whom shall always be residents of the state.

5. The highest amount of indebtedness or liability to which the corporation shall at any time be subject.

6. The territory within which the association may do business.

It may also contain any other lawful provisions defining and regulating the powers or business of the corporation, its officers, directors, trustees and members. ('13 c. 122 § 2)

3441. **Certificate to be approved and filed**—The certificate of incorporation of every such corporation shall be submitted to the commissioner of insurance for his approval and, if he approves the same, one copy thereof shall be filed with the secretary of state of this state and one copy with said commissioner of insurance. After such record such certificate shall be filed for record with the register of deeds of the county of the principal place of business as specified in said certificate. ('13 c. 122 § 3)

3442. **Time of commencing business**—Such association shall not begin to issue policies until a list of the subscribers, with the number of employees of each which, in the aggregate must number in the aggregate, not less than five thousand, together with such other information as the commissioner of insurance may require, shall have been filed at the insurance department, nor until the president and secretary of the association shall have certified under oath that every subscription in the list so filed is genuine and made with an agreement of all the subscribers that they will take the policies subscribed for within thirty (30) days of the granting of a license by the commissioners of insurance. ('13 c. 122 § 4)

3443. **Duty of insurance commissioner—License**—Upon the filing of the certificate provided for in the preceding section, the commissioner of insurance shall make such investigations as he may deem proper, and if his findings warrant it, grant a license to the association to issue policies. ('13 c. 122 § 5)

3444. **Duration of corporation**—Corporations may be formed under this section for not to exceed thirty years in the first instance. ('13 c. 122 § 6)

**3445. To frame by-laws**—Such association shall have the power to make by-laws for the government of its officers and the conduct of its affairs, and the same to alter and amend; and adopt a common seal. ('13 c. 122 § 7)

**3446. Meetings—Officers**—The annual meeting for the election of directors shall be held at such time in the month of January as the by-laws of the association may direct. Of the time and place of said meeting at least thirty (30) days' previous written or printed notice shall be given to the subscribers, or such notice may be given by publication not less than three times in at least two daily or weekly newspapers, published in the city or county wherein the association has its principal office, and in the legal periodical, if any, designated by the rules of court of the proper county for the publication of legal notices. Subscribers who, during the preceding calendar year, have paid into the treasury of the association, premiums amounting to more than one-half of the total premiums received by it during that year, shall constitute a quorum. At such annual meeting the subscribers shall elect, by ballot, from their own number, not less than five directors, a majority of whom shall be residents of this state to serve for at least one year and until their successors are duly chosen; provided, however, that such association may provide in its by-laws for the division of its board of directors into two, three or four classes, and for the election thereof, at its annual meetings, in such manner that the members of one class only shall retire and their successors be chosen each year. Vacancies may be filled by election by the board until the next annual meeting. In the choice of directors and in all meetings of the association, each subscriber shall be entitled to one vote for every one hundred dollars or any fraction thereof paid by him in premiums into the treasury of the association during the preceding calendar year. Subscribers may vote by proxy, and the record of all votes shall be made by the secretary, and shall show whether the same were cast in person or by proxy and shall be evidence of all such elections. Not less than three directors shall constitute a quorum. The directors shall annually choose, by ballot, a president, who shall be a member of the board; a secretary; a treasurer, who may also be either the president or secretary; and such other officers as the by-laws may provide; and they shall fix the salaries of the president and secretary, as well as the salaries or compensation of such other officers and agents as the by-laws prescribe. Vacancies in any office may be filled by the directors or by the subscribers, as the by-laws shall prescribe. ('13 c. 122 § 8)

**3447. Issuance of policies**—Policies of insurance issued by any such association may be made either with or without the seal thereof, and they shall be signed by the president, or such other officers as may be designated by the directors for that purpose, and attested by the secretary. ('13 c. 122 § 9)

**3448. Issuance of policies to cease when**—If at any time the number of subscribers falls below twenty, or the number of the subscribers' employees within the state falls below five thousand, no further policies shall be issued until the total number of subscribers amounts to not less than twenty, whose employees within the state are not less than five thousand. ('13 c. 122 § 10)

**3449. Powers of directors**—The board of directors shall be entitled to inspect the plant, work-room, shop, farm or premises of any subscriber, and for such purpose to appoint inspectors, who shall have free access to all such premises during the regular working hours, and the board of directors shall likewise from time to time be entitled to examine by their auditor or other agent, the books, records and payrolls of any subscribers, for the purpose of determining the amount of premium chargeable to such subscriber.

The board of directors shall make reasonable rules and regulations for the prevention of injuries upon the premises of subscribers; and they may refuse to insure or may terminate the insurance of any subscriber who refuses to permit such examinations or disregards such rules or regulations, and forfeit all premiums previously paid by him, but such termination of the insurance of any subscriber shall not release him from liability for the payment of assessments then or thereafter made by the board of directors to make up deficiencies existing at the termination of his insurance. ('13 c. 122 § 11)

**3450. Premiums—Liability of members**—Every such company shall charge and collect on each policy a premium, in cash, equal to one year's premium on the policy issued and shall also provide in its by-laws and specify in its policies the maximum contingent mutual liability of its members for the payment of losses and expenses not provided for by its cash fund. The contingent liability of a member shall not be less than a sum equal to and in addition to one annual premium nor more than a sum equal to five times the amount of such annual premium, or, in case of a policy written for less than one year, the contingent liability shall not exceed the amount of premium written in the policy. The total amount of liability of the policy-holders shall be plainly and legibly stated upon each policy, as follows:

"The maximum contingent liability of the policy-holder under this policy is \$—."

('13 c. 122 § 12)

**3451. Powers and duties of directors—Premiums**—The board of directors shall determine the amount of premiums which the subscribers of the association shall pay for their insurance, in accordance with the nature of the business in which such subscribers are engaged, and the probable risk of injury to their employees under existing conditions, and they shall fix premiums at such amounts as in their judgment shall be sufficient to enable the association to pay to its subscribers all sums which may become due and payable to their employees under the provisions of law, and also the expenses of conducting the business of the association. In fixing the premium payable by any subscriber, the board of directors may take into account the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of those employed therein, as shown by the report of any inspector appointed by such board, and they may from time to time change the amount of premiums payable by any of the subscribers as circumstances may require, and the condition of the plant, work-room, shop, farm or premises of such subscriber in respect to the safety of their employees may justify, and they may increase the premiums of any subscriber neglecting to provide safety devices required by law, or disobeying the rules or regulations made by the board of directors in accordance with the provisions of section 11 [3449] of this act. No policy of insurance issued to any subscriber shall be effective until he shall have paid in cash the premium so fixed and determined. ('13 c. 122 § 13)

**3452. Groups of subscribers—Assessments**—The board of directors may divide the subscribers into groups in accordance with the nature of their business and the probable risk of injury therein. In such case they shall fix all premiums, make all assessments, and determine and pay all dividends by and for each group in accordance with the experience thereof, but all funds of the association and the contingent liability of all subscribers shall be available for the payment of any claim against the association; provided, however, that (as between the association and its subscribers), until the whole of the contingent liability of the members of any group shall be exhausted, the general funds of the association and the contingent liability of the members of other groups shall not be available for the payment of losses and expenses incurred by such group in excess of the earned premiums paid by the members thereof.

Whenever the liabilities, including unearned premiums and such other reserves as are or may be required by law and the insurance commissioner, are in excess of the admitted assets computed on the basis allowed for its annual statement, it shall make an assessment upon its policy-holders, said assessment to be based upon the amount of one annual premium as written in the policy and not to exceed the amount of five annual premiums.

If it becomes necessary to levy the assessment as provided by this section, no policies shall be issued until the admitted assets of the association are in excess of its liabilities. ('13 c. 122 § 14)

**3453. Statement to be filed with insurance department**—A statement of any proposed premium, assessment, dividend or distribution of subscribers into groups shall be filed with the insurance department. ('13 c. 122 § 15)

**3454. When officer guilty of perjury**—If any officer of the association shall falsely make oath to any certificate required to be filed with the commissioner of insurance, he shall be guilty of perjury. ('13 c. 122 § 16)

**3455. Withdrawal of subscriber**—Any subscriber of the association who has complied with all its rules and regulations, may withdraw therefrom by written notice to that effect, sent by such subscriber by registered mail to the association, and such withdrawal shall become effective on the first day of the month immediately following the tenth day after the receipt of such notice, but such withdrawal shall not release such subscriber from liability for the payment of assessments thereafter made by the board of directors to make up deficiencies existing at the date of his withdrawal, and such subscriber shall be entitled to his share of any dividends earned at the date of his withdrawal. ('13 c. 122 § 17)

**3456. Investment of funds**—Such association shall invest and keep invested all its funds of every description, excepting such cash as may be required in the transaction of its business, in accordance with the laws of this state or relating to the investment of funds of domestic insurance companies. ('13 c. 122 § 18)

**3457. Not to hold real estate**—No such association shall purchase, hold or convey real estate except as provided by section 1615, Revised Laws 1905 [3291]. ('13 c. 122 § 19)

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

Whenever the contracts of insurance issued by such association shall cover in the aggregate less than five thousand employes, the assured shall forthwith notify the commissioner of insurance, of such fact and if, at the expiration of six months from said notice, the aggregate number of employes covered by said contracts of insurance shall be less than five thousand, the commissioner of insurance shall revoke the license of such association and shall petition the district court for the appointment of a receiver for the purpose of winding up its affairs. ('13 c. 122 § 20)

### LIFE INSURANCE COMPANIES

**3459. Defined**—Every corporation or association, domestic or foreign, operating upon any plan involving payment of money or other thing of value to policy or certificate holders, or members, or families, or representatives of either, conditioned upon the continuance or cessation of human life, or for the payment of endowments or annuities (except benevolent, fraternal, cooperative, or secret societies or orders for the sole purpose of mutual welfare, protection, and relief of their members, and the payment of stipulated amounts, or the proceeds of assessments, to the families of deceased members), shall be deemed a life insurance company, and shall make no such insurance, guaranty, contract, or pledge in this state, or to or with any citizen or resident thereof, which does not distinctly specify the amount and manner of payment of benefits and the consideration therefor. (1687)

88-20, 21, 92+472;  
Cited (102-15, 112+1050).

**3460. Prerequisites of all life companies**—No life company shall be qualified to issue any policy until applications for at least two hundred thousand dollars of insurance, upon lives of at least two hundred separate residents, have been actually and in good faith made, accepted, and entered upon its books, and at least one full annual premium thereunder, based upon the authorized table of mortality, received in cash or in absolutely payable and collectible notes. A duplicate receipt for each premium, conditioned for the return thereof unless the policy be issued within one year thereafter, shall be issued, and one copy delivered to the applicant and the other filed with the commissioner, together with the certificate of a solvent authorized bank in the state, of the deposit therein of such cash and notes, aggregating the

amount aforesaid, specifying the maker, payee, date, maturity, and amount of each. Such cash and notes shall be held by it not longer than one year, and at or before the expiration thereof to be by it paid or delivered, upon the written order of the commissioner, to such company or applicants respectively. (1688)

**3461. Discrimination in accepting risks, etc.**—No company or agent, all other conditions being equal, shall make any discrimination in the acceptance of risks, in rates, premiums, dividends, or benefits of any kind, or by way of rebates, between persons of the same class, nor on account of race; and upon request of any person whose application has been rejected, the company shall furnish him, in writing, the reasons therefor, including a certificate of the examining physician that such rejection was not for any racial cause. Every company violating either of the foregoing provisions shall forfeit not less than five hundred dollars nor more than one thousand dollars, and every officer, agent, or solicitor violating the same shall be guilty of a gross misdemeanor; and the commissioner shall revoke the license of such company and its agents, and grant no new license within one year thereafter. (1689)

**3462. Discrimination prohibited**—No life insurance company doing business in this state shall make or permit any distinction or discrimination in favor of individuals between the insureds (the insured) of the same class and equal expectation of life in the amount of payment of premiums or rates charged for policies of life or endowment insurance, or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of the contracts it makes; nor shall any such company or agent thereof make any contract of insurance or agreement as to such contract other than as plainly expressed in the policy issued thereof; nor shall any such company or any officer, agent, solicitor or representative thereof pay, allow or give or offer to pay, allow or give, directly or indirectly, as inducement to insurance, any rebate of premium payable on the policy, or any special feature or advantage in the dividends or other benefits to accrue thereon or any paid employment or contract for services of any kind or any valuable consideration or inducement whatever not specified in the policy contract of insurance. ('07 c. 277 § 1)

**3463. Same—Violation a misdemeanor**—Any violations of the provisions of section 1 [3462] of this act shall be a misdemeanor and punishable as such. ('07 c. 277 § 2)

**3464. Reinsurance**—No domestic company, without permission of the commissioner, shall reinsure more than one-half of any individual risk. (1690)

**3465. Who entitled to proceeds of life policy**—Whenever any insurance is effected in favor of another, the beneficiary shall be entitled to its proceeds against the creditors and representatives of the person effecting the same. All premiums paid for insurance in fraud of creditors, with interest thereon, shall inure to their benefit from the proceeds of the policy, if the company be specifically notified thereof in writing before payment. (1691)

Sections 3465 and 3466 exempting from claims of creditors policies effected by insured in favor of another, or made payable to his wife, or for her benefit, apply only to policies on their face so payable (108-31, 121+230).

A bankrupt, holding a policy payable to his wife, cannot be required to pay the surrender value to the trustee, though it reserves to him the right to change the beneficiary ([D. C.] 176 Fed. 591).

**3466. Exemption in favor of family—Change of beneficiary**—Every policy made payable to, or for the benefit of, the wife of the insured, or after its issue assigned to or in trust for her, shall inure to her separate use and that of her children, subject to the provisions of § 3465. But the person applying for and procuring such policy may change the beneficiary or beneficiaries, if the consent of the beneficiary or beneficiaries named in the policy is obtained, or if a power so to do is reserved in the contract of insurance, or in case of the death or divorcement of a married woman named as beneficiary. (1692)

See note under preceding section.

**3467. Misstatement, when not to invalidate policy**—In any claim upon a policy issued in this state without previous medical examination, or without the knowledge or consent of the insured, or, in case of a minor, without the

consent of his parent, guardian, or other person having his legal custody, the statements made in the application as to the age, physical condition, and family history of the insured shall be valid and binding upon the company, unless wilfully false or intentionally misleading. Every policy which contains a reference to the application, either as a part of the policy or as having any bearing thereon, shall have a copy of such application attached thereto or set out therein. (1693)

See 88-423, 93+608, 97 Am. St. Rep. 532; 94-293, 102+715 and § 1623.

3468. Description of policy on its face—No company shall issue any policy to a resident of this state which does not bear in bold letters upon its face a brief description thereof, so specifying its general character, dividend periods, and other particulars that the holder will not be liable to mistake the nature and scope of the contract. (1694)

R. L. § 1695 repealed. See § 3512.

3469. Policy to contain entire contract—Every policy of insurance issued or delivered within this state on or after the first day of January, nineteen hundred and eight, by any life insurance corporation doing business within the state shall contain the entire contract between the parties. ('07 c. 44 §.1)

Section 2 repeals inconsistent acts, etc.

3470. Policies issued in state—Policies of domestic companies—No policy of life insurance shall be issued or delivered in this state and no policy of life insurance of a life insurance company organized under the laws of this state shall be issued unless authorized by the provisions of this act. ('07 c. 220 § 1)

3471. Standard forms—Ordinary or limited payment—Endowment—Ordinary or limited payment life fixed survivorship annuity—Endowment fixed survivorship annuity—Term—Term with right to renew and change—The following are established as standard forms in which policies of life insurance may be issued and delivered in this state, and in which policies of life insurance of life insurance companies organized under the laws of this state may be issued:

(Name of State).  
.....Standard Life Insurance Policy (insert "Ordinary" or "Limited Payment") ..... Life  
Age.....  
Amount \$..... Premiums \$.....  
.....  
.....  
Of (Name of State)

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (insert amounts and times of payments of premiums) until (insert "the death of the insured" in ordinary life, and "..... full years' premiums shall have been paid or until the prior death of the insured" in limited payment life),

Promises to pay upon receipt at the home office of the company in ..... of due proof of the death of ..... of ..... county of ..... state of ....., herein called the insured, to ..... beneficiary ..... with (insert "out" if so desired) right of revocation ..... dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

Change of Beneficiary—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured, (insert "his" or "her") executors, administrators or assigns.

Payment of Premiums—The company will accept payment of premiums at other times than as stated above, as follows:

.....  
 Except as herein provided, the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of..... per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties and shall be incontestable from its date except for nonpayment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall participate in the surplus of the company, and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall, on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company for calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company by a written notice requiring such election, the dividends shall be paid in cash.

Loans—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than ..... per centum per annum, which interest if not paid annually shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto.

The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be de-

ferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Option on Surrender or Lapse—After this policy shall have been in force three full years the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date of default, without further participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non-participating paid-up insurance, payable at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance as provided in options (a) and (c) the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$. . . . . the loan, cash, or paid-up insurance available in any year will be . . . . . the amount stated in the table for that year.")

At end of year.	Cash or loan value.	Paid-up life insurance.	—Continued insurance—		
			Years.	Months.	Days.
3	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
4	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
5	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
6	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
7	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
8	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
9	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
10	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
11	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
12	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
13	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
14	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
15	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
16	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
17	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
18	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
19	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .
20	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .

Figures for later years will be furnished upon request.



STANDARD LIFE INSURANCE POLICY.

Endowment.

Age .....

Amount \$..... Premium \$.....

Of (Name of State.)

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay at the home office of the company in ..... to ..... county of ..... state of ..... herein called the insured, on the ..... day of ..... if the insured be then living, or upon receipt at said home office of due proof of the prior death of the insured, to ..... beneficiary..... with (insert "out," if so desired), right of revocation ..... dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year.

Change of Beneficiary—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her"), executors, administrators or assigns.

Payment of Premiums—The company will accept payment of premiums at other times than as stated above, as follows:

..... Except as herein provided, the payment of a premium or installment thereof, shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company, upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of..... per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties, and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall in the absence of fraud be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall not participate in the surplus of the company and beginning not later than the end of the (insert first, second or

third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after second policy year"), be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid up additions to the policy, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans—After three full years' premiums have been paid the company, at any time while this policy is in force, will advance, on proper assignment of the policy and on the sole security thereof, at a rate of interest not greater than ..... per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on this policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at time of such failure and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse—After this policy shall have been in force three full years, the owner, within one month after any default, may elect (a) to accept the value of this policy in cash, or (b) to have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount including any outstanding dividend additions, less any indebtedness to the company hereon, or (c) to purchase non participating paid-up insurance, payable at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default on this policy and on any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made.

The term for which the insurance will be continued or the amount of paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured, according to the (designate the mortality

table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating paid up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or for paid up insurance, as provided in option (a) and (c), the insurance will be continued as provided in option (b).

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$. . . . . the loan, cash, paid-up insurance or pure endowment available in any year will be . . . . . the amount stated in the table for that year.")

At end of year.	Cash or loan value.	Paid-up endowment insurance.	Continued insurance.			Pure endowment.
			Years.	Months.	Days.	
3	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
4	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
5	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
6	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
7	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
8	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
9	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
10	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
11	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
12	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
13	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
14	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
15	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
16	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
17	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
18	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
19	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .
20	\$ . . . . .	\$ . . . . .	. . . . .	. . . . .	. . . . .	\$ . . . . .

Figures for later years will be furnished upon request.

Reinstatement—In case of continued temporary insurance under the above provision this policy, upon evidence of insurability satisfactory to the company, may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

Options at Maturity—The insured, by written notice to the company at its home office, and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

(1) By the payment of interest thereon at . . . . . per centum per annum payable annually, to the payee under this policy at the end of each year during the life of the payee and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

(2) By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.

(3) By the payment of equal annual installments payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Installments payable under option (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after



designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary with or without reserving the right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated only twenty annual installments will be payable under this policy, and further (if necessary, insert "semi" or "quarter") annual premiums will be reduced to ..... dollars each.

Payment of Premiums—The company will accept payment of premiums at other times than stated above, as follows:

.....  
 Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future (here insert "annual," "semiannual" or "quarterly") premiums to \$. . . . each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts) and countersigned by said agent.

A grace of one month subject to an interest charge at the rate of ..... per centum per annum shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for nonpayment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same times as the original amount insured under this policy is payable. The payment of such twenty installments shall discharge the company from all liability on account of such dividend additions, or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans—After three full years' premiums have been paid, the company at any time, while this policy is in force, will advance, on the proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than . . . . . per centum per annum, which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy, less than, the reserve at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy, and of any dividend additions thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse—After this policy shall have been in force three full years the owner, within one month after any default, may elect:

(a) To accept the value of this policy in cash, or  
 (b) To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount, including any outstanding dividend additions, less any indebtedness to the company hereon, or

(c) To purchase non-participating paid-up insurance, payable, except as hereinafter provided, at the same time and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves), mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be deferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves), mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the owner shall not, within one month from default, surrender this policy to the company at its home office for a cash surrender value or paid-up insurance, as provided in options (a) and (c), the insurance will be continued as provided in option (b). The paid-up or continued temporary insurance will be payable in twenty equal installments and the payment of twenty installments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted:

"The figures apply to a policy for \$1,000. As this contract is for \$..... the loan, cash, or paid-up insurance available in any year will be ..... the amount stated in the table for that year.")

At end of year.	Cash or loan value.	Paid-up life insurance.	—Continued insurance—		
			Years.	Months.	Days
3	\$.....	\$.....	.....	.....	.....
4	\$.....	\$.....	.....	.....	.....
5	\$.....	\$.....	.....	.....	.....
6	\$.....	\$.....	.....	.....	.....
7	\$.....	\$.....	.....	.....	.....
8	\$.....	\$.....	.....	.....	.....
9	\$.....	\$.....	.....	.....	.....
10	\$.....	\$.....	.....	.....	.....
11	\$.....	\$.....	.....	.....	.....
12	\$.....	\$.....	.....	.....	.....
13	\$.....	\$.....	.....	.....	.....
14	\$.....	\$.....	.....	.....	.....
15	\$.....	\$.....	.....	.....	.....
16	\$.....	\$.....	.....	.....	.....
17	\$.....	\$.....	.....	.....	.....
18	\$.....	\$.....	.....	.....	.....
19	\$.....	\$.....	.....	.....	.....
20	\$.....	\$.....	.....	.....	.....

Figures for later years will be furnished upon request.

Reinstatement—In case of continued temporary insurance under the above provisions this policy, upon evidence of insurability satisfactory to the company may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premium, with interest at (here insert not greater than six) per centum per annum.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this ..... day of .....

(Name of State).....Standard Life Insurance Policy.

Endowment Fixed Survivorship Annuity.

Age .....

Amount \$.....Premium \$.....

Of (Name of State.)

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay at its home office in ..... dollars in twenty equal installments of \$..... to the insured, the first installment to be payable on the ..... day of .....

190..... If the insured shall die before receiving all the twenty installments herein provided for, the remainder of such twenty installments shall be payable as they fall due to ..... (herein called the Beneficiary), (insert "his" or "her") executors, administrators or assigns, with ..... (insert "out" if so desired) right of revocation, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured.

Should the insured die before (insert date of maturity), this policy shall be payable to the beneficiary (insert "his" or "her") executors, administrators or assigns, if (insert "he" or "she") survives the insured, otherwise to the executors, administrators or assigns of the insured (the first installment being

payable immediately upon receipt of due proof of the death of the insured). Any indebtedness to the company on this policy, together with the balance, if any, of the then current year's premium, will be deducted from the amounts first payable under this contract.

Should the insured or beneficiary live to receive the twenty installments payable as above provided, the company, beginning one year after the date when the twentieth installment payable hereunder shall fall due, will pay the sum of \$..... annually to the insured, or, in the event of the death of the insured, to the beneficiary, the said annual payment to be due and payable so long as either the insured or beneficiary is living.

Change of Beneficiary—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns. If a new beneficiary shall be designated, only twenty annual installments will be payable under this policy, and future (if necessary insert "semi" or "quarter") annual premiums will be reduced to ..... dollars each.

Payment of Premiums—The company will accept payment of premiums at other times than as stated above, as follows:

.....

Upon return of this policy to the company, accompanied by evidence satisfactory to the company of the death of the beneficiary, the company will reduce the future (here insert "annual," "semiannual" or "quarterly") premiums to \$..... each.

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of ..... per centum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, or if the age of the beneficiary has been overstated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall participate in the surplus of the company, and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall on

the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year") be either—

- (1) Paid in cash; or
- (2) Applied toward the payment of any premium or premiums, or
- (3) Applied to the purchase of paid-up additions to the policy, payable in twenty annual installments at the same times as the original amount insured under this policy is payable. The payment of such twenty installments shall discharge the company from all liability on account of such dividend additions; or
- (4) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise, within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Loans—After three full years' premiums have been paid the company at any time, while this policy is in force, will advance, on proper assignment of this policy and on the sole security thereof, at a rate of interest not greater than . . . . per centum per annum which interest, if not paid annually, shall be added to the principal and bear the same rate of interest, a sum equal to, or, at the option of the owner of the policy less than the reserve at the end of the current policy year required to provide for the twenty installments payable under this policy and for any dividend additions thereto and no more, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend addition thereto. The company, however, will deduct from such loan value any existing indebtedness to the company on the policy, and any unpaid balance of the premium for the current policy year, and may collect interest in advance on the loan to the end of the current policy year. Such loan may be deferred by the company for not exceeding six months after the application therefor is made. Failure to repay any such advance or to pay interest shall not avoid this policy unless the total indebtedness hereon to the company shall equal or exceed such loan value at the time of such failure, and until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

Assignment—No assignment of this policy shall be binding upon the company until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

Options on Surrender or Lapse—After this policy shall have been in force three full years the owner, within one month after any default, may elect

- (a) To accept the value of this policy in cash, or
- (b) To have the insurance continued in force from date of default, without future participation and without the right to loans, for its face amount including any outstanding dividend additions, less any indebtedness to the company hereon, or

(c) To purchase non-participating paid-up insurance payable, except as hereinafter provided, at the same times and on the same conditions as this policy. The cash value will be the reserve at the date of default required to provide for the twenty installments payable under this policy and for any dividend additions thereto, computed according to the (designate mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy and of any dividend additions thereto, and less any existing indebtedness to the company on this policy. Payment of such cash value may be de-

ferred by the company for not exceeding six months after the application therefor is made. The term for which the insurance will be continued or the amount of the paid-up policy will be such as the cash value will purchase as a net single premium at the attained age of the insured according to the (designate the mortality table adopted by the company for computing reserves) mortality table and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum. If the sum applicable to the purchase of temporary insurance shall be more than sufficient to continue the insurance to the end of the endowment term named in this policy, the excess shall be used to purchase in the same manner non-participating, paid-up pure endowment, payable at the end of the endowment term and on the same conditions. If the owner shall not within one month from default surrender this policy to the company at its home office for a cash surrender value or for paid-up insurance, as provided in options (a) and (c), the insurance will be continued as provided in option (b). The paid-up or continued temporary and pure endowment insurance will be payable in twenty equal annual installments and the payment of twenty installments under either option shall discharge the company from all liability under this policy.

The figures in the following table are computed in accordance with the above provisions and upon the assumption that there is no indebtedness on the policy, and that there are no outstanding dividend additions.

(At the option of the company the following may be here inserted: "The figures apply to a policy for \$1,000. As this contract is for \$..... the loan, cash, paid-up insurance or pure endowment available in any year will be ..... the amount stated in the table for that year.")

At end of year.	Cash or loan value.	Paid-up endowment insurance.	Continued insurance.			Pure endowment.
			Years.	Months.	Days.	
3	\$	\$				\$
4	\$	\$				\$
5	\$	\$				\$
6	\$	\$				\$
7	\$	\$				\$
8	\$	\$				\$
9	\$	\$				\$
10	\$	\$				\$
11	\$	\$				\$
12	\$	\$				\$
13	\$	\$				\$
14	\$	\$				\$
15	\$	\$				\$
16	\$	\$				\$
17	\$	\$				\$
18	\$	\$				\$
19	\$	\$				\$
20	\$	\$				\$

Figures for later years will be furnished upon request.

Reinstatement—In case of continued temporary insurance under the above provisions, this policy, upon evidence of insurability satisfactory to the company, may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this ..... day of .....

(Name of State.)

Standard Life Insurance Policy.

Term

Age.....

Amount \$..... Premium \$.....

Of (Name of State.)

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of

premiums) until ..... full years' premiums shall have been paid, or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in ..... of due proof of the death of ..... of ..... of ..... county of ..... state of ..... herein called the insured, within ..... years from the date hereof ..... dollars, less any indebtedness hereon to the company, and any unpaid portion of the premium for the then current policy year, at said home office, to ..... beneficiary ..... with (insert "out" if so desired) right of revocation.

Change of Beneficiary—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation, by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured, and the insured shall not have designated a new beneficiary, the interest of such beneficiary shall be payable to the insured (insert "his" or "her"), executors, administrators or assigns.

Payment of Premiums—The company will accept payment of premiums at other times than that as stated above, as follows:

..... Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the following officers of the company (insert titles of officers who may sign receipts), and countersigned by such agents.

A grace of one month, subject to an interest charge at the rate of ..... per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restrictions of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to such cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties and shall be incontestable from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties and no such statement shall avoid this policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall participate in the surplus of the company and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall, on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after the second policy year"), be either—

- (1) Paid in cash, or
  - (2) Applied toward the payment of any premium or premiums, or
- (The policy, at the option of the company, may here provide for a further option as follows:)
- (3) Left to accumulate to the credit of the policy, with interest at (here insert a rate not exceeding that used by the company in calculating its re-

erves) per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice requiring such election, the dividends shall be paid in cash.

Assignment—No assignment of this policy shall be binding upon the company, until it be filed with the company at its home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of the policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form:)

Continuance of Insurance on Lapse—In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon, according to the (designate mortality table adopted by the company for computing reserves) mortality table, and interest at the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by the policy, will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured, according to the same table of mortality and rate of interest.

TABLE OF CONTINUED INSURANCE

At end of years.	—Continued insurance—		
	Years.	Months.	Days.
3	.....	.....	.....
4	.....	.....	.....
5	.....	.....	.....
6	.....	.....	.....
7	.....	.....	.....
8	.....	.....	.....
9	.....	.....	.....
10	.....	.....	.....
11	.....	.....	.....
12	.....	.....	.....
13	.....	.....	.....
14	.....	.....	.....
15	.....	.....	.....
16	.....	.....	.....
17	.....	.....	.....
18	.....	.....	.....
19	.....	.....	.....
20	.....	.....	.....

Figures for later years will be furnished upon request. (If the term policy is for more than twenty years, the company shall provide for reinstatement in the following form:)

Reinstatement—Upon evidence of insurability satisfactory to the company, this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums, with interest at (here insert not greater than six) per centum per annum.

Options at Maturity—The insured, by written notice to the company at its home office and with written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

- (1) By the payment of interest thereon at ..... per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee, and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.
- (2) By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.
- (3) By the payment of equal annual installments, payable at the beginning of each year, for a fixed period of twenty years, and for so many years longer

as the payee shall survive, in accordance with the following table for each \$1,000 of said net sum.

Installments payable under options (2) or (3), which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed, in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may, after the death of the insured, by like written notice, and with written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may on any interest date receive the amount yet due under option (1), and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided, that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH \$1,000.

Option (2).		Option (3).	
Number of annual installments.	Amount of each installment.	Age of payee when policy becomes payable.	Amount of each installment.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this ..... day of .....

(Name of State.)

.....  
Standard Life Insurance Policy.

Term with right to renew and change.

Age .....

Amount \$..... Premium \$.....  
.....  
.....

Of (Name of State.)

In consideration of ..... dollars, receipt of which is hereby acknowledged, and of the payment of (here insert amounts and times of payments of premiums) until ..... full years' premiums shall have been paid or until the prior death of the insured.

Promises to pay upon receipt at the home office of the company in ..... of due proof of the death of ..... of ..... county of ..... state of ..... herein called the insured, within ..... years from the date hereof ..... dollars, less any indebtedness hereon to the company and any unpaid portion of the premium for the then current policy year, at said home office, to ..... beneficiary ..... with (insert "out") right of revocation.

Change of Beneficiary—When the right of revocation has been reserved, or in case of the death of any beneficiary under either a revocable or irrevocable designation, the insured, subject to any existing assignment of the policy, may designate a new beneficiary, with or without reserving right of revocation by filing written notice thereof at the home office of the company, accompanied by the policy for suitable endorsement thereon. If any beneficiary shall die before the insured and the insured shall not have designated a new beneficiary the interest of such beneficiary shall be payable to the insured (insert "his" or "her") executors, administrators or assigns.

Payment of Premiums—The company will accept payment of premiums at other times than as stated above, as follows:

Except as herein provided the payment of a premium or installment thereof shall not maintain the policy in force beyond the date when the next premium or installment thereof is payable.

All premiums are payable in advance at said home office, or to an agent of the company upon delivery of a receipt signed by one or more of the fol-

lowing officers of the company (insert titles of officers who may sign receipts), and countersigned by said agent.

A grace of one month, subject to an interest charge at the rate of ..... per centum per annum, shall be granted for the payment of every premium after the first, during which month the insurance shall continue in force. If the insured shall die during the month of grace, the overdue premium will be deducted from any amount payable hereon in any settlement hereunder.

Conditions—(The policy may here provide for restriction of liability by reason of travel, occupation, change of residence and suicide. These restrictions, except such as refer to military and naval service in time of war, must be applicable only to cases where the act of the insured provided against occurs within two years after the issuance of the policy.)

Incontestability—This policy constitutes the entire contract between the parties and shall be incontestable, from its date, except for non-payment of premiums and except as otherwise provided in this policy. All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid this policy, unless it is contained in a written application, and a copy of such application shall be endorsed upon or attached to this policy when issued.

If the age of the insured has been understated, the amount payable hereunder shall be such as the premium paid would have purchased at the correct age.

Participation—This policy shall participate in the surplus of the company, and beginning not later than the end of the (insert first, second or third) policy year the company will annually determine and account for the portion of the divisible surplus accruing hereon.

Dividends—Dividends at the option of the owner of this policy shall, on the ..... day of ..... of each year (here may be inserted "after the first policy year" or "after second policy year") be either—

- (1) Paid in cash, or
- (2) Applied toward the payment of any premium or premiums.

(This policy, at the option of the company, may here provide for a further option as follows:)

(3) Left to accumulate to the credit of the policy with interest at (here insert a rate not exceeding that used by the company in calculating its reserves) per centum per annum and payable at the maturity of the policy, or at the expiration of the term, but withdrawable on any anniversary of the policy.

Unless the owner of this policy shall elect otherwise within three months after the mailing by the company of a written notice, requiring such election, the dividends shall be paid in cash.

Privilege of Renewal—The owner of this policy, if the insured be not over the age of sixty-five years, may renew this policy for further terms of ..... years each by written notice to the company at its said home office, accompanied by this policy for suitable endorsement on or before the expiration of the insurance hereunder, and by paying the premiums to be fixed by the age on the birthday nearest to the date of such renewal in accordance with the following table for each one thousand dollars of insurance; if the insured shall be over the age of sixty-five years, this policy may, upon similar notice, be surrendered for an ordinary life policy, which shall require premiums during life in accordance with the following table for each one thousand dollars of insurance.

TABLE OF PREMIUMS FOR RENEWALS.

Attained age.	Years' term premium payable in advance for each \$1,000.	Attained age.	Ordinary life premium payable in advance for each \$1,000.

Privilege to Change to Other Forms of Policies—The owner of this policy may at any time within the first ..... years exchange this policy for a participating policy for the same amount or any less amount upon the ordinary life, limited payment life or endowment plan upon any anniversary of

the policy or within the month of grace by surrendering the policy to the company at said home office with written notice of the election, and by paying the premium, to be fixed by the age on the birthday nearest to the date of such exchange, according to the rates of the company then in force.

Assignment—No assignment of this policy shall be binding upon the company, until it be filed with the company at its said home office. The company assumes no responsibility as to the validity of any assignment.

(If the term of the policy is for more than twenty years, the company shall provide for continuance of insurance on surrender or lapse in the following form:)

Continuance of Insurance on Lapse—In event of default in premium payments after this policy shall have been in force three full years, the reserve hereon according to the (designate mortality table adopted by the company for computing reserves) per centum per annum, less the rate of (designate rate of interest adopted by the company for computing reserves) per centum per annum, less (here may be inserted not more than two and one-half) per centum of the amount insured by this policy will be applied to the purchase of non-participating continued temporary insurance for the face amount of this policy at net single premium rates at the attained age of the insured, according to the same table of mortality and rate of interest.

TABLE OF CONTINUED INSURANCE

At end of years.	—Continued insurance—		
	Years.	Months.	Days.
3	.....	.....	.....
4	.....	.....	.....
5	.....	.....	.....
6	.....	.....	.....
7	.....	.....	.....
8	.....	.....	.....
9	.....	.....	.....
10	.....	.....	.....
11	.....	.....	.....
12	.....	.....	.....
13	.....	.....	.....
14	.....	.....	.....
15	.....	.....	.....
16	.....	.....	.....
17	.....	.....	.....
18	.....	.....	.....
19	.....	.....	.....
20	.....	.....	.....

Figures for later years will be furnished upon request.

(If the term of the policy is for more than twenty years, the company shall provide for reinstatement in the following form:)

Reinstatement—Upon evidence of insurability satisfactory to the company this policy may be reinstated within the first three years of the term for which the insurance is continued by payment of arrears of premiums with interest at (here insert not greater than six) per centum per annum.

Options at Maturity—The insured, by written notice to the company at its home office and with the written consent of the assignee and irrevocable beneficiary, if any, may elect to have the net sum payable under this policy paid either in cash or as follows:

(1) By the payment of interest thereon at.....per centum per annum, payable annually, to the payee under this policy at the end of each year during the life of the payee, and by the payment upon the death of the payee of the said net sum and accrued interest to the executors, administrators or assigns of the payee, unless otherwise directed in said notice.

(2) By the payment of equal annual installments for a specified number of years, the first installment being payable immediately, in accordance with the following table for each \$1,000 of said net sum.

(3) By the payment of equal annual installments, payable at the beginning of each year for a fixed period of twenty years and for so many years longer as the payee shall survive, in accordance with the following table, for each \$1,000 of said net sum.

Installments payable under options (2) or (3) which shall not have been paid prior to the death of the payee shall be paid, unless otherwise directed in said notice, to the executors, administrators or assigns of the payee.

If the insured shall not have directed otherwise the beneficiary may after the death of the insured by like written notice and with the written consent of the assignee, if any, select either of the above options.

Unless otherwise specified by the insured the payee may, on any interest date, receive the amount yet due under option (1) and may at any time receive the commuted value of payments yet to be made, computed upon the same basis as option (2) in the following table, provided that no such commutation will be made under (3), except after the death of the payee occurring within the aforesaid twenty years.

TABLE OF INSTALLMENTS FOR EACH \$1,000.

Option (2).		Option (3).	
Number of annual installments.	Amount of each installment.	Age of payee when policy becomes payable.	Amount of each installment.

Agents are not authorized to modify this policy or to extend the time for paying a premium.

In witness whereof, the company has caused this policy to be executed this .....day of ..... ('07 c. 220 § 2)

The provision, "All statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and no such statement shall avoid the policy unless contained in a written application and unless a copy of such application be indorsed on or attached to the policy when issued," construed (115-177, 131+1081).

**3472. Standard form—Additional terms in policies providing for payment to beneficiary, etc.**—That in addition to the terms and conditions now required by law to be in the standard form of life insurance policies issued or delivered in this state, there shall be, when such policy provides for the payment to the beneficiary the proceeds thereof, in either monthly, quarterly, semi-annually or annual installments to continue during the life time of the beneficiary, or for a stipulated number of years whenever requested by the insured under said policy, a condition, term and agreement as follows, to-wit:

All rights of the beneficiary to commute, change time of payment or amount of installments, surrender for cash, borrow against or assign for any purpose whatever, are hereby withdrawn and those parts of this policy giving the beneficiary such rights are hereby declared inoperative and void; it being the intent hereof that the beneficiary shall have no right whatsoever under this contract except to receive the installments at such times and in such amounts as stated in this policy, and all the provisions of this policy in conflict herewith are hereby declared to be inoperative. ('13 c. 426 § 1)

**3473. Same—Rider**—The foregoing may be attached to said policy in the form of a rider thereon and when so attached shall become a part of and form a part of said contract of insurance evidenced by such policy to all intents and purposes as if set forth at length therein. ('13 c. 426 § 2)

**3474. Same—Existing policies**—Any life insurance company that has heretofore issued any insurance policy of life insurance may, at the request of the insured, attach to any such policy heretofore issued which, by its terms, is payable to a beneficiary or beneficiaries in installments, a rider containing the terms and conditions set forth in section 1 hereof [3472], and when so attached the same shall become a part of the contract of insurance to all intents and purposes as if so attached when said policy was originally issued. Provided, however, that it shall be unlawful for any insurance company to attach any rider, of any kind or description, to any policy except upon the approval of the commissioner of insurance, with whom it shall be discretionary whether any rider shall be attached to any policy. ('13 c. 426 § 3)

**3475. Single premium policies—Non-participating policies**—Single premium policies may be issued in any form prescribed in section 2 [3471], omitting therefrom provisions or portions thereof applicable only to other than

single premium policies. Non-participating policies may be issued in any form prescribed in section 2 [3471] if they shall contain a provision that the policy shall be non-participating, and such policies shall omit therefrom clauses for participation in the surplus of the company. ('07 c. 220 § 3)

1907 c. 161 was repealed by 1909 c. 262:

**3476. Preliminary term insurance**—Policies issued pursuant to the provisions of this act may provide for not more than one year preliminary term insurance, and shall be valued accordingly by incorporating therein the following clause immediately preceding the "Change of Beneficiary Clause": "The first year's insurance under this policy is term insurance." ('07 c. 220 § 4)

**3477. Policies in form other than as provided in section 3471—Provisions required**—No policy of life insurance in form other than as provided in section 2 [3471] shall be issued in this state or be issued by a life insurance company organized under the laws of this state unless the same shall contain the following provisions:

(1) A provision that all premiums shall be payable in advance either at the home office of the company, or to an agent of the company, upon delivery of a receipt signed by one or more of the officers who shall be named in the policy and countersigned by the agent, but any policy may contain a provision that the policy itself shall be a receipt for the first premium.

(2) A provision for a grace of one month for the payment of every premium after the first, which may be subject to an interest charge, during which month the insurance shall continue in force, which provision may contain a stipulation that if the insured shall die during the month of grace the over-due premium will be deducted in any settlement under the policy.

(3) A provision that the policy shall constitute the entire contract between the parties and shall be incontestable after two years from its date, except for non-payment of premiums and except for violations of the conditions of the policy relating to naval and military services in time of war. A special form of policy, however, may be issued on the life of a person employed in an occupation classed by the company as extra hazardous or as leading to hazardous employment, which shall provide that service in certain designated occupations may reduce the company's liability under the policy to a certain designated amount not less than the full policy reserve.

(4) A provision that all statements made by the insured shall, in the absence of fraud, be deemed representations and not warranties, and that no such statement shall avoid the policy unless it is contained in a written application and a copy of such application shall be endorsed upon or attached to the policy when issued.

(5) A provision that if the age of the insured has been understated, the amount payable under the policy shall be such as the premium would have purchased at the correct age.

(6) A provision that the policy shall participate in the surplus of the company and that, beginning not later than the end of the third policy year, the company will annually determine and account for the portion of the divisible surplus accruing on the policy, and that the owner of the policy shall have the right each year after the fifth to have the current dividend arising from such participation paid in cash, and if the policy shall provide other dividend options, it shall further provide that if the owner of the policy shall not elect any such other options the dividends shall be paid in cash. Which provision may stipulate that any dividends payable during the first five-years of such policy shall be conditioned upon the payment of the next ensuing annual premium. This provision shall not be required in non-participating policies, nor in policies issued on under-average lives, nor in insurance in exchange for lapsed or surrendered policies.

(7) A provision that after three full years' premiums have been paid, the company at any time, while the policy is in force, will advance, on proper assignment of the policy, and on the sole security thereof, at a specified rate of interest, a sum equal to, or, at the option of the owner of the policy, less than the reserve at the end of the current policy year on the policy, and on

any dividend additions thereto, specifying the mortality table and rate of interest adopted for computing such reserve, less a sum not more than two and one-half per centum of the amount insured by the policy, and of any dividend additions thereto; and that the company will deduct from such loan value any existing indebtedness on the policy and any unpaid balance of the premium for current policy year, and may collect interest in advance on the loan to the end of the current policy year; which provision shall further provide that such loan may be deferred for not exceeding sixty days after the application therefor is made and which provision may further provide that such loan may be deferred for not exceeding six months after the application therefor is made. It shall be further stipulated in the policy that failure to repay any such advance or to pay interest shall not avoid the policy unless the total indebtedness thereon to the company shall equal or exceed such loan value at the time of such failure, nor until one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee of record at the home office of the company, if any.

No condition other than as herein provided shall be exacted as a prerequisite to any such advance.

This provision shall not be required in term insurance.

(8) A provision which, in event of default in premium payments, after premiums shall have been paid for three years, shall secure to the owner 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 additions thereto, specifying the mortality table and the rate of interest adopted for computing such reserves, less a sum not more than two and one-half per centum of the amount insured by the policy, and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy.

Such provisions shall stipulate 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 sixty days after the application therefor is made, and may 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 term insurance of twenty years or less.

(9) A table showing in figures the loan values, and the options available under the policies each year upon default in premium payments, during at least the first twenty years of the policy, beginning with the year in which such values and options become available.

(10) A provision that if, in event of default in premium payments, the value of the policy shall be applied to the purchase of other insurance, and if such insurance shall be in force and the original policy shall not have been surrendered to the company and canceled, the policy may be reinstated within three years from such default, upon evidence of insurability satisfactory to the company, and payment of arrears of premiums with interest.

(11) A provision that when a policy shall become a claim by the death of the insured, settlement shall be made upon receipt of due proof of death, or not later than two months after receipt of such proof.

(12) A table showing the amount of installments in which the policy may provide its proceeds may be payable.

(13) A title on the face and on the back of the policy correctly describing the same.

Any of the foregoing provisions or portions thereof relating to premiums, not applicable to single premium policies, shall to that extent not be incorporated therein. ('07 c. 220 § 5, amended '13 c. 152 §§ 1, 2)

**3478. Same—Provisions prohibited—**No policy of life insurance in form other than as prescribed in section 2 [3471] shall be issued or delivered in this state or be issued by a life insurance company organized under the laws of this state, if it contain any of the following provisions:

(1) A provision for forfeiture of the policy for failure to repay any loan

on the policy or to pay interest on such loan while the total indebtedness on the policy is less than the loan value thereof; or any provision for forfeiture for failure to repay any such loan or to pay interest thereon, unless such provision contain a stipulation that no such forfeiture shall occur until at least one month after notice shall have been mailed by the company to the last known address of the insured and of the assignee, if any. Notice of whose address and contract of the assignment has been filed with the company at its home office.

(2) A provision limiting the time within which any action at law or in equity may be commenced to less than five years after the cause of action shall accrue.

(3) A provision by which the policy shall purport to be issued or to take effect before the original application for the insurance was made, if thereby the assured would rate at any age younger than his age at date when the application was made, according to his age at nearest birthday.

(4) A provision for any mode of settlement at maturity of less value than the amount insured on the face of the policy plus dividend additions, if any, less any indebtedness to the company on the policy and less any premium that may by the terms of the policy be deducted. ('07 c. 220 § 6)

3479. **Same—Preliminary term policies—**Preliminary term policies not issued on the standard forms shall be subject to the provisions of section 4 [3476]. ('07 c. 220 § 7)

3480. **Form to be filed with commissioner—Disapproval—Review—**No policy of life insurance shall be issued or delivered in this state, or be issued by a life insurance company organized under the laws of this state, until the form of the same has been filed with the insurance commissioner; and after the insurance commissioner shall have notified any company of his disapproval of any form, it shall be unlawful for such company to issue any policy in the form so disapproved. The commissioner's action shall be subject to review by any court of competent jurisdiction. ('07 c. 220 § 8)

3481. **Policies of foreign companies—Of domestic companies issued without state—**The policies of a life insurance company, not organized under the laws of this state, may contain any provision which the law of the state, territory, district or country under which the company is organized, prescribes shall be in such policies, and the policies of a life insurance company organized under the laws of this state may, when issued or delivered in any other state, territory, district or country, contain any provision required by the laws of the state, territory, district or country in which the same are issued, anything in this act to the contrary notwithstanding. ('07 c. 220 § 9)

3482. **To what companies applicable—Deferred annuities—**This act shall not apply to annuities, industrial policies or to corporations or associations operating on the assessment or fraternal plan and in every case where a contract provides for both insurance and annuities this act shall apply only to that part of the contract which provides for insurance, but every contract containing a provision for a deferred annuity on the life of the insured only (unless paid for by a single premium) shall provide that in event of the non-payment of any premium after three full years' premiums shall have been paid, the annuity shall automatically become converted into a paid up annuity for such proportion of the original annuity as the number of completed years' premiums paid bears to the total number of premiums required under the contract. ('07 c. 220 § 10, amended '09 c. 295 § 1)

3483. **"Company" defined—**Wherever the word company is used in this act it shall be held to include corporations and associations. ('07 c. 220 § 11)

3484. **Coupon policies prohibited—**So-called coupon policies shall not be issued or delivered by any company to any residents of this state. ('13 c. 443 § 1)

"An act relating to policies of life insurance."

3485. **Person soliciting—Agent—**Any person who shall solicit an application for insurance upon the life of another shall, in any controversy between the assured or his beneficiary and the company issuing any policy upon such applica-

tion, be regarded as the agent of the company and not the agent of the assured. ('07 c. 41 § 1)

Section 2 repeals inconsistent acts, etc.

**3486. Foreign companies may become domestic, when**—Any company organized under the laws of any other state or country, which might have been originally incorporated under the laws of this state, and which has been admitted to do business therein for either or both the purposes of life or accident insurance, upon complying with all the requirements of law relative to the execution, filing, recording, and publishing of original certificates and payment of incorporation fees by like domestic corporations, therein designating its principal place of business at a place in this state, may become a domestic corporation, and be entitled to like certificates of its corporate existence and license to transact business in this state, and be subject in all respects to the authority and jurisdiction thereof. (1696)

**3487. Rights of members of domestic companies**—Every person insured by a domestic mutual life insurance company shall be a member, entitled to one vote, and one vote additional for each one thousand dollars of insurance in excess of the first one thousand dollars, and shall be notified of its annual meetings by a written notice mailed to his address, or by an imprint on the back of his policy, receipt or certificate of renewal, as follows, to-wit:

The insured is hereby notified that by virtue of his policy he is a member of the ..... Insurance Company, and that the annual meetings of said company are held at its home office on the ..... day of ..... in each year, at ..... o'clock.

The blanks shall be duly filled in print. Any member of a domestic mutual life insurance company may vote by proxy, provided that the written proxy appointment shall be filed with the company at least five days before the meeting at which it is to be used. (1697)

Policy without notice of meeting not void (90-9, 95+579).

**3488. False representations as to policy, etc.**—No life insurance company doing business in this state, and no officer, director or agent thereof shall issue or circulate, or cause or permit to be issued or circulated, any estimate, illustration, circular or statement of any sort misrepresenting the terms of any policy issued by it or the benefits or advantages promised thereby, or the dividends or shares of surplus to be received thereon, or shall use any name or title of any policy or class of policies misrepresenting the true nature thereof. ('07 c. 43 § 1)

Section 3 repeals inconsistent acts, etc.

**3489. Same—Penalties**—Any person violating the provisions of this act shall be guilty of a misdemeanor and the license of any company which shall authorize or permit a violation of this act shall be revoked. ('07 c. 43 § 2)

**3490. Investments of domestic companies**—No domestic life insurance company, whether incorporated by special act or under a general law shall, after the first day of January, 1908, invest in or loan upon any shares of stock of any corporation, other than a municipal corporation; nor, excepting government, state or municipal securities, shall it invest in, or loan upon, any bonds or obligations not secured by adequate collateral security and when more than one-third of the total value of the collateral security shall consist of shares of stock, it shall be deemed inadequate. Every such company possessed of stocks or securities prohibited by this act shall dispose of the same within five years, unless such time is extended by the commissioner of insurance. No investment or loan, except policy loans, shall be made by any such life insurance company, unless the same shall first have been authorized by the board of directors, or by a committee thereof charged with the duty of supervising such investment or loan. No such company shall subscribe to or participate in any underwriting of the purchase or sale of securities of property, or enter into any transaction for such purchase or sale on account of said company jointly with any other person, firm or corporation; nor shall any such company enter into any agreement to withhold from sale any of its property, but the disposition of its property shall be at all times within the control of its board of directors. Any such company, in addition to other investments allowed by law, may invest any of its funds and

accumulations in the bonds of the United States, or of this state, or of any county, city, town or village, or duly organized school district therein, or of any municipality or civil division of any state, and may loan upon improved unincumbered real property in any state 50 per centum of the value of such property, or invest in the mortgage bonds of any dividend paying railway or street railway company duly incorporated and organized under the authority of this state, or any other state, and it may also make loans on the security of promissory notes amply secured by pledge of any bonds in which such insurance companies are hereby authorized to invest their funds, and may also make loans upon the security of its own policies, but no loan on any policy shall exceed the reserve value thereof. ('07 c. 163 § 1)

Section 3 repeals inconsistent acts, etc.

**3491. Same—Real property—Power to hold, etc.**—Every such life insurance company may acquire, hold and convey real property only for the following purposes and in the following manner:

First—Such as shall be requisite for convenient accommodation in the transaction of its business.

Second—Such as shall have been mortgaged to it in good faith by way of security for loans previously contracted, or for moneys due.

Third—Such as shall have been conveyed to it in satisfaction of debts previously contracted in the course of its dealings.

Fourth—Such as shall have been purchased at sales on judgments, decrees or mortgages obtained or made for such debts.

All such real property specified in sub-division 2, 3 and 4 of this section, which shall not be necessary for its accommodation in the convenient transaction of its business, shall be sold and disposed of within five years after the company shall have acquired title to the same, or within five years after the same shall have ceased to be necessary for the accommodation of its business, and it shall not hold such property for a longer period unless it shall procure a certificate from the commissioner of insurance that its interests will suffer materially by the forced sale thereof, in which event the time for the sale may be extended to such time as the commissioner shall direct in such certificate. ('07 c. 163 § 2)

**3492. Annual apportionment of surplus of certain companies**—Every life insurance company doing business in this state conducted on the mutual plan or in which policy holders are entitled to share in the profits or surplus, shall make an annual apportionment and accounting of divisible surplus to each policy holder beginning not later than the end of the third policy year on all participating policies hereafter issued; and each such policy holder shall be entitled to and be credited with or paid, in the manner hereinafter provided, such a portion of the entire divisible surplus as has been contributed thereto by his policy. ('07 c. 198 § 1)

Section 6 repeals conflicting acts, etc.

**3493. Contingency reserve of companies doing business in state**—Any life insurance company doing business in this state may accumulate and maintain, in addition to the capital and surplus contributed by its stockholders, and in addition to an amount equal to the net values of its policies, computed according to the laws of the jurisdiction under which it is organized, a contingency reserve not exceeding the following respective percentages of said net values, to-wit: When said net values are less than one hundred thousand dollars, twenty per centum thereof or the sum of ten thousand dollars, whichever is the greater; when said net values are greater than one hundred thousand dollars, the percentage thereof measuring the contingency reserve shall decrease one-half on one per centum for each one hundred thousand dollars of said net values up to one million dollars; when said net values are greater than one million dollars but do not exceed twenty-five million dollars, the contingency reserve shall not exceed fifteen per centum thereof; when said net values are greater than twenty-five million dollars but do not exceed fifty million dollars, the contingency reserve shall not exceed twelve and one-half per centum thereof; when said net values are greater than fifty million dollars but do not exceed one hundred million dollars, the contingency reserve shall not exceed ten per centum thereof; when said net values are greater than one hundred million dollars but do not

exceed one hundred and fifty million dollars, the contingency reserve shall not exceed seven and one-half per centum thereof; when said net values are greater than one hundred and fifty million dollars the contingency reserve shall not exceed five per centum thereof; provided that as the net values of said policies increase and the maximum percentage measuring the contingency reserve decreases such corporation may maintain the contingency reserve already accumulated hereunder, although for the time being it may exceed the maximum percentage herein prescribed, but may not add to the contingency reserve when the addition will bring it beyond the maximum percentage. Provided further, that for cause shown the commissioner of insurance may at any time and from time to time permit any corporation to accumulate and maintain a contingency reserve in excess of the limit above mentioned for a prescribed period, not exceeding one year under any one permission, by filing in his office a decision stating his reasons therefor and causing the same to be published in his next annual report. This section shall not apply to any company doing exclusively a non-participating business. ('07 c. 198 § 2)

**3494. Application of surplus—Designation by policy holder, etc.**—Every policy holder shall on all participating policies hereafter issued, be permitted after his policy has been in force five years annually to select the manner and method of the application of the surplus to be annually apportioned to his policy from among those set forth in the policy. All apportioned surplus not actually paid over to the insured, or applied in the reduction of current or future premiums or in the purchase of paid-up insurance of pure endowment additions, shall be credited to the insured and carried as an actual liability and be paid at the maturity of the policy. ('07 c. 198 § 3)

**3495. Default in payment of premium—Rights of insured**—In event of default in payment of any premium due on any policy, provided not less than three full years' premiums shall have been paid, and provided further, such policy shall not be continued in force by virtue of an automatic loan provision therein, there shall be secured to the insured without action on his part, either paid or extended insurance as specified in the policy, the net values of which shall be at least equal to the entire net reserve held by the company on such policy, less two and one-half per centum of the amount insured by the policy and dividend additions, if any, and less any outstanding indebtedness to the company on the policy at time of default. There shall be secured to the insured the right to surrender the policy to the company at its home office within one month after date of default for the cash value otherwise available for the purchase of the paid-up or extended insurance as aforesaid. Such cash payment to be made within six months after demand therefor. ('07 c. 198 § 4)

**3496. Provisions not waived**—No agreement between the company and the policy holder or applicant for insurance shall be held to waive any of the provisions of this act. ('07 c. 198 § 5)

**3497. Annual apportionment of surplus of certain companies on policies heretofore issued**—Every life insurance company doing business in this state conducted on the mutual plan or in which policy holders are entitled to share in the profits or surplus shall, on all policies of life insurance heretofore issued, under the conditions of which the distribution of surplus is deferred to a fixed or specified time, and contingent upon the policy being in force and the insured living at that time, annually ascertain the amount of surplus to which all such policies as a separate class are entitled, and shall annually apportion to such policies as a class the amount of surplus so ascertained, and carry the amount of such apportioned surplus, plus the actual interest earnings and accretions of such fund, as a distinct and separate liability to such class of policies on and for which the same was accumulated, and no company or any of its officers shall be permitted to use any part of such apportioned surplus fund for any purpose whatsoever other than for the express purpose for which the same was accumulated. ('07 c. 201 § 1)

Section 3 repeals inconsistent acts, etc.

**3498. Same—Application of act**—This act shall not apply to industrial policies, or to any policy until the same has been in force three years. ('07 c. 201 § 2)

**3499. Temporary capital of mutual companies—Retirement of stock—**A mutual life insurance company may be organized with, and an existing mutual life insurance company may establish a temporary capital of not less than \$100,000, which shall be invested in the same manner as is provided for the investment of its other funds. Out of the net surplus of the company the holders of the temporary capital stock may receive a dividend of not more than 8 per cent per annum which may be cumulative. Such capital stock shall not be a liability of the company except that it shall be retired as soon as, but not before, the surplus of the company remaining after its retirement shall be not less than the temporary capital so established. At the time for the retirement of such capital stock the holders shall be entitled to receive from the company the par value thereof and any dividends thereon due and unpaid, and thereupon the stock shall be surrendered and canceled, and the right to vote thereon shall cease. ('07 c. 162 § 1)

Section 2 repeals inconsistent acts, etc.

**3500. Disbursements of domestic companies, how made—Vouchers—**No domestic life insurance company shall make any disbursement of one hundred dollars or more unless the same be evidenced by a voucher signed by or on behalf of the person, firm, or corporation receiving the money and correctly describing the consideration for the payment. If the expenditure be for both services and disbursements the voucher shall set forth the services rendered and an itemized statement of the disbursements made. If the expenditures be in connection with any matter pending before any legislature or public body, or before any department or officer of any state or government, the voucher shall correctly describe, in addition, the nature of the matter and of the interest of such company therein. When such voucher cannot be obtained the expenditure shall be evidenced by an affidavit describing the character and object of the expenditure and stating the reason for not obtaining such voucher. ('07 c. 40 § 1)

Section 2 repeals inconsistent acts, etc.

**3501. Use of funds for political purposes—Penalty—Witnesses—**No insurance company or association, including fraternal beneficiary associations, doing business in this state, shall, directly or indirectly, pay or use or offer, consent or agree to pay or use any money or property for or in aid of any political party, committee or organization, or for or in aid of any corporation, joint stock or other association organized or maintained for political purposes, or for or in aid of any candidate for political office, or for nomination for such office, or for any political purpose whatsoever, or for reimbursement or indemnification of any person for money or property so used. Any officer, director, stockholder, attorney or agent of any corporation or association which violates any of the provisions of this act, who participates in, aids, abets, or advises or consents to any such violation, and any person who solicits or knowingly receives any money or property in violation of this act, shall be guilty of a gross misdemeanor and any officer aiding or abetting in any contribution made in violation of this act, shall be liable to the company or association for the amount so contributed. No person shall be excused from attending and testifying, or producing any books, papers or other documents before any court or magistrate, upon any investigation, proceeding or trial, for a violation of any of the provisions of this act, upon the ground or for the reason that the testimony or evidence, documentary or otherwise, required of him, may tend to incriminate or degrade him; but no person shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing, concerning which he may so testify or produce evidence, documentary or otherwise, and no testimony so given or produced shall be used against him upon any criminal investigation or proceeding. ('07 c. 42 § 1)

Section 2 repeals inconsistent acts, etc.

#### CO-OPERATIVE LIFE AND CASUALTY COMPANIES

**3502. Co-operative or assessment plan—Life insurance—Casualty insurance—**Every corporation, society or association which issues a certificate or policy or makes an agreement with its members by which upon the decease of a member any money is to be paid to, or benefit conferred upon, the legal representatives or designated beneficiaries of such member, or reaching a certain age to

pay any money or benefit to him, such money or benefit to be derived from voluntary donations, admission fees, dues or assessments to be collected from its members or any class thereof, and which reserves the right to make any additional assessments, or without the consent of the certificate or policyholder to increase the premium named therein, shall be deemed to be engaged in the business of life insurance upon the co-operative or assessment plan. Every corporation which likewise agrees in case of accident, sickness or other physical disability, or reaching a certain age, to pay money or confer benefits likewise derived and issuing certificates or policies with similar conditions with reference to the payment of dues or assessments, shall be deemed to be engaged in the business of casualty insurance upon the co-operative or assessment plan, and shall, except as herein otherwise specified, be subject to the provisions of this act. ('07 c. 318 § 1)

**3503. License to transact business in state**—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 two hundred and fifty persons eligible to membership therein have made individual applications in writing therefor; containing warranties of age, health and other required conditions of membership, and that there has been paid into the treasury of such corporation for its use and benefit the sum of at least five thousand dollars, which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts. The license issued to such company shall be recorded in the office of the register of deeds for the county in which its principal office is located before the same becomes effective. ('07 c. 318 § 2)

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

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

Such deposit may consist of securities of the class in which insurance companies are authorized to invest under the laws of this state, and the company depositing the same shall be entitled to the income derived from such securities. No foreign insurance company upon the co-operative or assessment plan, shall hereafter be permitted to transact business in this state unless it makes the deposit hereinbefore required of domestic companies, except that where by the laws of the state under which said foreign company is organized, it is permitted to and actually does maintain for the benefit of all its policy holders a deposit with some proper officer of such state of an amount equal to the deposit required by this act, the deposit with such other state shall be a sufficient compliance with the provisions of this section. No deposit of securities other than that herein provided for shall be required of any such co-operative or assessment company. Any company transacting the business of life insurance, upon the co-operative or assessment plan, and creating and maintaining a greater reserve than herein provided for, may elect by written stipulation, filed with the insurance commissioner, to keep on deposit with the commissioner its entire reserve and special benefit funds, other than mortuary funds; and thereafter said entire reserve and

special benefit funds shall be deposited with said commissioner in securities of like character and upon the same terms as provided herein for the deposit of the reserve required by this section. ('07 c. 318 § 3, amended '11 c. 211 § 1)

**3505. Policies authorized—Certain agreements void—**No co-operative or assessment life insurance company shall hereafter issue any policy in this state which does not provide for the payment of a fixed minimum sum, which sum may be increased each year the insurance remains in force in the amounts to be provided in the policy. Any agreement or by-law providing for the placing of a lien upon such policy, except for non-payment of premium or assessment, and any agreement or by-law providing for the payment of a less sum than the minimum sum specified in the contract, because of the failure of the corporation to receive or collect the amount in said contract by assessment upon the surviving members, shall be void. Nothing in this section contained shall be so construed as to render any member liable for more than one assessment for each death occurring during his period of membership, unless otherwise specified in the policy. And all policies issued by said company shall contain a title including the word "assessment" on the face and on the back of the policy correctly describing the same. This section shall not apply to any existing domestic company until it has been in existence for four years. ('07 c. 318 § 4)

**3506. Limit of expenses—Life companies, etc.—**Every such corporation now or hereafter organized or admitted to transact the business of life insurance in this state shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than sixty-five per cent (65%) of all premium receipts and all interest earnings thereon upon such life insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates except the expense dues and charges therein provided. And no such funds heretofore or hereafter so appropriated to such mortuary or benefit fund, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

Provided, that every such corporation which issues a certificate or policy or makes an agreement with its members, by which, upon the decease of a member, a funeral benefit is to be paid, or funeral service is to be furnished, not exceeding two hundred dollars (\$200.00) in amount or value, and which pays no accident, disability or other benefits, shall set aside and appropriate exclusively to its mortuary or benefit funds, including reserve or special benefit funds, not less than sixty per cent (60%) of all premium receipts upon such insurance policies that shall have been in force one year or more, and the entire amount of receipts upon post-mortem assessment certificates except the expense dues and charges therein provided. And no such funds heretofore or hereafter so appropriated to such mortuary or benefit funds, including reserve or special benefit funds, shall ever be used for the expense of conducting such business.

The net accretions to the funds enumerated in this section derived from interest, rents, or other sources, shall also be set aside and appropriated exclusively to the fund producing said net accretions. ('07 c. 318 § 5, amended '13 c. 377 § 1)

**3507. Casualty or health companies—Penalty—**No such company transacting the business of casualty or health insurance in this state shall incur, lay out or expend, in any one calendar year, as and for the expenses of conducting such business more than its application or membership fees and forty per cent of its total premiums or assessments. Any officer of any corporation violating or consenting to the violation of this, or the preceding section, shall be guilty of a gross misdemeanor. ('07 c. 318 § 6)

**3508. Life companies—Net rates—**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 such life 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 which are at least

equal to the rates known as the National Fraternal Congress rates, with 4 per cent interest. ('07 c. 318 § 7)

**3509. Reinsurance of risks of other companies—Conditions—**Any such corporation, association or society organized or authorized to transact business under the provisions of this act, may by contract of reinsurance assume the risks of any other similar corporation, association or society engaged in the business of life or casualty insurance, or both, only on the following conditions:

First—That both the corporations, associations or societies which propose to enter into such reinsurance contract, shall be, upon the date of reinsurance, duly authorized under the provisions of this act, to transact business in this state.

Second—That the contract of reinsurance shall have previously been submitted to the insurance commissioner and the attorney general of this state and shall have received the approval of the insurance commissioner duly endorsed thereon.

Third—That such corporation, association or society, which proposes to reinsure and retire, shall have been thoroughly examined by the insurance commissioner of this state within six months of the date of such proposed consolidation or reinsurance. And further provided, that in the judgment of the insurance commissioner of this state such consolidation or reinsurance can in no way impair the solvency of the corporation, association, or society which proposes to reinsure and assume the business and affairs of the corporation, association or society contemplating reinsurance and retirement.

Fourth—That the contract of reinsurance shall have been approved by a majority vote of all the members of the corporation, association or society, which proposes to reinsure and retire, present in person or by proxy, at any regular meeting thereof, or at any special meeting thereof called to consider the same. And further provided, that a written or printed notice of the purpose of such corporation, association or society to reinsure shall have been mailed to each of its members at least thirty days prior to the date fixed for such meeting.

When the members of any such corporation, association or society shall have so voted to reinsure and retire, its officers and the officers of the corporation, association or society which proposes to assume the risks and other obligations are hereby authorized to enter into and consummate the contract of reinsurance as submitted and approved, and to do and perform all other acts necessary to the final and complete consolidation or reinsurance. Such retiring corporation, association or society shall turn over all its property, securities, moneys and other assets to the corporation, association or society reinsuring and assuming its obligations, to become the sole and absolute property thereof. The actual and reasonable expenses and costs incident to proceedings under the provisions of this section may be paid by the company or companies so consolidating or reinsuring, and an itemized and verified statement of such expenses, together with proper vouchers for each of the same, shall be filed with the insurance commissioner. No officer of any such company or companies, nor any employé of the state shall receive any compensation, gratuity, employment, or other promise or thing of value, directly or indirectly, for in any manner aiding, promoting or assisting in such consolidation or reinsurance. Any officer or director of any company which is a party to the agreement of reinsurance herein provided for who shall receive any compensation or gratuity for aiding or promoting or consenting to such contract shall be guilty of larceny, and any other person guilty of wilfully violating or consenting to the wilful violation of the provisions of this act, shall be guilty of a gross misdemeanor. ('07 c. 318 § 8)

**3510. Reincorporation into legal reserve or level premium company—**Any such corporation, association or society may with the written consent of the insurance commissioner of this state upon a majority vote of its governing body, amend its articles of incorporation and by-laws in such manner as to transform itself into a legal reserve or level premium insurance company, and upon so doing and upon procuring from the insurance commissioner a certificate

of authority, as provided by law, to transact business in this state, as a legal reserve or level premium company, shall incur the obligations and enjoy the benefits thereof, the same as though originally thus incorporated, and such corporation, under its charter as amended, shall be a continuation of such original corporation, and the officers thereof shall serve through their respective terms, as provided in the original charter, but their successors shall be elected and serve as in such amended articles provided; but such amendment or reincorporation shall not affect existing suits, rights or contracts. Any corporation, association or society so reincorporated to transact the business of life insurance, shall, unless a higher method of valuation be provided for in its policy, or certificates of membership previously written, value its assessment policies or certificates of membership previously written as yearly renewable term policies, according to the standard of valuation of life insurance policies prescribed by the laws of this state. ('07 c. 318 § 9)

**3511. Application of section 1625 [3302]**—Section 1625 of Revised Laws 1905 [3302] shall not apply to any corporation, association or society engaged in the business of life insurance upon the co-operative or assessment plan, or to any such corporation, society or association engaged in the business of casualty insurance upon the co-operative or assessment plan, as in this act defined. ('07 c. 318 § 10)

**3512. Sections repealed—Application of other laws**—Sections 1695, 1698, 1699, 1700, 1701, 1702 of Revised Laws 1905, are hereby repealed. Chapter 303 of Laws of Minnesota for 1905 and all other laws and parts of laws, in so far as they may be inconsistent with this act, shall not apply to corporations transacting the business of life or casualty insurance solely upon the co-operative or assessment plan as defined in this act. ('07 c. 318 § 11)

For 1905 c. 303, see §§ 3516-3521.

**3513. Fraternal beneficiary associations**—The provisions of this act shall not apply to fraternal beneficiary associations, nor shall anything herein be construed as governing or in anywise regulating such associations. ('07 c. 318 § 12)

**3514. Beneficial and fraternal associations**—Any beneficiary or fraternal association, as defined in this chapter, may make provisions for the payment of benefits in case of sickness or temporary or permanent physical disability, as a result of disease, accident, or age exceeding seventy years, and may also provide for the payment of funeral expenses of a member not exceeding seventy five dollars; in any case all of said benefits to be paid subject to compliance by it [s] members with its constitution and by-laws, out of funds derived from assessments and dues collected from its members. Payments of death benefits shall be made only to the families, heirs, blood relatives, adopted children, fiancée of the member, or persons dependent upon him, or whenever his certificate of membership may so provide, the executor or administrator of the estate of the member in trust for such person or persons above mentioned as may be designated in such certificate. Any member who by reason of old age or other disability is dependent for his support in whole or in part upon another, whether such other stands in the above relationship to him or not, may, with the consent of and under such regulations as the association may prescribe, designate such person upon whom he is so dependent as a beneficiary under his said certificate, and in such case the death benefits shall be paid according to such designation. Every such association may create and maintain a reserve fund for such purpose and shall be held to be an institution of public charity, and shall be exempt from payment of any taxes for state, county or municipal purposes, except that the real estate of such association shall be taxed as other real estate in the state of Minnesota. (R. L. § 1703, amended '07 c. 382)

As to fraternal beneficiary associations, see §§ 3537-3567.

Under R. L. §§ 1594, 1703 [3255, 3514], sale of endowments by fraternal beneficiary associations is prohibited (102-15, 112+1050).

**3515. Insolvency**—In case any such company is adjudged insolvent, the balance of its reserve fund, if any, after payment of claims and other indebted-

ness, shall be paid to the commissioner, and by him paid into the state treasury. (1704)

Cited (102-15, 112+1050).

### LIFE, ACCIDENT AND HEALTH COMPANIES

**3516. Life, accident or health companies—Consolidation or reinsurance—**No company organized under the laws of this state to do the business of life, accident or health insurance, either on the stock, mutual, stipulated premium, assessment, or fraternal plan, shall consolidate with any other company, or reinsure its risks, or any part thereof with any other company or assume or reinsure the whole of, or any portion of the risks of any other company, except as hereinafter provided; but nothing herein contained shall prevent any such company, organized on the stock or mutual plan, from reinsuring a fractional part of any single risk. ('05 c. 303 § 1)

As to the application of this act to corporations on the co-operative or assessment plan, see § 3512.

**3517. Same—How effected—Petition to commissioner—**When any such company shall propose to consolidate with any other company, or to enter into any contract of reinsurance, it shall present its petition to the insurance commissioner of this state, setting forth the terms and conditions of such proposed consolidation or reinsurance, and praying for the approval or of any modification thereof, which the commission hereinafter provided for may approve. ('05 c. 303 § 2)

**3518. Same—Notice—**The insurance commissioner shall thereupon issue an order of notice, requiring notice to be given by mail to each policy holder of such company, of the pending of such petition, and the time and place at which hearing thereon will be held, and shall publish the said order of notice and said petition in five daily newspapers, for at least two weeks before the time appointed for the hearing upon said petition. ('05 c. 303 § 3)

**3519. Same—Hearing and determination—**The governor, or in event of his inability to act, some competent person resident of the state to be appointed by him, the attorney general, and the insurance commissioner of the state, shall constitute a commission to hear and determine upon said petition. At the time and place fixed in said notice, or at such time and place as shall be fixed by adjournment, the commission shall proceed with the hearing, and may make or order such examination into the affairs and condition of said company as it may deem proper. The insurance commissioner shall have the power to summon and compel the attendance and testimony of witnesses and the production of books and papers before said commission. Any policy holder or stockholder of the company or companies so petitioning may appear before said commission and be heard in reference to said consolidation or reinsurance. Said commission, if satisfied that the interests of the policy holders of such company or companies are properly protected, and that no reasonable objection exists thereto, may approve and authorize the proposed consolidation or reinsurance or may modify or change the terms and conditions thereof as may seem best for the interests of the policy holders, and said commission may make such order with reference to the distribution and disposition of the surplus assets of any such company thereafter remaining, as shall be just and equitable to the policy holders. Such consolidation or reinsurance shall only be approved by the consent of all the members of said commission, and it shall be the duty of said commission to guard the interests of the policy holders of any such company or companies proposing to consolidate or reinsure. ('05 c. 303 § 4)

**3520. Same—Costs and expenses, etc.—**All actual expenses and costs incident to proceedings under the provisions of this act shall be paid by the company or companies bringing said petition, and an itemized statement of the expenses and costs shall be filed with the insurance commissioner with a certified copy of the decision of the commission. No officer of any such company or companies, nor members of said commission, or employé of the state, shall receive any compensation, gratuity or otherwise, directly or indi-

rectly, for in any manner aiding, promoting or assisting in such consolidation or reinsurance. ('05 c. 303 § 5)

3521. **Same—Violation of act—Penalty**—Any officer, director or stockholder of any such company or companies, or any member of such commission or employé of the state, violating or consenting to the violation of the provisions of this act shall be punished by a fine of not less than ten thousand dollars and by imprisonment for not less than one year. ('05 c. 303 § 6)

3522. **Health or accident insurance—Form of policy to be filed with commissioner, etc.**—On and after the first day of January, 1914, no policy of insurance against loss or damage from the sickness, or the bodily injury or death 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 of insurance; nor shall it be so issued or delivered until the expiration of thirty days after it has been so filed unless the said commissioner shall sooner give his written approval thereto. If the said commissioner shall notify, in writing, the company, corporation, association, society or other insurer which has filed such form that it does not comply with the requirements of law, specifying the reasons for his opinion, it shall be unlawful thereafter for any such insurer to issue any policy in such form. The action of the said commissioner in this regard shall be subject to review by any court of competent jurisdiction, provided, however, that nothing in this act shall be so construed as to give jurisdiction to any court not already having jurisdiction. ('13 c. 156 § 1)

Section 14 repeals 1909 c. 167, and all inconsistent acts and parts of acts.

3523. **Same—Policy to contain certain facts**—No such policy shall be so issued or delivered (1) unless the entire money and other considerations therefor are expressed in the policy; 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) if the policy purports to insure more than one person; 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 smaller than ten point; nor (5) unless a brief description thereof be printed on its first page and on its filing back in type of which the face shall be not smaller than fourteen point; nor (6) unless the exceptions of the policy be printed with the same 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. ('13 c. 156 § 2)

3524. **Same—Standard provisions of policy**—Every such policy so issued shall contain certain standard provisions, which shall be in the words and in the order hereinafter set forth and be preceded in every policy by the caption, "Standard Provision." In each such standard provision wherever the word "insurer" is used, there shall be substituted therefor "company" or "corporation" or "association" or "society" or such other word as will properly designate the insurer. Said standard provisions shall be:

(1) A standard provision relative to the contract which may be in either of the following two forms: Form (A) to be used in policies which do not provide for reduction of indemnity on account of change of occupation, and form (B) to be used in policies which do so provide. If form (B) is used and the policy provides indemnity against loss from sickness, the words "or contracts sickness" may be inserted therein immediately after the words "in the event that the insured is injured:"

(A):—1. This policy includes the endorsements and attached papers if any, and contains the entire contract of insurance. No reduction shall be made in any indemnity herein provided by reason of change in the occupa-

tion of the insured or by reason of his doing any act or thing pertaining to any other occupation.

(B):—1. This policy includes the endorsements and attached papers if any, and contains the entire contract of insurance except as it may be modified by the insurer's classification of risks and premium rates in the event that the insured is injured after having changed his occupation to one classified by the insurer as more hazardous than that stated in the policy, or while he is doing any act or thing pertaining to any occupation so classified, except ordinary duties about his residence or while engaged in recreation, in which event the insurer will pay only such portion of the indemnities provided in the policy as the premium paid would have purchased at the rate but within the limits so fixed by the insurer for such more hazardous occupation.

If the law of the state in which the insured resides at the time this policy is issued requires that prior to its issue a statement of the premium rates and classification of risks pertaining to it shall be filed with the state official having supervision of insurance in such state then the premium rates and classification of risks mentioned in this policy shall mean only such as have been last filed by the insurer in accordance with such law, but if such filing is not required by such law then they shall mean the insurer's premium rates and classification of risks last made effective by it in such state prior to the occurrence of the loss for which the insurer is liable.

(2) A standard provision relative to changes in the contract, which shall be in the following form:

2. No statement made by the applicant for insurance not included herein shall avoid the policy or be used in any legal proceeding hereunder. No agent has authority to change this policy or to waive any of its provisions. No change in this policy shall be valid unless approved by an executive officer of the insurer and such approval be endorsed hereon.

(3) A standard provision relative to reinstatement of policy after lapse which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness; and form (C) to be used in policies which insure against loss from both accident and sickness.

(A):—3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy, but only to cover loss resulting from accidental injury thereafter sustained.

(B):—3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover such sickness as may begin more than ten days after the date of such acceptance.

(C):—3. If default be made in the payment of the agreed premium for this policy, the subsequent acceptance of a premium by the insurer or by any of its duly authorized agents shall reinstate the policy but only to cover accidental injury thereafter sustained and such sickness as may begin more than ten days after the date of such acceptance.

(4) A standard provision relative to time of notice of claim which may be in either of the three following forms: Form (A) to be used in policies which insure only against loss from accident; form (B) to be used in policies which insure only against loss from sickness, and form (C) to be used in policies which insure against loss from both accident and sickness. If form (A) or form (C) is used the insurer may at its option add thereto the following sentence, "In event of accidental death immediate notice thereof must be given to the insurer."

(A):—4. Written notice of injury on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury.

(B):—4. Written notice of sickness on which claim may be based must be given to the insurer within ten days after the commencement of the disability from such sickness.

(C):—4. Written notice of injury or of sickness on which claim may be based must be given to the insurer within twenty days after the date of the accident causing such injury or within ten days after the commencement of disability from such sickness. *- des 21*

(5) A standard provision relative to sufficiency of notice of claim which shall be in the following form and in which the insurer shall insert in the blank space such office and its location as it may desire to designate for such purpose of notice:

5. Such notice given by or in behalf of the insured or beneficiary, as the case may be, to the insurer at \_\_\_\_\_ or to any authorized agent of the insurer, with particulars sufficient to identify the insured, shall be deemed to be notice to the insurer. Failure to give notice within the time provided in this policy shall not invalidate any claim if it shall be shown not to have been reasonably possible to give such notice and that notice was given as soon as was reasonably possible.

(6) A standard provision relative to furnishing forms for the convenience of the insured in submitting proof of loss as follows:

6. The insurer upon receipt of such notice, will furnish to the claimant, such forms as are usually furnished by it for filing proofs of loss. If such forms are not so furnished within fifteen days after the receipt of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, character and extent of the loss for which claim is made.

(7) A standard provision relative to filing proof of loss which shall be in such one of the following forms as may be appropriate to the indemnities provided:

(A):—7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the date of the loss for which claim is made.

(B):—7. Affirmative proof of loss must be furnished to the insurer at its said office within ninety days after the termination of the period of disability for which the company is liable.

(C):—7. Affirmative proof of loss must be furnished to the insurer at its said office in case of claim for loss of time from disability within ninety days after the termination of the period for which the insurer is liable, and in case of claim for any other loss, within ninety days after the date of such loss.

(8) A standard provision relative to examination of the person of the insured and relative to autopsy which shall be in the following form:

8. The insurer shall have the right and opportunity to examine the person of the insured when and so often as it may reasonably require during the pendency of claim hereunder, and also the right and opportunity to make an autopsy in case of death where it is not forbidden by law.

(9) A standard provision relative to the time within which payments other than those for loss of time on account of disability shall be made, which provision may be in either of the following two forms and which may be omitted from any policy providing only indemnity for loss of time on account of disability. The insurer shall insert in the blank space either the word "immediately" or appropriate language to designate such period of time, not more than sixty days, as it may desire; form (A) to be used in policies which do not provide indemnity for loss of time on account of disability and form (B) to be used in policies which do so provide.

(A):—9. All indemnities provided in this policy will be paid ..... after receipt of due proof.

(B):—9. All indemnities provided in this policy for loss other than that of time on account of disability will be paid ..... after receipt of due proof.

(10) A standard provision relative to periodical payments of indemnity for loss of time on account of disability, which provision shall be in the following form, and which may be omitted from any policy not providing for such indemnity. The insurer shall insert in the first blank space of the form, appropriate language to designate the proportion of accrued indemnity it may

desire to pay, which proportion may be all or any part not less than one-half, and in the second blank space shall insert any period of time not exceeding sixty days:

10. Upon request of the insured and subject to due proof of loss ..... accrued indemnity for loss of time on account of disability will be paid at the expiration of each ..... during the continuance of the period for which the insurer is liable, and any balance remaining unpaid at the termination of such period will be paid immediately upon receipt of due proof.

(11) A standard provision relative to indemnity payments which may be in either of the two following forms: Form (A) to be used in policies which designate a beneficiary and form (B) to be used in policies which do not designate any beneficiary other than the insured:

(A):—11. Indemnity for loss of life of the insured is payable to the beneficiary if surviving the insured, and otherwise to the estate of the insured. All other indemnities of this policy are payable to the insured.

(B):—11. All the indemnities of this policy are payable to the insured.

(12) A standard provision providing for cancellation of the policy at the instance of the insured which shall be in the following form:

12. If the insured shall at any time change his occupation to one classified by the insurer as less hazardous than that stated in the policy, the insurer, upon written request of the insured, and surrender of the policy, will cancel the same and will return to the insured the unearned premium.

(13) A standard provision relative to the rights of the beneficiary under the policy which shall be in the following form and which may be omitted from any policy not a beneficiary:

13. Consent of the beneficiary shall not be requisite to surrender or assignment of this policy, or to change the beneficiary, or to any other changes in the policy.

(14) A standard provision limiting the time within which suit may be brought upon the policy as follows:

14. No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after proof of loss has been filed in accordance with the requirements of this policy, nor shall such action be brought at all unless brought within two years from the expiration of the time within which proof of loss is required by the policy.

(15) A standard provision relative to time limitations of the policy as follows:

15. If any time limitation of this policy with respect to giving notice of claim or furnishing proof of loss is less than that permitted by the law of the state in which the insured resides at the time this policy is issued, such limitation is hereby extended to agree with the minimum period permitted by such law. ('13 c. 156 § 3)

**3525. Same—Provisions to be omitted—Optional features—**No such policy shall be so issued or delivered which contains any provision (1) relative to cancellation at the instance of the insurer; or, (2) limiting the amount of indemnity to a sum less than the amount stated in the policy and for which the premium has been paid; or, (3) providing for the deduction of any premium from the amount paid in settlement of claim; or, (4) relative to other insurance by the same insurer; or, (5) relative to the age limits of the policy; unless such provisions which are hereby designated as optional standard provisions, shall be in the words and in the order in which they are hereinafter set forth, but the insurer may at its option omit from the policy any such optional standard provision. Such optional standard provisions if inserted in the policy shall immediately succeed the standard provisions named in section three of this act.

◦ (1) An optional standard provision relative to cancellation of the policy at the instance of the insurer as follows:

16. The insurer may cancel this policy at any time by written notice delivered to the insured or mailed to his last address as shown by the records of the insurer together with cash or the insurer's check for the unearned por-

tion of the premiums actually paid by the insured, and such cancellation shall be without prejudice to any claim originating prior thereto.

(2) An optional standard provision relative to reduction of the amount of indemnity to a sum less than that stated in the policy as follows:

17. If the insured shall carry with another company, corporation, association or society other insurance covering the same loss without giving written notice to the insurer, then in that case the insurer shall be liable only for such portion of the indemnity promised as the said indemnity bears to the total amount of like indemnity in all policies covering such loss, and for the return of such part of the premium paid as shall exceed the pro rata for the indemnity thus determined.

(3) An optional standard provision relative to deduction of premium upon settlement of claim as follows:

18. Upon the payment of claim hereunder any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

(4) An optional standard provision relative to other insurance by the same insurer which shall be in such one of the following forms as may be appropriate to the indemnities provided, and in the blank spaces of which the insurer shall insert such upward limits of indemnity as are specified by the insurer's classification of risks, filed as required by this act.

(A):—19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity in excess of \$....., the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(B):—19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss of time on account of disability in excess of \$..... weekly (or substitute the word "monthly"), the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured.

(C):—19. If a like policy or policies, previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for loss other than that of time on account of disability in excess of \$....., or the aggregate indemnity for loss of time on account of disability in excess of \$..... weekly (or substitute the word "monthly") the excess insurance of either kind shall be void and all premiums paid for such excess shall be returned to the insured.

(5) An optional standard provision relative to the age limits of the policy which shall be in the following form and in the blank spaces of which the insurer shall insert such number of years as it may elect:

20. The insurance under this policy shall not cover any person under the age of ..... years nor over the age of ..... years. Any premium paid to the insurer for any period not covered by this policy will be returned upon request. ('13 c. 156 § 4)

**3526. Same—Not to be issued in violation of provisions—**No such policy shall be so issued or delivered if it contains any provision contradictory, in whole or part, of any of the provisions hereinbefore in this act designated as "Standard Provisions" or as "Optional Standard Provisions"; nor shall any endorsements or attached papers vary, alter, extend, be used as a substitute for, or in any way conflict with any of the said "Standard Provisions" or the said "Optional Standard Provisions"; nor shall such policy be so issued or delivered if it contains any provision purporting to make any portion of the charter, constitution or by-laws of the insurer a part of the policy unless such portion of the charter, constitution or by-laws shall be set forth in full in the policy, but this prohibition shall not be deemed to apply to any statement of rates or classification of risks filed with the commissioner of insurance in accordance with the provisions of this act. ('13 c. 156 § 5)

**3527. Same—False statements—**The falsity of any statement in the application for any policy covered by this act shall not bar the right to recovery thereunder unless such false statement was made with actual intent to deceive or unless it materially affected either the acceptance of the risk or the hazard assumed by the insurer. ('13 c. 156 § 6)

**3528. Same—Rights not waived**—The acknowledgment by any insurer of the receipt of notice given under any policy covered by this act, or the furnishing forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy. ('13 c. 156 § 7)

**3529. Same—Alteration of application**—No alteration of any written application for insurance by erasure, insertion or otherwise, shall be made by any person other than the applicant without his written consent, and the making of any such alteration without the consent of the applicant shall be a misdemeanor. If such alteration shall be made by any officer of the insurer, or by any employee of the insurer with the insurer's knowledge or consent, then such act shall be deemed to have been performed by the insurer thereafter issuing the policy upon such altered application. ('13 c. 156 § 8)

**3530. Same—Policy in violation of act**—A policy issued in violation of this act shall be held valid but shall be construed as provided in this act and when any provision in such a policy is in conflict with any provision of this act the rights, duties and obligations of the insurer, the policy holder and the beneficiary shall be governed by the provisions of this act. ('13 c. 156 § 9)

**3531. Same—Policies of foreign companies**—The policies of insurance against accidental bodily injury or sickness issued by an insurer not organized under the laws of this state may contain, when issued in this state, any provision which the laws of the state, territory or district of the United States under which the insurer is organized, prescribed for insertion in such policies, and the policies of insurance against accidental bodily injury or sickness issued by an insurer organized under the laws of this state may contain, when issued or delivered in any other state, territory, district or country, any provision required by the laws of the state, territory, district or country in which same are issued, anything in this act to the contrary notwithstanding. ('13 c. 156 § 10)

**3532. Same—Discrimination prohibited**—Discrimination between individuals of the same class in the amount of premiums or rates charged for any policy of insurance covered by this act, or in the benefits payable thereon, or in any of the terms or conditions of such policy, or in any other manner whatsoever is prohibited. ('13 c. 156 § 11)

**3533. Same—Application of act**—(1) Nothing in this act, however, shall apply to or affect any policy or liability of workmen's compensation insurance or any general or blanket policy of insurance issued to any municipal corporation or department thereof, or to any corporation, co-partnership, association or individual employer, police or fire department, underwriters' corps, salvage bureau, or like associations or organizations, where the officers, members or employees or classes or departments thereof are insured for their individual benefit against specified accidental bodily injuries or sickness while exposed to the hazards of the occupation or otherwise in consideration of a premium intended to cover the risks of all the persons insured under such policy.

(2) Nothing in this act shall apply to or in any way affect contracts supplemental to contracts of life or endowment insurance where such supplemental contracts contain no provisions except such as operate to safeguard such insurance against lapse or to provide a special surrender value therefor in the event that the insured shall be totally and permanently disabled by reason of accidental bodily injury or by sickness; provided that no such supplemental contract shall be issued or delivered to any person in this state unless and until a copy of the form thereof has been submitted to and approved by the commissioner of insurance, under such reasonable rules and regulations as he shall make concerning the provisions in such contracts and their submission to and approval by him.

(3) Nothing in this act shall apply to or in any way affect fraternal benefit societies.

(4) The provisions of this act contained in clause (5) of section 2 [3523] and clauses 2, 3, 8 and 12 of section 3 [3524] may be omitted from railroad

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211*

ticket policies sold only at railroad stations, or at railroad ticket offices by railroad employees. ('13 c. 156 § 12)

3534. **Same—Penalty for violation**—Any company, corporation, association, society or other insurer or any officer or agent thereof, which or who issues or delivers to any person in this state any policy in wilful violation of the provisions of this act shall be punished by a fine of not more than one hundred dollars for each offense, and the commissioner of insurance may revoke the license of any company, corporation, association, society or other insurer of another state or country, or of the agent thereof, which or who wilfully violates any provision of this act. ('13 c. 156 § 13) 62.1

3535. **Same—When to take effect**—This act shall take effect on the first day of October, 1913. Any policy covered by this act, the form of which has received the approval of the commissioner of insurance may be issued or delivered in this state on and after the said date. ('13 c. 156 § 15) Not  
code

3536. **Policies of associations confining membership to commercial travelers, etc.**—Any domestic assessment, health and accident insurance association now licensed to do business in this state which confines its membership to commercial travelers and which does not pay commissions or other compensation for securing new members shall be exempt from the provisions of law relating to the form and contents of policies of health and accident insurance when approved by the commissioner of insurance. ('13 c. 410 § 1) 61.6

**FRATERNAL BENEFICIARY ASSOCIATIONS**

3537. **Fraternal beneficiary association defined**—Any corporation, society, order or voluntary association without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government and which shall make provision for the payment of death or disability benefits, or both, is hereby declared to be a fraternal beneficiary association. ('07 c. 345 § 1) 64.01  
64.04

Section 32 repeals inconsistent acts, etc.  
Act constitutional (139+815).

3538. **Same—What associations operating under lodge system**—Any association having a supreme governing or legislative body and subordinate lodges or branches by whatever name known into which members shall be elected, initiated and admitted in accordance with its constitution, laws, rules, regulations, and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by such association to hold regular or stated meetings at least once in each month, shall be deemed to be operating under the lodge system. ('07 c. 345 § 2) 64.01

3539. **Same—When association deemed to have representative form of government**—Any association shall be deemed to have a representative form of government, when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected by the members through a delegate convention system, together with such other members as may be prescribed by its constitution and laws, provided, that the elective representatives shall constitute a majority in number and have not less than a majority of the votes, nor less than the votes required to amend its constitution and laws, and provided further, that the meetings of the supreme or governing body and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal beneficiary society shall not vote by proxy. ('07 c. 345 § 3) 64.0  
64.04

3540. **Same—By what laws governed**—Except as herein provided, such association shall be governed by this act and shall be exempt from all provisions of the insurance laws of this state not only in governmental relations with the state, but for every other purpose, and no law hereafter passed shall apply to them, unless they be expressly designated therein. ('07 c. 345 § 4) 64.04

3541. **Same—Death or disability benefits**—Every association transacting business under this act shall provide for the payment of death or disability 64.05

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 commence shall not be under seventy years. ('07 c. 345 § 5)

**3542. Same—Who are beneficiaries—**The payment of death benefits shall be confined to the wife, husband, family, relatives by blood, marriage or legal adoption, affianced husband or affianced wife, or to a person or persons dependent on the member, subject to the limitation and control of the association as to the designation of beneficiaries within said classes. ('07 c. 345 § 6)

**3543. Same—Qualifications for membership—**No association shall admit to beneficial membership any person less than sixteen nor more than sixty years of age, nor any person who has not been examined by a legally qualified practicing physician, and whose examination has not been approved by the supervising medical authority of the association as provided by the laws of the association; provided, that such examination shall not be required of associations paying only accident or sick benefits, or funeral benefits not exceeding three hundred dollars. ('07 c. 345 § 7)

**3544. Same—Certificates shall specify, what—Changes in constitution, 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 constitution and laws of the association and the application for membership 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 received 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 the benefit certificate shall bind 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 for membership. 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. ('07 c. 345 § 8)

**3545. Same—Reserve—How disposed of—Payments by members—Assessments—**Any association may create, maintain, invest, disburse and apply a reserve, emergency, surplus or other fund in accordance with its constitution and laws for the purposes specified in section 5 [3541] of this act. Any such association so creating, maintaining, investing, disbursing, or applying any such reserve, emergency, or surplus fund, shall not be held to be organized or carried on for profit within the intent of the provisions of section 1 [3537] of this act. Such funds shall be held, invested and disbursed for the use and benefits of the association, and no member or beneficiary shall have or acquire any individual rights therein, or be entitled to an appropriation or the surrender of any part thereof. The funds from which benefits shall be paid and the funds from which the expenses of the association shall be defrayed, shall be derived from periodical or other payments by the members of the association, and accretions of said funds; and every such association shall provide in its constitution or laws that if such regular payments are insufficient to pay all matured death and disability claims in full and to provide for the creation and maintenance of the funds required by its constitution and laws, extra assessments, or other payments, may be levied upon the members to meet such deficiency. ('07 c. 345 § 9)

**3546. Same—Investments—**Any association may invest its funds in and hold real estate for lodge and office purposes, and any 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 government, state, provincial, county or municipal bonds, or bonds of any township, park or school district having taxing powers, provided that such bonds shall be a direct obligation on all the taxable property within such municipality or dis-

trict and the net indebtedness of such municipality or district shall not exceed five (5) per centum of the value of all taxable property therein, according to the last valuation for taxation preceding the issuance of said bonds; or in first mortgages or first mortgage bonds upon improved real estate for not exceeding fifty (50) per centum of the actual cash value thereof at the time of making the loan; provided, however, that every foreign association shall be empowered to invest its funds in such securities as may be permitted by the laws of the state, province or country in which it is organized. Provided, however, that no such association shall loan any of its funds to any of its officers or directors. ('07 c. 345 § 10, amended '13 c. 359 § 1)

**3547. Same—Payment by members—Expenses—**Every association shall make provision in its constitution and laws for payment by members of such an association, which provision shall state the purpose of the same and a proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes and no part of the reserve, emergency or surplus funds or the net accretions of either or any of said funds shall be used for expenses; provided, however, that from the accretions to the principal of the emergency fund may be paid the taxes, if any, and the expense actually and necessarily incurred in the investment and protection of said fund. ('07 c. 345 § 11, amended '13 c. 324 § 1) 64.17

**3548. Same—Benefits exempt—Taxation—**The money or other benefits, charity, relief or aid, to be paid, provided or rendered by any association authorized to do business under this act, shall, neither before nor after being paid, be liable to attachment, garnishment, or other process, and shall not be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a certificate holder or of any beneficiary named in a certificate, or of any person who may have any right thereunder; such associations are hereby declared to be charitable institutions, and the property held and used for lodge purposes, and the funds of such associations shall be exempt from taxation under the general tax or revenue laws of this state. Except that the real estate of such association shall be taxable. ('07 c. 345 § 12) 64.17

**3549. Same—Association, how formed—Articles—Documents to be filed with commissioner—Preliminary certificate—Powers and duties of association thereafter—Second certificate—**Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a fraternal beneficiary association, as defined by this act, may make and sign—giving their addresses—and acknowledge before some officer, competent to take acknowledgment of deeds, articles of association in which shall be stated: 64.19

First—The proposed corporate name of the association, which shall not so closely resemble the name of any association or insurance company already transacting business in this state as to mislead the public or lead to confusion.

Second—The purpose for which it is formed,—which shall not include more liberal powers than are granted by this act, provided, that any lawful social, intellectual, educational, moral or religious advantages may be set forth among the purposes of the association—and the mode in which its corporate powers are to be exercised.

Third—The names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control and management of the affairs and funds of the association for the first year or until the ensuing election, at which all such officers shall be elected by the supreme legislative or governing body.

Such articles of association and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed forms of benefit certificates, applications therefor and literature to be issued by such association, and a bond in the sum of five thousand dollars with sureties approved by the insurance commissioner, conditioned upon the return of the advanced payments, as provided in this section, to applicants, if the organization is not completed within one year, or after such further period, not exceeding

one year, as may be authorized by the insurance commissioner, shall be filed with the insurance commissioner, who may require such further information as he deems necessary, and if the purposes of the association conform to the requirements of this act and all provisions of law have been complied with, the insurance commissioner shall so certify and retain and record the articles of association in a book kept for the purpose and furnish the incorporators a preliminary certificate authorizing said association to solicit members as hereinafter provided. Upon receipt of said certificate from the insurance commissioner said association may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one death benefit assessment or payment, in accordance with its tables of rates, as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such association shall incur any liability other than for such advanced payments, nor issue any benefit certificate, nor pay or allow, or offer a promise to pay or allow to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians and certificates of such examinations have been duly filed and approved by the chief medical examiner of such association, nor until there shall be established ten subordinate lodges or branches into which said five hundred applicants have been initiated, nor until there has been submitted to the insurance commissioner, under oath of the president and secretary or corresponding officers of such association, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of regular payments or assessments, which shall not be lower for death benefits than those required by the National Fraternal Congress table of mortality with interest at 4 per cent per annum; nor until it shall be shown to the insurance commissioner by the sworn statement of the treasurer or corresponding officer of such association that at least five hundred applicants have each paid in cash at least one regular monthly payment or assessment as herein provided per one thousand dollars of indemnity to be affected, which payments in the aggregate shall amount to at least twenty five hundred dollars, all of which shall be credited to the mortuary or disability fund on account of such applicants and no part of which may be used for expenses. Said advanced payments shall, during the period of organization, be held in trust for, and, if the organization is not completed within one year as hereinafter provided, returned to said applicants. The insurance commissioner may make such examination and require such further information as he deems advisable and upon presentation of satisfactory evidence that the association has complied with all the provisions of the law, he shall issue to such association a certificate to that effect. Such certificates shall be prima facie evidence of the existence of such association at the date of such certificate. The insurance commissioner shall cause a record of such certificate to be made and a certified copy of such record may be given in evidence with like effect as the original certificate. No preliminary certificate granted under the provisions of this section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the insurance commissioner upon cause shown, unless the five hundred applicants herein required, have been secured and the organization has been completed as herein provided, and the articles of association and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such association shall have completed its organization and commenced business as herein provided. When any domestic association shall have discontinued business for the period of one year, its charter shall become null and void. ('07 c. 345 § 13)

3550. Same—Existing domestic associations—Any domestic association now engaged in transacting business in this state may exercise, after passage

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of this act, all of the rights conferred thereby, and in addition thereto, may exercise all of the rights, powers and privileges now exercised or possessed by it under its charter or articles of association not inconsistent with this act, or it may be reincorporated hereunder. But no such association already organized shall be required to re-incorporate hereunder, nor shall it be required to adopt the rates prescribed herein for new associations, in order to avail itself of the privileges of this act, and any such association may amend its articles of association from time to time in the manner provided therein, or in its constitution or laws, and all such amendments shall be filed with the insurance commissioner and shall become operative upon such filing unless a later time be provided in such amendments, or in its articles of association, constitution or laws. Any such society may continue to do business in this state until the first day of March, A. D. 1909. The commissioner of insurance shall then, if he finds that such society is complying with the provisions of this act, issue to it a license authorizing it to continue the transaction of business in this state until the first day of the succeeding March, and such license may be renewed annually, but in all cases to terminate on the first day of the succeeding March. For each such license or renewal the association shall pay the commissioner of insurance the sum of \$10.00. A duly certified copy of such license shall be prima facie evidence in any court or proceeding in this state that the licensee is a fraternal beneficiary association within the meaning of this act. ('07 c. 345 § 14, amended '09 c. 329 § 1)

**3551. Same—Transfer of membership or funds—**No domestic association shall transfer its membership or funds to any association not authorized by the insurance commissioner to transact business in this state; nor shall any such association transfer its membership or funds to any licensed association, unless the said contract to transfer has been approved by a two-thirds vote of the members of the supreme body of the association whose membership is proposed to be transferred; and by a two-thirds vote of the trustees or board having charge of the association, proposing to take such membership. ('07 c. 345 § 15)

**3552. Same—Existing foreign associations—**Foreign associations which are now authorized to transact business in this state may continue such business until the first day of March next, succeeding the passage of this act, and the authority of such associations may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding March. For each such license or renewal, the association shall pay the insurance commissioner ten dollars. A duly certified copy of such license shall be prima facie evidence that the licensee is a fraternal beneficiary association within the meaning of this act. ('07 c. 345 § 16)

**3553. Same—License, requirements for—**No foreign association which is not now authorized to transact business in this state shall transact any business herein without a license from the insurance commissioner. Before receiving such license, it shall file with the insurance commissioner a duly certified copy of its charter or articles of association: a copy of its constitution and laws, certified by its secretary or corresponding officer: a power of attorney to the insurance commissioner as hereinafter provided: a statement under oath of its president and secretary or corresponding officers in the form required by the insurance commissioner duly verified by an examination made by the supervising insurance official of its home state of the business for the preceding year: a copy of its contract, which must show that benefits are provided for by assessment upon, or other payments by persons holding similar contracts, and shall furnish the insurance commissioner with such other information as he may deem necessary to a proper exhibit of its business and plan of working, and if he finds that it is transacting business in accordance with the provisions of this act; that its assets are invested in accordance with the laws of the state where it is organized; and, unless it has under its jurisdiction, a grand lodge having a beneficiary department which grand lodge is now authorized by the insurance commissioner to transact business in this state, that it has the membership and qualifications required of domestic associations organized under this act, he

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may license such association to do business in this state until the first day of the succeeding March, and such license may be renewed annually, but in all cases to terminate on the first day of the succeeding March. ('07 c. 345 § 17, amended '11 c. 226 § 1)

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**3554. Same—Refusal or revocation of license—Appeal—**When the insurance commissioner refuses to license any association, or revokes its authority to do business in this state, he shall reduce his ruling, order or decision to writing, and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the association, upon request. Any society affected by any such ruling, order or decision, shall have the right to appeal to the district court of Ramsey county in this state, by filing with said commissioner its notice of such appeal in writing, and in such case, said commissioner shall forthwith and within ten days thereafter, deliver to such association a full and certified transcript of all proceedings had before him in said matter, including all applications, together with all orders, rulings and decisions had thereon and on such transcript being filed in said court, such court shall be fully possessed of said action and a full trial on the merits de novo, shall be had thereon and upon such hearing, the findings of fact on which such order is based shall be prima facie evidence of the matters therein stated; provided, further, that said appeal shall be filed in such court within forty days after the rendition of the ruling, order or decision appealed from; and provided, further, that nothing herein or in this act contained shall be taken or construed as preventing any such association from continuing in good faith all contracts made in this state during the time such association was legally authorized to transact business therein. ('07 c. 345 § 18)

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**3555. Same—Foreign associations—Appointment of attorney—Service of process—Time to answer—**Every foreign association now transacting business in this state, shall, within thirty days after the passage of this act, and every such association hereafter applying for admission shall before being licensed, appoint in writing the insurance commissioner and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it, which is served upon such attorney, shall be of the same legal force and validity as if served upon the association, and that the authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment, certified by said insurance commissioner, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service may only be made upon such attorney, must be made in duplicate and shall be deemed sufficient service upon such association, provided, however, that no such service shall be valid or binding against any such association when it is required thereunder to file its answer, pleading or defense in less than thirty days after the date of such service. When legal process against any such association is served upon said insurance commissioner, he shall forthwith forward by registered mail one of the duplicate copies, prepaid and directed to its secretary or corresponding officer. The plaintiff in such process so served shall pay to the insurance commissioner for the use of the state at the time of such service a fee of two dollars, which shall be recovered by him as part of the taxable costs, if he prevails in the suit. ('07 c. 345 § 19)

Amendment of summons to conform to statute (116-115, 133+398, Ann. Cas. 1913A, 555).  
 The manner of service prescribed held applicable to mandamus proceedings, and, as so construed, is not unconstitutional. Written admission of service by commissioner sufficient. Forwarding duplicate copies no part of service (111-39, 126+404).  
 Furnishes only method for service of summons in civil action on such association (139+815).

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**3556. Same—Domestic associations—Meetings, where held—Office—**Any domestic association may provide that the meetings of its legislative or governing body may be held in any state, district, province or territory wherein such association has subordinate branches, and all business transacted at such

meetings shall be as valid in all respects as if such meetings were held in this state. But its principal office shall be located in this state. ('07 c. 345 § 20)

**3557. Same—Power to waive constitutional provisions, etc.**—The constitution and laws of the association may provide that no subordinate body, nor any of the officers or members of such subordinate body, shall have the power or authority to waive any of the provisions of the laws and constitution of the association, and the same shall be binding on the association and each and every member thereof. ('07 c. 345 § 21)

This section having been enacted subsequent to adoption of by-laws, and to time when rights accrued, had no application (111-207, 126+728).

**3558. Same—Amendments of constitution to be filed—Copies as evidence**—Every association transacting business under this act shall file with the insurance commissioner a duly certified copy of all amendments of, or additions to, its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws and of additions or amendments thereto, certified by the secretary or corresponding officer of the association shall be prima facie evidence of the legal adoption thereof. ('07 c. 345 § 22)

**3559. Same—Annual report to commissioner**—Every association transacting business in this state, shall annually on or before the fifteenth day of February file with the insurance commissioner in such form as he may require, a statement under oath of its president and secretary, or corresponding officers of its condition and standing on the thirty-first day of December next preceding, and of its transactions for the year ending on that date, and shall, also, furnish such other information as the insurance commissioner may deem necessary to a proper exhibit of its business and plan of working. The insurance commissioner may at other times require any further statement he may deem necessary to be made relating to such associations. ('07 c. 345 § 23)

**3560. Same—Domestic associations—Powers and duties of commissioner—Quo warranto**—The insurance commissioner, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic association. He may employ assistants for the purposes of such examination, and he, or any person he may appoint, shall have free access to any books, papers and documents that relate to the business of the association and may summon and qualify as witnesses, under oath, and examine its officers, agents and employes, or other persons, in relation to the affairs, transactions and condition of the association. Whenever, after examination, the insurance commissioner is satisfied that any domestic association has failed to comply with any provisions of this law, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently, or is in such condition as to render further proceedings hazardous to the public or its certificate holders, or whenever any domestic association, after being in existence one year or more, and one year from the passage of this act, shall have a membership of less than three hundred, or votes to discontinue business, the insurance commissioner may present the facts relating thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction and such court shall thereupon notify the officers of such association of a hearing, and, unless it shall then appear that some special and good reason exists why such association should not be closed, said association shall be enjoined from carrying on any further business, and some person shall be appointed receiver of such association and shall proceed at once to take possession of the books, papers, moneys and other assets of the association and shall forthwith, under the direction of the court, proceed to close the affairs of the association and to distribute its funds to those entitled thereto. No such proceeding shall be commenced by the attorney general against any such association until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it on a date to be named in said notice to show cause why such proceedings should not be commenced. ('07 c. 345 § 24)

**3561. Same—Proceedings on suit of attorney general**—No action or proceedings to discontinue or enjoin, in whole, or in part, the business or methods of any such domestic association, or to appoint a receiver therefor, or to dis-

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solve the same, or in any manner affecting its corporate rights, except for failure to pay final judgment, or to oust any foreign association or enjoin it from transacting business in this state, shall be entertained by any court, except on the suit of the attorney general of this state. ('07 c. 345 § 25)

64.34  
**3562. Same—Foreign associations—Powers and duties of commissioner—Revocation of license**—The insurance commissioner, or any person whom he may appoint, may examine any foreign association transacting or applying for admission to transact business in this state. The insurance commissioner may employ assistants for the purpose of such examination and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the association and may summon and qualify as witnesses under oath and examine its officers, agents, employes and other persons in relation to the affairs, transactions and condition of the association. He may in his discretion accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or count[r]y, where such association is organized. If any such association or its officers refuse to submit to such examination or to comply with the provisions of this section relating thereto, or if upon such examination the insurance commissioner on investigation is satisfied that any foreign association transacting business under this act has exceeded its powers, or has failed to comply with the provisions of the law, or is conducting business fraudulently, or is not carrying out its contracts in good faith, or is in such condition as to render further proceedings hazardous to the public or its certificate holders, he may by a written order or decision, filed in his office, revoke the license of such association to do business in this state, subject to an appeal by such association as provided by and in accordance with the provisions of section 18 [3554] of this act, and upon any such appeal all the provisions of said section 18 [3554] shall apply thereto. No such license shall be revoked by the insurance commissioner until after notice has been duly served on the chief executive officers of the association and a reasonable opportunity given to it on a date to be named in said notice to show cause why such license should not be revoked. ('07 c. 345 § 26)

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**3563.—Same—Expenses of examination**—The necessary expenses of any examination made by the insurance commissioner, pursuant to the provisions of this act, of any association herein authorized, shall be paid by such association; but no per diem shall be paid to or on account of any regular salaried member of the insurance department, nor a per diem of more than ten dollars to any other person. ('07. c. 345 § 27)

64.36  
**3564. Same—Act not applicable to certain lodges, etc.**—Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, Elks 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 local lodges of an association now doing business in this state, that provide death benefits not exceeding three hundred dollars to any one person, or disability benefits not exceeding three hundred dollars in any one year to any one person, or both; nor to any contracts of reinsurance of, or between such local lodges of such association now doing business on such plan in this state, nor to domestic associations which limit their membership to the employes of a particular city or town, designated firm, business house or corporation; nor to domestic lodges, orders or associations of a purely religious, charitable and benevolent description, which do not operate with a view to profit, and which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars to any one person in any one year, provided, always, that any such domestic order or association which has more than five hundred members, and provides for death or disability benefits, and any such domestic lodge, order or association which issues to any person a certificate providing for the payment of benefits, shall not be exempt by the provisions of this section, but shall comply with all the requirements of this act. The insurance commissioner may require from any association such information as will enable him to determine whether such association is exempt from the provisions of this act. No association which is exempt by the provisions of this section from the requirements of

this act, shall give or allow or promise to give or allow to any person any compensation for procuring new members. ('07 c. 345 § 28)

**3565. Same—False statements by certain persons—Soliciting membership in certain cases—Violations of act—Penalties—**Any person, officer, member or examining physician, who shall knowingly or wilfully make any false or fraudulent statement or representation in or with reference to any application for membership or for the purpose of obtaining money from or benefit in any association transacting business under this act, shall be guilty of a misdemeanor and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars, or imprisonment in the county jail for not more than ninety days, in the discretion of the court, and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such association, for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath, required or authorized by this act, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury. Any person who shall solicit membership for, or in any manner assist in procuring membership in, any association not licensed to do business in this state; or who shall solicit membership for, or in any manner assist in procuring membership in, any such association not authorized as herein provided, to do business as herein defined in this state, shall be guilty of a misdemeanor, and upon conviction thereof, shall be punished by a fine of not more than one hundred dollars. Any association, or any officer, agent or employee thereof, neglecting or refusing to comply with, or violating any of the provisions of this act, the penalty for which neglect, refusal or violation is not specified in this section, shall be fined not exceeding one hundred dollars upon conviction thereof. ('07 c. 345 § 29)

**3566. Same—Definitions—Deputy insurance commissioner—**The word "association" as used in this act shall be taken and construed as meaning a fraternal beneficiary corporation, society, order or voluntary association as defined in this act. The words "domestic association" shall be taken and construed as meaning an association organized or incorporated under the laws of this state. The words "foreign association" shall be taken and construed as meaning an association organized or incorporated under the laws of another territory, district, state, province, or country. The word "state," as used in this act, shall be taken and construed as meaning "state," "territory," "district," "country," or "province." All provisions of each section of this act, except as otherwise provided, shall be taken and construed as applying to both domestic and foreign associations. In the event of a vacancy in the office of the insurance commissioner, or in the absence or disability of that officer, the deputy insurance commissioner shall perform all the duties required of the insurance commissioner by this act. ('07 c. 345 § 30)

**3567. Same—Valuation of benefit certificates—**Nothing contained in this act shall be construed to require any society to make or cause to be made any valuation of its benefit certificates for any purpose whatsoever, nor shall the insurance department have the right to require or demand that such valuation be made or embraced in the report of any fraternal beneficiary society to the insurance department; nor shall any valuation of the certificates of any association, if made by the insurance department, be published unless upon request of such association. ('07 c. 345 § 31)

**3568. Certain foreign societies—Readjustment of rates—Referendum—**If the now existing laws of the state in which any foreign fraternal beneficiary society licensed to do business in this state is incorporated, contain provisions under which the officers of such society may submit to the members for their approval or repeal by-laws providing for the readjustment of assessment rates or rates of periodical contribution to the benefit fund, such officers shall submit to a referendum of the membership such question of new rates within the time within which the same may be done under the laws of such foreign state, and pending and during the time when such question is before the members of the order for their approval or repeal, the columns of the official organ shall be open

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# MINNESOTA STATUTES 1913

820

INSURANCE

§ 3569

to the membership of this state for expression of views for and against such new rates. ('12 c. 6 § 1)

64.39  
3569. Same—Roster of officers to be filed—Any such fraternal beneficiary society doing business in this state shall file in the office of the insurance commissioner for use of parties interested, a roster giving the names and addresses of the officers corresponding to presiding officer and secretary of all subordinate lodges in the entire jurisdiction of such society within thirty days after demand made on the chief executive officers corresponding to secretary, by a subordinate lodge in this state. ('12 c. 6 § 2)

64.40  
3570. Same—Cancellation of license for failure—Provided that if the officers of any such fraternal beneficiary society shall fail and neglect to comply with the provisions of this act, the license of said society to do new business in this state shall be cancelled by the insurance commissioner on proof of such failure or neglect. ('12 c. 6 § 3)

64.41  
3571. Subordinate lodges or camps in foreign associations—Incorporation as domestic associations—When one-third of all the subordinate lodges or camps organized at the time of the passage of this act in any fraternal beneficiary association now licensed to do business in the state of Minnesota, within two years after the passage of this act, at regular or special meetings called therefor, adopt resolutions by a majority vote of each lodge or camp, provided at least thirty-five per cent (35%) of all the members of such lodge or camp voted for said resolution declaring that they thereby sever their connections with such foreign fraternal beneficiary association, they may, in conjunction with each other, continue as a fraternal beneficiary association, and may become incorporated as a fraternal beneficiary association under this act, provided that at least seventy-five hundred (7,500) members of such lodges or camps so severing their connection with such foreign fraternal beneficiary associations, have signified in writing their intention to transfer their insurance to the association incorporated under this act and to become members of such association. ('13 c. 450 § 1)

64.44  
3572. Same—Suspended lodges or camps—When a subordinate lodge or camp of any foreign fraternal beneficiary association, now licensed to do business in this state, shall become suspended under the terms and provisions of the by-laws of such association for failure to make, within the time provided by its by-laws remittance to the proper officer of such foreign fraternal beneficiary association of benefit assessments, per capita or other dues, such subordinate lodge or camp may retain its organization, and in conjunction with other subordinate lodges or camps or members of such association in this state, continue as a fraternal beneficiary association, and may join with each other and become a part of the fraternal beneficiary association incorporated under this act. ('13 c. 450 § 2)

64.45  
3573. Same—Severing connection with foreign association—Incorporation—When fifteen thousand or more members in this state in good standing in any foreign fraternal beneficiary association shall file with the insurance commissioner of this state applications in writing signifying their intention to sever their connection with such foreign fraternal beneficiary association and to transfer their insurance and become members of an association to be incorporated hereunder such members may form an association and become incorporated under this act, and such association and the members thereof so incorporated shall have all the rights and the same privileges under this act and be subject to the same conditions and requirements as associations incorporated pursuant to the provisions of section 1 [3571] hereof. ('13 c. 450 § 3)

64.46  
3574. Same—Rights of members of other lodges or camps—When subordinate lodges or camps take advantage of the provisions of this act any individual members of any other subordinate lodge or camp of the same association may become associated with such subordinate lodges or camps under this act. ('13 c. 450 § 4)

64.47  
3575. Same—Rights of members of foreign association—Nothing in this act contained shall be construed to prevent an individual member of any such foreign fraternal beneficiary association from retaining his membership

therein where the subordinate lodge or camp of which he is a member shall have severed its connection with such association, and all assessments or per capita tax which shall have been paid by such member shall be remitted to the proper chief executive officer of such association unless said member shall designate in writing that he does not want a remittance made to the foreign fraternal beneficiary association. ('13 c. 450 § 5)

**3576. Same—Rights of lodges or camps severing connection—**Whenever fifty per cent of the entire membership of any subordinate lodge or camp shall vote to sever its connection from the foreign fraternal beneficiary association and affiliate with the association incorporated under this act, such subordinate lodges or camps shall retain their local identity as such, and shall retain the title to all property, real and personal, of such subordinate lodge or camp, but shall be accountable to individual members who preserve their membership in such foreign fraternal beneficiary association for their share in the property of the subordinate lodge or camp ascertained on a per capita basis. ('13 c. 450 § 6) 64.48

**3577. Same—Liability of foreign associations under certificates—**Nothing in this act shall be construed to affect or limit the liability of any such foreign fraternal beneficiary association under any certificate issued by such association to any member during the time for which it shall have received his assessments in accordance with the constitution and by-laws of such foreign fraternal beneficiary association. ('13 c. 450 § 7) 64.49

**3578. Same—Recovery of funds from foreign association—**If such foreign beneficiary association shall have collected from the members of such association that sever their connection therefrom any funds in excess of such as shall have been properly collected under its articles of incorporation and laws, then the association organized under the provisions of this act shall have the right as such an association to recover such amount from such foreign beneficiary association for the benefit of the members of the association formed hereunder. ('13 c. 450 § 8) 64.50

**3579. Same—Duty of clerk of lodge or camp severing connection—**Notice—Whenever any subordinate lodge or camp shall under this act decide to sever its connections with the foreign fraternal beneficiary association, the clerk of said camp shall give written notice of the action taken to every member of said lodge or camp at his last known post-office address and shall request that each member file his written preference as to whether or not he desires his assessments or per capita tax to be paid to the foreign fraternal beneficiary association or transmitted to the new organization. All members failing within thirty days to respond to the request of the clerk in the matter of filing preference shall be considered as desiring to remain with the foreign fraternal beneficiary association and shall be considered members of that organization. ('13 c. 450 § 9) 64.51

**3580. Same—Medical examinations—New certificates—**Members of subordinate lodges or camps and individual members taking advantage of this act shall not be required to pass a medical examination, but new certificates shall be issued to them for the same amount of insurance provided for in the certificate held by such member at the time of the change, or for a less amount of insurance at the option of the insured, or the benefit certificate issued to such member by such foreign fraternal beneficiary association may be assumed by the corporation organized under this act. ('13 c. 450 § 10) 64.52

**3581. Same—Contributions to benefit fund remitted or paid—**When subordinate lodges or camps take advantage of this act, contributions to the benefit fund in the hands of the officers of such subordinate lodges or camps may be remitted to such temporary organizations or lodges or camps as may be created, or when an association of such subordinate lodges or camps or members is duly incorporated under this act, such funds may be paid into the treasury of the association so incorporated, and all such remittances and payments shall be subject to the payment of death claims that occur after the liability of such foreign fraternal beneficiary association upon certificates issued to such members has ceased. ('13 c. 450 § 11) 64.53

64.54  
**3582. Same—Duties of commissioner, lodges and camps—Mailing lists—Notice**—When one or more of such subordinate lodges or camps desiring to sever its or their connections with such foreign fraternal beneficiary association and become members of the associations organized or to be organized under this act shall notify the commissioner of insurance of its or their purpose to do so, it shall be the duty of the commissioner of insurance at once to demand of the chief executive officer in charge of the records of such foreign fraternal beneficiary association to immediately file in the office of the commissioner of insurance a mailing list of all the members of subordinate lodges or camps of such foreign fraternal beneficiary association within this state, and when such foreign fraternal beneficiary association shall have filed such mailing lists, arranged by lodges or camps, it shall be the duty of subordinate lodges or camps desiring to take advantage of this act to mail written notices to all members of any subordinate lodge or camp so desiring to sever its connection from said foreign fraternal beneficiary association at least ten days prior to the submission of such question in such local subordinate lodge or camp, and such notice shall specifically state that the question of surrendering the charter and joining with the state organization is to be taken up, and the date of meeting, and may contain such other information as is deemed relevant; provided that where all the members of a subordinate lodge or camp signify in writing their desire and intention to surrender the charter of such camp and join such new organization then and in such case the notice herein provided for shall not be required. ('13 c. 450 § 12)

64.55  
**3583. Same—Incorporation, how effected—Articles of association**—Whenever one-third ( $\frac{1}{3}$ ) of all the subordinate lodges or camps organized at the time of the passage of this act signify their intention to withdraw, and in numbers as provided in section 1 [3571] of this act signify their intention of transferring their insurance, or whenever fifteen thousand (15,000) members without reference to the number of lodges or camps of which they shall be members in any fraternal beneficiary association now licensed to do business in the state of Minnesota, have severed their connections with such foreign fraternal beneficiary association, in the manner herein provided for, they may become incorporated as a fraternal beneficiary association by causing not less than fifteen thousand (15,000) members, to be designated by such camps or lodges, or fifteen thousand (15,000) members, so severing their connections with such foreign fraternal beneficiary association to execute and file articles of association with the secretary of state, and a copy thereof with the commissioner of insurance of the state of Minnesota, which articles shall contain the following:

1. The name of the association.
2. The location of the head office or place of business of said association.
3. The purpose for which it is formed, the official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the association.
4. The length of time such corporation shall continue.
5. The names and places of residence of the officers, of such association who hold such office at the time such certificate is filed, and until such time as their successors are elected and qualified under this act. Upon the filing of such articles, as herein provided, the commissioner of insurance shall issue to such association a license authorizing it to transact business in this state. ('13 c. 450 § 13)

64.56  
**3584. Same—Special election—State convention—Organization**—Within ninety days after the incorporation of such association the lodges or camps or 15,000 members of such foreign fraternal beneficiary association so severing their connections shall call a special election and elect delegates to a state convention for the purpose of adopting by-laws, rules and regulations for the proper organization of such association, and to adopt a ritual and form a grand lodge of the state of Minnesota, and for the purpose of electing officers to fill the positions of this new association, which said officers so elected shall act until their successors are duly elected and qualified. Said convention so called shall consist of one delegate at large from each subordinate lodge or camp, and one delegate for each three hundred (300) members or

major fraction thereof; provided that no camp or lodge shall have more than five delegates. The rules and regulations, by-laws and ritual of such association shall comply with the laws of this state in all respects except as herein otherwise provided. ('13 c. 450 § 14)

3585. **Same—Assessments—Duty of commissioner**—Any such association so formed under this act shall during no year levy a less number of assessments than was levied in 1912 by the society or association from which such new association has seceded or from which it has severed its connection, and shall adopt a rate of assessment by increasing its rates of mortuary assessments by fifty per cent in addition to rates actually paid by the members at the time they sever their connection with the foreign fraternal organization, said rate to be so fixed within ninety days after such association has secured its license from the commissioner of insurance, provided, however, that if said fraternal beneficiary association fails to carry out the provisions of this section, then and in that event the commissioner of insurance shall have the right to cancel its license to do business in this state. ('13 c. 450 § 15) 64.57

3586. **Same—Retention of name**—Subordinate lodges or camps of such foreign fraternal beneficiary association incorporated under the laws of the state of Minnesota by virtue of this act, may retain the name of such foreign fraternal beneficiary association, provided it be modified by some territorial or other designation to clearly distinguish it from such foreign fraternal beneficiary association. ('13 c. 450 § 16) 64.58

3587. **Same—Rights of members—Mailing list**—When any member of a subordinate lodge or camp of such foreign fraternal beneficiary association demands of the officers in charge of the mailing list and membership roll the privilege to take a copy thereof, such member shall be promptly given the privilege of copying such membership list and roll from the records of the subordinate lodge, and any officer refusing to permit a member in good standing of such subordinate lodge or camp to take a list of the members from such records shall be guilty of a misdemeanor. ('13 c. 450 § 17) 64.59

3588. **Same—Mandamus, etc.**—Mandamus proceedings shall lie in the courts of this state against any officer or member of any subordinate lodge or camp to require compliance with the provisions of this act and necessary proceedings incident to the incorporation of subordinate lodges or camps under this act; and no action or proceeding to restrain subordinate lodges or camps or members from proceeding under this act, or to discontinue or enjoin any association organized under this act shall be commenced except on the suit of the attorney general of this state. ('13 c. 450 § 18) 64.60

3589. **Same—Auxiliary lodges, etc.**—This act shall apply to auxiliary lodges, and when the subordinate lodges or camps or members of a foreign fraternal beneficiary association shall incorporate under this act, auxiliary subordinate lodges or camps or members may join with such organization so incorporated under this act. ('13 c. 450 § 19) 64.61

3590. **Same—Application of laws**—Except as herein otherwise provided, every fraternal beneficiary association organized under the provisions of this act shall be subject to all of the laws of this state relating to fraternal beneficiary associations. ('13 c. 450 § 20) 64.62

#### FOREIGN COMPANIES

3591. **Requirements—Certificate**—Any insurance company of another state, upon compliance with all laws governing such corporations in general, and with the foregoing provisions so far as applicable, and also with the following requirements, shall be admitted to do business in this state:

1. It shall deposit with the commissioner a certified copy of its charter or certificate of incorporation, and of its by-laws, and a statement showing its financial condition and business, verified by its president and secretary or other proper officers.

2. It shall furnish the commissioner satisfactory evidence of its legal organization and authority to transact the proposed business, and that its capital, assets, deposit with the proper official of its own state, amount insured,

number of risks, reserve and other securities, and guaranties for protection of policyholders, creditors, and the public, comply with those required of like domestic companies.

3. By a duly executed instrument filed in the office of the commissioner, it shall appoint him and his successors in office its lawful attorneys in fact, and therein irrevocably agree that legal process in any action or proceeding against it may be served upon them with the same force and effect as if personally served upon it, so long as any of its liability exists in this state.

4. It shall appoint, as its agents in this state, residents thereof, and obtain from the commissioner a license to transact business therein. (1705)

1. **Service of process—Subd. 3**—Stipulation for service how far irrevocable (87-260, 91+1115, 94 Am. St. Rep. 699). Personal service on commissioner not exclusive of service on local agent under G. S. 1894 § 3158 (80-146, 83+1118; 80-147, 82+1083). Stipulation does not give situs in this state to a claim due a company for business done out of the state (72-383, 75+740, 42 L. R. A. 233, 71 Am. St. Rep. 492). Venue of action against foreign company (see § 7721).

2. **Certificatés**—Act of commissioner in issuing does not conclude state. Quo warranto to test right of corporation to exercise corporate powers (39-538, 41+108).

3. **In general**—Premiums and assessments not collectible when statute not complied with (66-205, 68+1065; 74-325, 329, 77+207), but insured may recover from company (34-372, 25+943). Foreign company complying with statute has rights of domestic companies (74-139, 142, 76+1030). In action by foreign company not necessary to allege compliance with statute. Non-compliance a matter of defence (63-170, 65+351, 30 L. R. A. 586, 56 Am. St. Rep. 464; 74-325, 77+207; 77-256, 259, 79+974). Restrictions on foreign companies to be enforced. No business can be done without compliance with statute (88-20, 25, 92+472; 94-86, 102+213).

3592. **Attorney for service of process, proofs of loss, notices, etc.—Removal to federal court—Revocation of license**—That before any corporation, association or company, issuing policies of insurance of any character, and not organized or existing pursuant to the laws of this state, is admitted to or authorized to transact the business of insurance in this state, it shall, by a duly executed instrument to be filed in the office of the insurance commissioner, constitute and appoint the insurance commissioner and his successor in office its true and lawful attorney upon whom proofs of loss, any notice authorized or required by any contract with such company to be served on it, summonses and all lawful processes in any action or legal proceeding against it may be served, and that the authority thereof shall continue in force irrevocable so long as any liability of the company remains outstanding in this state.

Said instrument shall contain a provision and agreement declaring that such company, association or corporation desires to transact the business of insurance in this state, and that it will accept a license therefor according to the laws of this state, and that it will not remove, or make application for removal, into any court of the United States any action or proceeding commenced in any court of this state upon a claim or cause of action arising out of any business or transaction done therein.

In case of the failure of any such insurance company to comply with any of the provisions of this act, or if it shall violate any of the conditions or agreements contained in the instrument filed as aforesaid, its right to transact the insurance business in this state shall cease, and it shall be the duty of the insurance commissioner to immediately declare its license revoked; and in case of such revocation, said company shall not be again licensed to transact business in this state for the period of one year from date of such revocation. ('11 c. 312 § 1)

Section 4 repeals inconsistent acts and parts of acts. The act supersedes 1907 c. 155. The similar provisions of 1907 c. 155 applied to an action by the state to collect taxes under § 3600 (114-471, 131+628).

3593. **Same—Companies now transacting business**—Every foreign insurance company now transacting the business of insurance in this state shall, within sixty (60) days after the passage of this act, file with the insurance commissioner its written instrument, as provided in section one (1), otherwise the commissioner shall immediately revoke its license. ('11 c. 312 § 2)

3594. **Same—Fees—Clerk**—The insurance commissioner shall be entitled to charge and receive a fee of two dollars (\$2.00) for each notice, proof of

loss, summons or other process served upon him under the provisions of this act, to be paid by the person serving the same. The fees so collected shall be paid into the state treasury, as is now provided by law for other fees collected by such insurance commissioner. The insurance commissioner is authorized to employ a clerk to carry out the provisions of this act at a salary of not to exceed twelve hundred dollars (\$1200.00) which sum is hereby annually appropriated out of the revenue fund of the state. ('11 c. 312 § 3)

3595. **Deposit**—Such company of any foreign country, except fraternal beneficiary associations, shall not be admitted until, besides complying with the foregoing requirements, it has made a deposit with the commissioner of insurance of this state, or with the proper officer of some other of the United States, of a sum not less than the capital required of a like company under the provisions of this chapter, and such deposit shall be of the same class of securities and subject to the same limitations as is required for the deposit of domestic companies that must by law maintain a deposit. Such deposit shall be in exclusive trust for all its policy holders and creditors in the United States, and for all purposes of the insurance laws shall be deemed its capital. (R. L. § 1706, amended '09 c. 478 § 1)

1909 c. 478 § 4 repeals inconsistent acts, etc.  
Cited (102-15, 112+1050).

3596. **Securities transferred to commissioner**—All securities, moneys, mortgages, certificates, bonds, notes, receipts, statements, records, and all papers relating thereto; which have been heretofore deposited with and received by the state treasurer pursuant to the laws governing deposits of foreign insurance companies, shall, upon the passage and approval of this act, be transferred and delivered to the commissioner of insurance of Minnesota and it shall be his duty to receive and safely keep the same. ('09 c. 478 § 2)

3597. **Authority of state treasurer**—The state treasurer is hereby authorized and directed to make all assignments and conveyances to the commissioner of insurance which may be necessary to complete a transfer of the securities as contemplated by this act. ('09 c. 478 § 3)

3598. **Trustees appointed, when**—Any company of a foreign country may duly appoint one or more citizens of the United States, approved by the commissioner, to hold funds or other property for the benefit of its policyholders and creditors therein. A certified copy of their appointment, and of the instrument of trust, shall be filed with the commissioner, who shall have the same authority in the premises as in the case of the affairs of all companies. Such funds shall be invested in the same securities as required of other insurance companies, and, together with the deposits required, shall constitute the assets of such company in respect to its policyholders and creditors in the United States. (1707)

3599. **Method of insurance—War—Reinsurance**—No foreign company shall make its insurance contracts upon lives, property, or interests in this state except through lawfully constituted and licensed resident agents, and whenever it effects reinsurance otherwise than through such agents the entire tax thereon shall be paid by the original company, and no reduction shall be made on account of such reinsurance. No policy of insurance issued to a citizen of this state shall be invalidated by the occurrence of hostilities between any foreign country and the United States. (1708)

3600. **Retaliatory provisions**—Whenever, by the laws of any other state or country, any taxes, fines, deposits, penalties, licenses, or fees, in addition to or in excess of those imposed by the laws of this state upon foreign insurance companies and their agents doing business in the state, are imposed on insurance companies of this state, and their agents doing business in such state or country, or whenever any condition precedent to the right to do business in such state are imposed by the laws thereof, beyond those imposed upon such foreign companies by the laws of this state, the same taxes, fines, deposits, penalties, licenses, fees and conditions precedent shall be imposed upon every similar insurance company of such state or country and their

agents doing, or applying to do business in this state so long as such foreign laws remain in force. ('07 c. 420 § 1)

This section is identical with R. L. § 1709 except that it adds the word "deposits" after "taxes, fines," where these words last occur.

39-538, 41+108; 66-393, 69+141, 35 L. R. A. 99.

In an action to recover the tax claimed to be due under this section, the state is the real party in interest, and the insurance commissioner is not incapacitated from representing the corporation for the purpose of accepting service (114-471, 131+628).

See note under § 3592.

**3601. Agents—Licenses—Revocation—**No person shall act as agent, sub-agent, or broker in the solicitation or procurement of applications for insurance or in any manner aid in the negotiation of insurance by any company except fraternal beneficiary associations, until he shall have obtained from the commissioner of insurance a license therefor, which license shall be granted upon written application by such company upon forms prescribed by the commissioner of insurance and the payment of the fee required by law, if such license is otherwise warranted. Whenever it appears to the commissioner of insurance upon due proof, after hearing, upon such notice as he may direct, that any such licensee has been guilty of any misrepresentation, fraud, deceit, dishonesty or of any violation of any of the provisions of the insurance law or any lawful ruling of the commissioner of insurance, or has unreasonably failed to pay over to the company or agent entitled thereto the whole or any part of any premium collected by him, the commissioner shall revoke his license and give notice thereof in such manner as he deems will best protect the public. Such license may also be revoked by the company upon filing written notice thereof with the commissioner of insurance. (R. L. § 1710, amended '13 c. 107 § 1)

94-86, 102+213.

Cited (102-15, 112+1050).

1895 c. 175 § 89 cited (99-176, 108+861).

## PENALTIES

**3602. Complainant entitled to one-half fine, when—**The person, other than the insurance commissioner or his deputy, upon whose complaint a conviction is had for violation of the law prohibiting insurance in or by foreign companies not authorized to do business in this state, shall be entitled to one-half the fine recovered upon sentence therefor. (1711)

**3603. Unlawful guaranty—**Every director or other officer of a mutual fire insurance company, who officially or privately gives a guaranty to a policyholder thereof against an assessment for which he would otherwise be liable, shall be guilty of a misdemeanor. (1712)

**3604. Failure to appear before or obstructing commissioner—**Whoever, without justifiable cause, neglects, upon due summons, to appear and testify before the commissioner as provided in this chapter, or obstructs the commissioner or his deputy in his examination of an insurance company, shall be guilty of a gross misdemeanor. (1713)

**3605. Negotiation of unlawful contracts—**Every person who assumed to act as an insurance agent or broker, without license therefor as provided in this chapter, or who acts in any manner in the negotiation or transaction of unlawful insurance with a foreign insurance company not admitted to do business in this state, or who, as principal or agent, violates any provision of law relative to the negotiation or effecting of contracts of insurance, shall be guilty of a ( ) misdemeanor. (R. L. § 1714, amended '13 c. 223 § 1)

43-350, 45+711; 88-20, 92+472; 94-86, 102+213.

**3606. Issue of prohibited life policies—**Every officer or agent of a life insurance company who shall issue any policy in violation of any order or other prohibition by the commissioner, made pursuant to law, shall be guilty of a gross misdemeanor. (1715)

**3607. When agent of insurer—Procuring premiums by fraud—**Every insurance agent or broker who acts for another in negotiating a contract of insurance by an insurance company shall be held to be the company's agent for the purpose of collecting or securing the premiums therefor, whatever condi-

tions or stipulations may be contained in the contract or policy. Whenever any such agent or broker, by fraudulent representations, procures payment, or an obligation for the payment, of an insurance premium, he shall be guilty of a gross misdemeanor. (1716)

94-86, 102+213.

Authority to take note for first premium (99-176, 108+861).

A broker is representative of insured, and not agent of company, except for collecting or insuring premiums (104-76, 116+221, 124 Am. St. Rep. 608).

See note under § 3322.

**3608. Unlawful acts of licensed person**—Every person licensed to procure insurance in an unlicensed foreign company, who fails to file the affidavit and statement required in such case, or who wilfully makes a false affidavit or statement, shall forfeit his license and be guilty of a gross misdemeanor. (1717)

**3609. Unlawful procurement or use of proxy**—Every officer or agent of a domestic mutual insurance company who shall solicit, receive, procure to be obtained, or use a proxy vote in violation of any provision of law, shall be guilty of a gross misdemeanor. (1718)

**3610. False statements in applications**—Every solicitor, agent, examining physician, or other person who knowingly or wilfully makes a false or fraudulent statement in, or relative to, any application for insurance or membership, for any purpose whatsoever, shall be guilty of a gross misdemeanor. (1719)

**3611. Failure to make annual statement**—Every company neglecting to file its annual statement in the form prescribed and within the time specified by law shall forfeit one hundred dollars for each day's neglect, and its authority to do new business shall cease upon order by the commissioner to that effect, while such default continues. For wilfully making a false annual or other required statement, such company shall forfeit five hundred dollars. Either or both of the aforesaid forfeitures may be recovered in a civil action brought by and in the name of the state, and the money recovered shall be paid into the state treasury. (1720)

78-311, 81+3.

**3612. Violations of chapter**—Every company, and every officer and agent of any company, making, issuing, delivering, or tendering any policy of insurance of any kind, or directing any of the same to be done, in wilful violation of any of the provisions of law, for a first offence, shall be guilty of a misdemeanor, and for each subsequent offence, of a gross misdemeanor; and, in addition to all other penalties prescribed by law, every company issuing any such policy shall be disqualified from doing any insurance business in this state until the payment of all fines imposed, and for one year thereafter. (1721)

**3613. Failure to make report or comply with law**—Every officer and agent of any insurance company, required by any provision of this chapter to make any report or perform any act, who shall neglect or refuse to comply with such requirement, and every agent, solicitor, or collector of such corporation in this state who fails or neglects to procure from the commissioner a certificate of authority to do such business, or who fails or refuses to comply with, or violates, any provision of the insurance law, shall be guilty of a gross misdemeanor. (1722)

**3614. Other violations**—Whoever violates any provision of the insurance law, where the nature of the offence is not specifically-designated herein, shall be guilty of a gross misdemeanor. (1723)

**3615. Rebates on insurance contracts prohibited**—No insurance company or association, however constituted or entitled, doing business in this state, nor any officer, agent, sub-agent, broker, solicitor, employé, intermediary, or representative thereof, shall make or permit any advantage or distinction in favor of any insured individual, firm, corporation or association, with respect to the amount of premium named in, or to be paid on, any policy of insurance, or shall offer to pay or allow, directly or indirectly, or by means of any device or artifice, as inducement to insurance, any rebate or premium payable on the policy, or any special favor or advantage in the dividends or other profit

to accrue thereon, or any valuable consideration or inducement not specified in the policy contract of insurance; or give, sell or purchase, offer to give sell or purchase, as inducement to insure or in connection therewith, any stocks, bonds or other securities of any insurance company or other corporation, association, partnership or individual, or any dividends or profits accrued or to accrue thereon, or anything of value whatsoever, not specified in the policy. ('09 c. 427 § 1)

**3616. Same—Insured prohibited from receiving rebates—**No person shall receive or accept from any such company or association, or from any of its officers, agents, sub-agents, brokers, solicitors, employes, intermediaries or representatives, or any other person, any such rebate of premium payable on the policy, or any special favor or advantage in the dividends or other financial profits accrued, or to accrue thereon, or any valuable consideration or inducement not specified in the policy of insurance. No person shall be excused from testifying, or from producing any books, papers, contracts, agreements or documents at the trial of any other person, co-partnership, association or company charged with violation of any provision of this section, on the ground that such testimony or evidence may tend to incriminate; but no person shall be prosecuted for any act, concerning which he shall be compelled to so testify or produce evidence, documentary or otherwise, except for perjury committed in so testifying. ('09 c. 427 § 2)

**3617. Same—Application of act—**The provisions of this act shall not apply to any policy or policies procured by officers, agents, sub-agents, brokers, employes, intermediaries or representatives wholly and solely upon property of which they are respectively the owners at the time of procuring such policy or policies, where such officers, agents, sub-agents, brokers, employes, intermediaries or representatives are, and have been for more than six months prior to the issuing of such policy or policies, regularly employed by, or connected with, the company or association issuing said policy or policies; and any life insurance company doing business in this state may issue industrial policies of life or endowment insurance with or without annuities with special rates of premiums less than the usual rates of premiums for such policies to members of labor organizations, lodges, beneficial societies, or similar organizations, or employes of one employer, who through their secretary or employer may take out insurance in an aggregate of not less than fifty members, and pay their premiums through such secretary or employer. ('09 c. 427 § 3)

**3618. Same—Penalty for violation—**Any company, association or individual violating any provision of this act, whether such violation be in the giving or accepting of anything herein prohibited, shall be punished by a fine of not less than \$60 nor more than \$200. ('09 c. 427 § 4)

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## CHAPTER 20

### INSPECTOR OF OILS

**3619. Chief inspector of oils—Appointment—Salary—Bond—**The governor by and with the consent of the senate, shall appoint a chief state inspector of oils, whose term of office shall extend until the first Monday of January in the odd numbered year next after his appointment, and until his successor qualifies; and the governor may supersede said inspector whenever he shall deem it necessary for the public good. He shall receive an annual salary of twenty-four hundred dollars, payable monthly, and shall give bond to the state in the penal sum of five thousand dollars, conditioned for the faithful discharge of his official duties, to be approved by the secretary of state. ('09 c. 502 § 1)

Section 15 repeals inconsistent acts, etc. This act supersedes R. L. §§ 1724-1733. 71-178, 73+704.

**3620. Deputies—**Such inspector may appoint and at pleasure remove two deputy inspectors for Hennepin county at a salary of one hundred dollars per