

Nineteen Hundred Thirty-One
Supplement

to

Mason's Minnesota Statutes

(1927 thru 1931)

Containing the text of the acts of the 1929 and 1931 Sessions of the
Legislature, both new and amendatory, and notes showing repeals,
together with annotations from the various courts, state
and federal, construing the constitution, statutes,
charters and court rules of Minnesota



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following service of said notice, any such city, village, town or school district may serve notice in writing, upon the attorney general that it desires to contest the legality of the state's claim, whereupon such claim shall be withdrawn from the state auditor, and the attorney general shall forthwith file with the clerk of the district court of the county in which such city, village, town or school district, or major part thereof, is situated, a verified statement of the state's claim, duly itemized, and serve upon the clerk of such city, village, town or school district, by registered mail, a copy of such statement. Such city, village, town or school district may file with the clerk of such district court, within ten days after the service of such statement upon it, verified objections to the state's claim, and such district court shall thereupon summarily, in or out of term hear and determine the amount due the state, if any, for such examination, at a time and place fixed by the court therefor. The clerk of such court shall certify to the county auditor of the county or counties in which such city, village, town or school district is situated, the amount so determined by the court to be due to the state, if any. (Act Apr. 19, 1929, c. 259, §5.)

§3286-6. State Auditor to certify amount due.—On October first of each year, the state

auditor shall certify the respective amounts due the state from the various cities, villages, towns and school districts, as shown by the list so filed by the treasurer, and not withdrawn therefrom, including interest computed to July first following, to the county auditor of the county in which any such city, village, town or school district is in whole or in part situated. The county auditor, upon receiving a certificate from the state auditor or a certificate from the clerk of court, as hereinbefore provided, shall include the amount of the state's claim, with 25 per cent added, in the tax levy for general revenue purposes of the municipality liable therefor, and such additional levy shall not be within any limitation imposed by law upon the amount of taxes which may be levied for revenue purposes. Upon completion of the June tax settlement following such levy the county treasurer shall deduct from the amount apportioned to the municipality for general revenue purposes, the amount due the state under this act, including interest, and remit the same to the state treasurer. (Act Apr. 19, 1929, c. 259, §6.)

§3286-7. Inconsistent acts repealed.—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 19, 1929, c. 259, §7.)

CHAPTER 19

Insurance

§3302. Computation of net value.

Reserve maintained by life insurance company, held to constitute unearned premiums for purpose of computing federal income tax. 22 U. S. Board of Tax Appeals 784. See Dun. Dig. 4720.

§3304. Reserves.

4.
22 U. S. Board of Tax Appeals 784.

GENERAL PROVISIONS

§3312. Definitions.

22 U. S. Board of Tax Appeals 784.

§3313. Acceptance of laws.

Insurance contract solicited by foreign corporation without compliance with state insurance laws, held not interstate commerce. 275US 274, 48SCR124, aff'g 169M516, 211NW478.

§3314. Insurance defined.—Unlawful contracts—Contracts deemed made in this state.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

Loss arising from cracking of opal because alone of its inherent tendency to disintegrate cannot be recovered under an "all risk" transportation policy. 172M13, 214NW473.

The insurance business is affected with public interest and is subject to governmental regulations. 175M73, 220NW425.

In action by assured in indemnity policy to recover amounts paid in settlement of negligence suits which defendant refused to defend, evidence held to sustain finding that plaintiff complied with terms of policy requiring "immediate notice." Farrell et al. v. N., 235NW612. See Dun. Dig. 4875e(45).

Indemnity bond to bank against loss from

taking counterfeit collateral, held not to extend to unsigned bills of lading, the goods described in which were never delivered to the carrier. 48F(2d)611. See Dun. Dig. 4336.

Certificate of Membership in the "Steele County North Dakota Benevolent Society" held to constitute "Insurance" subject to supervision of the commissioner. Op. Atty. Gen., June 12, 1931.

§3318. Retaliatory provision.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3319. Deposits with commissioner.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3322. Capital stock to be paid in full—Investment of funds.—* * *

2. Notes or bonds, approved by the commissioner, secured by first mortgage on improved real estate in this or any other state, or in the Dominion of Canada, worth at least twice the amount loaned thereon, not including buildings unless insured by policies in an amount approved by the commissioner payable to and held by the security holder, or by a trustee for the security holder. (As amended Apr. 10, 1929, c. 149.)

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

stock or guaranty fund certificates of any insurance company; or in the stock or bonds of any real estate holding company whose real estate is used in whole or in part in the transacting of the insurance business of such insurance company, either directly or by re-insurance, or in the fee to real estate used in whole or in part in such business; or in the stock or bonds of any corporation owning investments in foreign countries used for purposes of legal deposit, when the insurance company transacts business therein direct or as re-insurance. The making of investments under this Sub-division shall be subject to the approval of the Commissioner of Insurance. (As amended Mar. 28, 1929, c. 100.)

* * * *

§3326. Deposit with insurance company.

See §2327.

§3334. Policy to embrace conditions.

Enge v. J., 236NW207; note under §3370.

§3339. Mergers and consolidations—Notice of hearing.—The insurance commissioner shall thereupon issue an order requiring notice to be given by mail to each policy holder or such company of such petition and the time and place at which hearing thereon will be held, and shall publish the said notice in five daily newspapers, once in each week, for at least two weeks before the time appointed for the hearing upon said petition, provided, however, that whenever a fraternal benefit society organized under the laws of this state, having an insurance membership in good standing at the time of reinsurance, merger, or consolidation of not more than five thousand members and which has been engaged in business for more than 15 years prior to such time, is reinsured by or consolidated or merged with any Minnesota life insurance company, said order and notice need not be given, but in lieu thereof, the insurance commissioner shall thereupon issue an order of notice specifying the time and place at which hearing thereon will be held and shall cause said order to be published daily for seven consecutive days in five daily Minnesota newspapers, the last such publication to be not less than two weeks prior to the time appointed for such hearing.

In lieu of proceeding under the foregoing paragraph of this Section and Section 2 of Chapter 303, Laws of 1905 [§3338], any accident or health company, may consolidate and enter into a contract of re-insurance with any other company by filing with the commissioner of insurance a copy of such contract and all papers relating thereto, which consolidation and reinsurance shall take effect upon such filing and the mailing to each person holding a policy so reinsured a notice thereof. Provided, that if the holders of not less than five per cent of such policies so reinsured shall within thirty days thereafter file a petition with the commissioner of insurance for a hearing on the question of such reinsurance, the commissioner shall, and without such petition may, order a hearing as provided in Section 4, Chapter 303, Laws of 1905 [§3340], notice of which shall be given by the company by mail to each holder of such policy, so reinsured, at least

ten days before such hearing, and thereupon proceedings shall be had as provided in Sections 4 and 5, Chapter 303, Laws of 1905 [§§3340, 3341]. (As amended Mar. 9, 1929, c. 62, §1.)

§3347. Taxation of insurance companies.—Every domestic and foreign company, except town and farmers' mutual insurance companies and domestic mutual insurance companies other than life shall pay to the State Treasurer on or before April 30th, annually, a sum equal to 2 per cent of the gross premiums less return premiums on all direct business received by it in this state, or by its agents for it, in cash or otherwise, during the preceding calendar year, and if unpaid by said date a penalty of 10 per cent shall accrue thereon, and thereafter such sum and penalty shall draw interest at the rate of 1 per cent per month until paid. Provided, however, that every domestic Mutual Insurance Company shall pay to the State Treasurer on or before April 30th, annually, a sum equal to 2 per cent of the gross direct fire premiums, on policies effective subsequent to January 1, 1930, less return premiums on all direct business received by it, or by its agents for it, in cash or otherwise, during the preceding calendar year upon business written in municipalities in this state maintaining organized Fire Departments, and provided that the existence of such Department has been certified to in accordance with General Statutes 1923, Section 3737. "Return premiums" as used in this section shall mean any dividend and any unused or unabsorbed portion of premium deposit or assessment that shall be applied toward the payment of any premium, premium deposit or assessment due from the policyholder or member upon a continuance or renewal of the insurance on account of which such dividend was earned or premium deposit or assessment paid, (and also any portion of premium returned by the company upon cancellation or termination of a policy or membership, except surrender values paid upon the cancellation and surrender of policies or certificates of life insurance.

In the case of every domestic company such sums shall be in lieu of all other taxes, except those upon real property, owned by it in this state, which shall be taxed the same as like property of individuals, and in the case of every foreign company such sum shall be in lieu of all other taxes, except those upon real and personal property owned by it in this state, which shall be taxed the same as like property of individuals. (As amended Apr. 10, 1929, c. 148, §1.)

The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of Pythias, is to be regarded as a fraternal beneficiary association. Op. Atty. Gen., May 19, 1931.

PROVISIONS COMMON TO ALL COMPANIES

§3348. Definitions.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3349. Licenses.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3366. Violation of law—Misdemeanor—Penalty.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

§3370. Misrepresentation by applicant.

174M498; 219NW759; note under §3399.

Evidence.

Evidence held not to require finding that untrue representations were made with intent to deceive or defraud, or related to matters which increased the risk. 172M334, 215NW428.

LIFE INSURANCE COMPANIES**§3372. Defined.**

Agreement between plaintiff and officer of mutual insurance company relative to purchase of the company and employment of officer, held against public policy. 176M4, 222NW341.

§3373. Prerequisites of all life companies.

Evidence held to show a contract of insurance and not a mere unaccepted application therefor. 172M482, 215NW836.

§3384. [Repealed].

Repealed by Laws 1929, c. 111, §2, post, §3384-1, which provides for investments.

§3384-1. Investment of domestic life insurance companies funds.—The capital, surplus and other funds of every domestic life insurance company, whether incorporated by special act or under the general law (in addition to investments in real estate as otherwise permitted by law) may be invested only in one or more of the following kinds of securities or property:

(1). Bonds or treasury notes of the United States; bonds of this state or of any state of the United States, or of the Dominion of Canada or any province thereof; and bonds of any county, city, town, village, organized school district, municipality or civil division of this state, or of any state of the United States or of any province of the Dominion of Canada.

(2). Notes or bonds secured by first mortgage, or trust deed in the nature thereof, on improved real estate in this or any other state of the United States having a value of at least twice the amount of the loan secured thereby, but no improvement shall be included in estimating such value unless the same shall be insured against fire by policies payable to and held by the security holder or a trustee for its benefit; also, if approved by the commissioner of insurance, notes or bonds secured by mortgage or trust deed upon leasehold estates in improved real property where forty years or more of the term is unexpired and where unencumbered except by the lien reserved in the lease for the payment of rentals and the observance of the other covenants, terms and conditions of the lease and where the mortgagee, upon default, is entitled to be subrogated to, or to exercise, all the rights and to perform all the covenants of the lessee, provided that no loan on such leasehold estate shall exceed fifty per cent of the fair market value thereof at the time of such loan, and the value thereof shall be shown by the sworn certificate of a competent appraiser.

(3). Bonds or obligations of railway companies, street railway companies and other

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

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

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

(6). Stocks of any life insurance company, provided that not more than four per centum of the admitted assets of any domestic life insurance company may be invested in stocks of other life insurance corporations; bonds, debentures, or the preferred or guaranteed stocks, of any solvent institution incorporated under the laws of the United States or of any state thereof, where any such institution, or in the case of guaranteed stocks the guaranteeing corporation, during each of the five years next preceding such investment shall have earned a sum applicable to dividends equal at least to four per centum upon the par value (or in the case of stock having no par value then upon the value upon which such stock was issued) of all its capital stock

outstanding in each of such five years, and provided further that no such life insurance company shall invest in or loan on any such preferred stock in excess of ten per cent of the total issued and outstanding preferred stock of such institution, nor more than twenty per cent of the unassigned surplus and capital of such life insurance company.

(7). Promissory notes maturing within six months, secured by the pledge of registered terminal warehouse receipts issued against grain deposited in terminal warehouses as defined in Section 5016, General Statutes of Minnesota for 1923. At the time of investing in such notes the market value of the grain shall exceed the indebtedness secured thereby, and the note or pledge agreement shall provide that the holder may call for additional like security or sell the grain without notice upon depreciation of the security. The insurance company may accept, in lieu of the deposit with it of the warehouse receipts, a trustee certificate issued by any national or state bank at a terminal point, certifying that the warehouse receipts have been deposited with it and are held as security for the notes. The amount invested in the securities mentioned in this subdivision shall not at any time exceed twenty-five per cent of the unassigned surplus and capital of the company.

(8). Loans on the security of insurance policies issued by itself to an amount not exceeding the net or reserve value thereof; and loans on the pledge of any of the securities enumerated in subdivisions (1) to (7) above, to the extent of the investment permitted in such securities, but not exceeding eighty per cent of the market value of stocks and ninety-five per cent of the market value of any other securities, and in all loans, except as otherwise provided by law in regard to policy 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.

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 or property, or enter into any transactions 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. (Act Mar. 30, 1929, c. 111, §1.)

§3387. Who entitled to proceeds of life policy.

Creditors could not impress proceeds of life insurance policy with claims based on fraud of which insured was guilty after issuance of policies. *Cook et al. v. P.*, 235NW9. See Dun. Dig. 4801, 3867a.

§3388. Exemption in favor of family—Etc.

Cook et al. v. P., 235NW9; note under §3387.

§3396. Misstatement, when not to invalidate policy.

Soliciting agent for weekly payment life insurance policies is the agent of the insurer and not of the insured, and insurer is estopped by act of agent in writing answers incorrectly in application without the knowledge or fault of the insured. *Enge v. J.*, 236NW207. See Dun. Dig. 4662, 4681(89), 4717.

§3399. Forms.

Enge v. J., 236NW207; note under §3396.

1a. Payment of premiums.

Applicant having died without paying the premium or receiving the policy, it never went into effect, there being nothing to show that conditions specified in application were waived. 177M273, 225NW81.

2. Permanent and total disability—

Loss of the use of both hands constituted "total" disability and entitled insured to income although still able to conduct a business for profit. 175M210, 220NW561.

Where a paragraph of contract provided that after disability has been continuous for three months, it shall be presumed to be permanent, and another paragraph that insurer might demand further proof of continuance of disability, court properly instructed that disability was presumed to be permanent after three months, where no demand was made for such further proof. 175M210, 220NW561.

2a. Double indemnity.

Where surgeon in preparation for removal of insured's tonsils administered novocaine, which because of her unknown bodily hypersusceptibility to this drug, caused her death, held that death was accidental under double indemnity clause. 176M171, 222NW912.

3. Proof of loss.

Hearsay statements from others than the assured, received by a physician conducting a post-mortem examination; are not competent evidence. *Bullock v. N.*, 233NW858. See Dun. Dig. 3286.

The cross-examination of defendant's medical examiner as to contents of his report to the defendant held proper under the circumstances shown. *Bullock v. N.*, 233NW858. See Dun. Dig. 4809.

Evidence tending to show that the assured truthfully answered the questions of defendant's medical examiner is competent on the issue of whether false answers were made. *Bullock v. N.*, 233NW858. See Dun. Dig. 4664.

10. Action to cancel.

Finding against suicide cannot be reversed unless the evidence precludes every reasonable hypothesis of natural or accidental death. 172 M98, 214NW795.

Action to cancel for fraud does not lie where insured died before his policy became incontestable, there being an adequate remedy at law as a defense. 174M498, 219NW759.

§3402. Provisions which must be included.

174M498, 219NW759; note under §3399.

5. Time for suit.

Action on accident policy was barred after two years from accrual of cause of action, where the policy incorporated subd. (14) of this section in its provisions. 174M354, 219NW286.

§3412. Life policies to contain entire contract.

Enge v. J., 236NW207; note under §3370.

ACCIDENT AND HEALTH INSURANCE

§3415. Form of policy to be approved, etc.

A motor speed boat used in making regular pleasure excursions around a large lake, held a "public conveyance provided by a common carrier, for passenger service only," within the coverage of an accident insurance policy. *Cummings v. G.*, 235NW617. See Dun. Dig. 4872(91).

§3417. Standard provisions.**1. In general.**

In case of incurable disability half of indemnity could not be paid until death. 32F (2d)61.

Burden was upon plaintiff to show both external violence and accidental means, but policy held not to require eyewitnesses nor to deprive plaintiff of benefit of presumption against self destruction. 173M191, 217NW123.

Where surgeon in preparation for removal of insured's tonsils administered novocaine, which, because of her unknown bodily hypersusceptibility to this drug, caused her death, held that death was accidental under double indemnity clause. 176M171, 222NW912.

By assuming and conducting defense of main action both for owner of car and driver, with knowledge of all the facts and without any notice that it would not be liable for any judgment against the driver, insurer was estopped to thereafter deny liability. 181M437, 232NW790. See Dun. Dig. 4875d.

Where an automobile accident insurance policy provides that the insurance is made available to any person operating car with permission of assured, fact that one uses car for a purpose other than that for which he asked to use it does not release insurer from liability. 181M437, 232NW790. See Dun. Dig. 4875c.

The evidence held sufficient to support verdict necessarily based upon a finding of "accidental drowning at a bathing beach where a life guard is regularly stationed," for language of coverage of accident life insurance policy must be construed in favor of the assured rather than in favor of the insurer. *Lohstreter v. F.*, 234NW 239. See Dun. Dig. 4872(66).

Whether plaintiff's ailment was one for which the defendant assumed no liability under the policy was a fact issue for the jury. 234NW645. See Dun. Dig. 4872.

In action to recover on a health insurance policy, defendant's claim that it had made a settlement with, and secured a release from, plaintiff, was properly determined adversely to the defendant. *Cooper v. P.*, 234NW645. See Dun. Dig. 4875a.

6. Evidence.

The insured will be presumed to have accidentally discharged pistol which killed him unless there be evidence which overcomes the presumption. 173M191, 217NW123.

8. Payment of premium.

Right to accumulation benefit was lost, though insurer accepted overdue premiums. 173 M547, 218NW104.

§3418. Provisions forbidden—Optional features.

Where there was a cancellation by the insurer "without prejudice to any claim originating" prior to the cancellation, insured in health policy could not recover for disability beginning after the cancellation, though sickness occurred prior to the cancellation. 172M19, 214 NW468.

CO-OPERATIVE LIFE AND CASUALTY COMPANIES

§3429. Qualifications for license—number of members.—No corporation not now authorized to transact business in this state, shall be licensed to transact the business of life or casualty insurance, or both, upon the co-operative or assessment plan until at least three hundred (300) persons eligible to membership therein have made individual applications in writing therefor; containing warranties of age, health and other required conditions of membership, and shall have on deposit with the commissioner of insurance of this state as security for all its policyholders stocks or bonds, of this state or of the United States or bonds of any of the municipalities of this state, or personal obligations secured

by first mortgage on real estate within this state, worth, exclusive of buildings, the amount of the lien, and bearing interest 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 ten thousand dollars, provided that any such corporation which has heretofore procured and filed with the Commissioner of Insurance a part of the total number of applications required by law shall only be required to deposit securities of the market value of \$5,000.00, provided, however, such a corporation that confines its membership exclusively to the members of volunteer fire departments shall be required to have not less than one hundred (100) individual applications in writing from persons eligible to membership and the sum of at least one thousand dollars (\$1,000), which amount shall be liable only for death or indemnity claims made under its policy or membership certificate contracts. (As amended Apr. 21, 1931, c. 287.)

FRATERNAL BENEFICIARY ASSOCIATIONS**§3446. Accident and sick benefits—Etc.**

In an action against a fraternal association for the recovery of money appropriated under the by-laws toward funeral expenses for a deceased member, facts held to support a finding that the association waived a strict performance of timely payment of monthly dues. *Gleason v. D.*, 237NW196. See Dun. Dig. 4841(24).

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

§3450. Scope of act.

179M255, 228NW919.

The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of Pythias, is to be regarded as a fraternal beneficiary association. *Op. Atty. Gen.*, May 19, 1931.

§3451. Benefits—reserves.—Every association transacting business under this act shall provide for the payment of death or disability benefits, or both, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident or old age, provided, the period of life at which the payment of benefits for disability on account of old age shall not be under seventy years. Any such association may grant to its members extended and paid-up protection or such withdrawal equities as its constitution and laws may provide; provided, that such grants shall in no case exceed in value the portion of the reserves to the credit of such members to whom they are made, and that such association shall show by an annual valuation made by a competent actuary approved by the commissioner of insurance that it is accumulating and maintaining for the benefit of such members the reserves required by the American

Experience Table of Mortality with interest at the rate of four (4) per cent per annum, or by the National Fraternal Congress Table of Mortality with interest at the rate of four (4) per cent per annum, and the association shall carry as a liability the reserves so determined, and that assets representing such reserves shall be held in trust for such members separate and distinct from assets belonging to members holding certificates on which such reserves are not maintained, and that the assets so held in trust shall not be used to pay any claims or benefits upon any certificates to members other than to the members for whom said assets are so held in trust.

Nor shall anything contained herein or contained in the laws of this state regulating fraternal benefit societies, orders or associations be held to restrict the right of any fraternal benefit society in the use of any surplus over and above the accumulation required by the table by which the rates are computed and the accretions thereon, as prescribed by the laws or rules of the society, provided, the same are used for the common benefit of all the members.

Any fraternal benefit society which shall accumulate and maintain the assets required for the payment of benefits upon all contracts when valued by mortality and interest standards which provide reserves not less than those prescribed by the mortality tables and interest rates herein mentioned or the mortality tables and interest rates prescribed by law for life insurance companies, may enter into contracts with such persons in such forms, and granting such benefits under such conditions as its laws may provide. (As amended Apr. 25, 1931, c. 381.)

§3452. Who may be beneficiaries.

Change of beneficiary named in benefit certificate may be upheld in equity, though not in strict accordance with contract, by-laws, etc. 45F(2d)421. See Dun. Dig. 4824(46).

A divorced wife, who cannot claim as a dependent, is barred from claiming benefits. 175M 462, 221NW721.

Foreign fraternal benefit association must conform to the statute with regard to payment of certificate. 175M462, 221NW721.

Since association is powerless to waive the statute in regard to the beneficiary, a rightful claimant may successfully contest the right of the beneficiary named in the certificate, even though the association does not question such right. 175M462, 221NW721.

§3454. Annuity benefits for children.—Any fraternal beneficiary association authorized to do business in this state and operating on the lodge plan may provide in its constitution and by-laws, in addition to other benefits provided for therein, for the payment of death, annuity or endowment benefits upon the lives of children below the age of sixteen years at next birthday. Any person responsible for the support of a child may make application for such benefits; but neither such person nor the parent of such child need be a member of such association. Provided that such society has a class of adult membership carrying life insurance certificates at a rate of contribution at least equal to those known as National Fraternal Congress rates, or upon a table based upon the society's own experience of at least twenty years, covering

not less than one hundred thousand lives, with an interest assumption of not more than four per centum per annum, or any higher standard at the option of the society, to which juvenile certificate holders shall be transferred without medical re-examination upon attaining the age of sixteen years. Any such association may, at its option, organize and operate branches for such children and membership in local lodges and initiation therein shall not be required of such children, nor shall they have any voice in the management of the association. The total benefits payable by such society as above provided shall in no case exceed the following amounts at ages at next birthday at the time of death, respectively as follows: One, \$100.00; two, \$200.00; three, \$400.00; four, \$600.00; five, \$800.00; six to sixteen years where not otherwise authorized by law, one thousand dollars, and shall be payable to the estate of the child or to the person or persons responsible for the support of the child and named as beneficiary in the certificate. (As amended Apr. 4, 1929, c. 132, §1.)

Laws 1929, c. 132, §2, repeals all inconsistent acts or parts of acts.

§3458. Specified expense.

Subscription to guaranty fund of a mutual fire insurance company, held valid and binding, notwithstanding alteration and alleged fraud. 177M165, 224NW851.

§3461. Certificates — Evidence — Amendments to charter, etc.—Every certificate issued by any association shall specify the maximum amount of benefit provided by the contract and shall provide that the certificate, the 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. Provided, that any association now or hereafter organized or admitted to do business in this state may, with the approval of the Commissioner of Insurance, re-insure all or any part of the amount specified in such certificate in excess of the amount of Five Thousand Dollars in a company authorized to do business in this state. (As amended Mar. 28, 1929, c. 102.)

§3463. Real estate holdings—Investments—Loans to officers and directors.—Any association may invest its funds in and hold real estate for lodge and office purposes, and real estate acquired by foreclosure or received in

satisfaction of loans, and may sell and convey the same. Any such association may also invest its funds in government, state, provincial, or 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 district and the net indebtedness of such municipality or district shall not exceed ten (10) per centum of the value of all the 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; or in any securities permitted by the laws of this state for the investment of the assets of life insurance companies; 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. (As amended Apr. 11, 1929, c. 156.)

§3465. Benefits exempted from process—Tax exemption.

The exemption applies to all beneficiaries whether resident or non-resident, 179M255, 228 NW919.

The United Mutual Life Insurance Company, insofar as it is transacting the insurance business of the Knights of Pythias, is to be regarded as a fraternal beneficiary association. Op. Atty. Gen., May 19, 1931.

§3468. Mergers and reinsurance.—No fraternal benefit society organized under the laws of this state to do the business of life, accident or health insurance shall consolidate or merge with any other benefit society or reinsure its insurance risks or any part thereof with any other fraternal benefit society, or assume or reinsure the whole or any portion of the risks of any other fraternal benefit society, except as herein provided. No fraternal benefit society or subordinate body thereof shall merge, consolidate with or be reinsured by any company or association not-licensed to transact business as a fraternal benefit society; provided, that any fraternal benefit society organized under the laws of this state having an insurance membership in good standing at the time of reinsurance, merger or consolidation of not more than five thousand members, and which has been engaged in business for more than fifteen years prior to such time, may be reinsured by or consolidate or merge with any life insurance company organized under the laws of Minnesota. (As amended Mar. 9, 1929, c. 63, §1.)

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

§3481. Domestic associations—Dissolution.

177M616, 224NW854; note under §3482.

§3482. Proceedings to be instituted.

Injunction refused on authority of *Bair v. Modern Samaritan*, 162M274, 202NW498; 177M616, 224NW854.

§3485. Certain organizations exempted.—Nothing contained in this act shall be construed to affect or apply to grand or subordinate lodges of Masons, Odd Fellows, 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 societies which admit to membership only persons engaged in one or more hazardous occupations, in the same or similar lines of business, nor to local lodges of an association which was doing business in this state at the time of the enactment of General Laws 1907, Chapter 345 [§§3447 to 3488], 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, except that all foreign associations, transacting business in this state shall comply with the provisions of Section 3475, General Statutes 1923, nor to any contracts of reinsurance of, or between such local lodges of such association now doing business on such a 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, nor to any domestic lodge, order, or association which was incorporated under the laws of this state prior to the year 1917 and has been doing business in this state since such incorporation and which now has not less than \$4,000.00 in cash or in securities acceptable to the commissioner of insurance and which has heretofore agreed in its constitution or by-laws to pay \$300.00 as death benefits and \$200.00 as funeral expenses and which does not operate with a view to profit and which shall hereafter pay no funeral expenses and pay not more than \$300.00 as death benefits, and shall hereafter collect from its members at their then attained ages regular payments or assessments not lower than those required by the national fraternal congress table of mortality, with interest at four per cent per annum, provided, always, and save and except as in this section otherwise specifically modified, limited or qualified, 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 associa-

tion which is exempt by the provisions of this section from the requirement of this act, shall give or allow or promise to give or allow to any person any compensation for procuring new members. (As amended Mar. 13, 1931, c. 55.)

§3487. Definitions—Deputy commissioner to act.

Foreign fraternal benefit association must conform to the statute with regard to payment of certificate. 175M462, 221NW721.

§3491-1. Fraternal beneficiary associations may become mutual life insurance companies. That any domestic fraternal beneficiary association organized and operating under the laws of this state, and with a membership of less than five thousand, and not less than one thousand, composed of both male and female, and on a solvent basis according to a recognized table of mortality acceptable to the commissioner of insurance of this state, may upon two-thirds vote of its supreme legislative and governing body amend its articles of incorporations and laws in such manner as to transform itself into a mutual life insurance company with the name by which it is already known, or another name, as its supreme legislative and governing body shall determine, provided that a thirty-day written notice be given by mail to all policy holders stating the object of said meeting, and; provided that the proposed plan for reorganization or reincorporation shall be submitted to and be subject to the approval of the commissioner of insurance of this state; and upon so doing, and upon procuring from the commissioner of insurance said approval and a certificate of authority as prescribed by law to transact business in this state as a mutual life insurance company, it shall incur the obligations and enjoy the benefits thereof the same as though originally thus incorporated; and such corporation under its articles and by-laws as so framed or amended shall be a continuation of the original organization, and the officers thereof shall serve until their successors shall be elected as provided by the amended articles or by-laws of such company as thus reorganized provide; but such incorporation, amendment or reincorporation shall not affect existing suits. (Act Apr. 18, 1929, c. 239, §1.)

§3491-2. Powers and duties.—The company so reorganized, and its officials, shall exercise all the rights and powers and perform all the duties conferred or imposed by law upon organizations writing the kinds of insurance written by said company so reorganized, and all outstanding policy contracts shall be recalled and new contracts issued based upon the same table of rates and reserves, but in form required by law for the company as reorganized, provided, however, that the minimum reserve requirements shall be based on the tables upon which said policy contracts are based if acceptable to the commissioner of insurance of this state. Such organization and its officials shall exercise all the rights and powers and have full authority to perform all the duties necessary to protect rights and contracts existing prior to reorganization. The commissioner of insurance shall exercise the powers and discharge

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

§3491-3. Inconsistent acts repealed.—All acts or parts of acts inconsistent with the provisions of this act are hereby repealed. (Act Apr. 18, 1929, c. 239, §3.)

FIRE INSURANCE COMPANIES

§3512. Standard fire policy.

1. In general.

Evidence held sufficient to sustain a finding of breach of contract to insure. 171M363, 214 NW58.

Claim under fire policy was not subject to garnishment prior to proof of loss though there had been an adjustment of the amount of the loss under a non-waiver agreement. 172M43, 214 NW762.

Township mutual companies are not required to use standard form prescribed by this section, and where policy so provided no recovery could be had by mortgagee where property had been transferred by owner without written approval of insurer. 172M122, 214NW926.

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

Lessee's right of recovery of loss of fixtures which were to become the property of the lessor was limited to value of use during term. 179M 510, 229NW792.

The business of fire insurance is affected with a public interest and is subject to control and regulation by the state. 181M518, 233NW310. See Dun. Dig. 4640(98).

Whether storing of alcohol by tenant was within control of insured, landlord, within meaning of policy, so as to void insurance, was for jury. Schaffer v. H., 235NW618. See Dun. Dig. 4769.

The evidence is conclusive that the operation of a still and the storing of alcohol in the ordinary barn increased the fire hazard as to such structure. Schaffer v. H., 235NW618. See Dun. Dig. 4769.

Insurer was liable on policy of insurance on property in village burned while fire truck was illegally out of village answering fire call. Op. Atty. Gen., Feb. 25, 1929.

1½. Insurable interest.

A husband has an insurable interest in a homestead, title to which is held by his wife with whom he is living. 178M305, 227NW39.

Husband and wife each have an insurable interest in furniture regardless of ownership. 178 M305, 227NW39.

1¾. Property covered.

Fire insurance covering stock of goods in building and sheds, etc., attached to and communicating with said building, held to cover goods in basement room under and adjoining basement building. Elliott v. R., 237NW421. See Dun. Dig., 4761.

3. Increased risk.

Whether owner of farm had knowledge that cropper was maintaining a still and thus increasing risk from fire held for jury. Schaffer v. H., 236NW327. See Dun. Dig. 4769.

Permitting a tenant to operate a still in a barn on a farm increased the risk of fire within the meaning of a policy. Schaffer v. H., 236NW 327. See Dun. Dig. 4769.

9¾. Evidence.

Evidence held insufficient to sustain finding renewal of policy. 178M526, 227NW850.

Proof of custom as to renewals. 178M526, 227 NW850.

Admissibility of evidence in action on fire policy by lessee who had made improvements and was deprived of use of premises. *Harrington v. A.*, 235NW535. See Dun Dig. 4781c(48).

10. Arbitration.

Award of arbitrators must fall where it was made by umpire and one appraiser, the other appraiser not joining therein, and it appeared that umpire did not consider at all a basic fact issue. 172M314, 215NW65.

The agreement in the standard policy for arbitration or appraisal is not revocable, but it is a method fixed by statute for finding loss in the event of disagreement and is binding upon insurer and insured. 181M518, 233NW310. See Dun. Dig. 4793.

The provision in the Minnesota standard policy for arbitration or appraisal in case of disagreement as to loss is not violative of article 1, §§4 and 7, of the State Constitution or of the Fourteenth Amendment of the Federal Constitution. 181M518, 233NW310. See Dun. Dig. 1646, 4793(85), 5227.

10½. Appraisal.

This section is constitutional, following *Abramowitz v. Continental Ins. Co.*, 170M215, 212 NW449, 175M73, 220NW425.

Duties of board of appraisers—questions for determination—effect of appraisal. 175M73, 220 NW425.

Grossly inadequate or excessive award may be set aside by a court. 179M510, 229NW792.

13. Estoppel and waiver.

181M8, 231NW401.

§3513. Automobile fire insurance policies.

The reference (§3305) in this section should read (§3315).

§3518. Payment to mortgagee.

Where only mortgagee was beneficiary under fire policy and mortgagor paid mortgage after a fire, the insurer was discharged from any liability. *McKay v. N.*, 234NW589. See Dun. Dig. 4801, 6275.

MISCELLANEOUS PROVISIONS REGARDING VARIOUS KINDS OF MUTUAL COMPANIES

§3546. Restrictions.—When the articles of incorporation of any mutual insurance company, not having a guaranty fund of the amount required by Section 1 [§3545] of this Act, so provide, it may transact any and all kinds of business as set forth in Subdivisions 1 to 14, inclusive, of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, and Chapter 413, Laws of 1919 [§3315], subject to the conditions and restrictions as to the kinds of insurance which may be combined by a like stock insurance company, and subject to all restrictions contained in the Laws of this State with reference to general writing, mutual insurance companies transacting the same kinds of business; provided that nothing in this section contained shall be construed as prohibiting a company issuing policies with a contingent liability from creating a guaranty fund as authorized by Section 4 of this Act. Any mutual company, however organized, may amend its articles so as to provide for the doing of two or more of the kinds of business specified in said Subdivisions 1 to 14, inclusive, of Chapter 138, Laws of 1915, as amended by Chapters 29 and 276, Laws of 1917, and Chapter 413, Laws of 1919. (Act Mar. 28, 1929, c. 98, §1.)

§3547. Prerequisites of mutual companies

transacting business other than life, fire, accident, etc.—No mutual insurance company hereafter organized shall be licensed to transact any of the kinds of business specified in subdivisions 3, 5, 6, 8, 9, 10, 12, 13 and 14 of Chapter 138, Laws 1915 [§3315], as amended, except upon compliance with the following conditions:

(a) It shall have not less than three hundred bona fide applications for policies of insurance of each kind sought to be written, signed by at least three hundred members, covering at least three hundred separate risks, each risk, within the maximum net single risk described herein and one year's premiums thereon paid in cash, and shall have admitted assets of not less than \$10,000, which admitted assets shall not be less than five times the maximum net single risk, as hereinafter defined, and shall have on deposit with the commissioner of insurance of this state, as security for all of 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 ten thousand dollars. Provided, however, that no such company shall be authorized to insure against loss or damage by the bodily injury or death by accident of any person employed by the insured, for which the insured is liable under the so-called "Workmen's Compensation Law," unless and until such company shall comply with the provisions of Mason's Minnesota Statutes of 1927, Section 3566 to 3585 inclusive.

(b) It shall not expose itself to any loss on any one risk or hazard, except as hereinafter provided, in an amount exceeding 10 per cent of its net assets, actual and contingent; such contingent assets being the aggregate amount of the contingent liability of its members for the payment of losses and expenses not provided for by its cash funds. Such contingent liability, for the purpose of this act, to be an amount not to exceed one annual premium as stated in the policy. No portion of any such risk or hazard which shall have been reinsured, as authorized by the laws of this state, shall be included in determining the limitation of risk prescribed by this section. For the purpose of transacting employers' liability and workmen's compensation insurance, each employee shall be considered a separate risk for determining the maximum single risk.

(c) It shall maintain unearned premiums and other reserves, separately for each kind of business upon the same basis as that required of domestic stock insurance companies transacting the same kind of business.

(d) Except as herein expressly provided, it shall comply with all the provisions of the laws of this state relating to the organization and internal management of mutual fire insurance companies insofar as the same may be applicable and not inconsistent herewith.

(e) All policies issued by such companies shall provide for a premium or premium de-

posit payable in cash, and except as herein provided, for a contingent liability of the members at least equal to the premium or premium deposit as adjusted by audit if any. If at any time the admitted assets are less than the reserves and other liabilities, the company shall immediately collect upon policies with a contingent liability a sufficient proportionate part thereof to restore such assets, and the commissioner may, when such deficiency does not exceed 10 per cent of its admitted assets, by written order direct that proceedings to restore such assets be deferred during the period of time fixed in such order. The contingent liabilities, if any, of the policyholders shall be plainly and legibly stated in every policy in terms of either dollars or premiums. (As amended Mar. 28, 1929, c. 98, §2, and Apr. 21, 1931, c. 288.)

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

To so consolidate it shall be necessary

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

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

MUTUAL AUTOMOBILE INSURANCE COMPANIES

§3559. Additional coverage.—Any such company which shall have and maintain at all times admitted assets of not less than Seventy-five Thousand Dollars, or which shall set aside and maintain over and above its liabilities and the reserves required by law of like stock insurance companies a guaranty fund available for the payment of losses and expenses of at least Fifty Thousand Dollars, shall when its certificate of incorporation so provides, be permitted to insure against damage to persons or others by collision with automobiles or other vehicles and against any loss or hazard incident to the ownership,

operation or the use of motor or other vehicles; provided that the net single risk, after deducting reinsurance, of any such company having less than One Hundred Thousand Dollars of admitted assets shall not exceed Three Thousand Dollars. Where a membership fee is charged the amount thereof shall be specified or included in the consideration clause of the policy. (As amended Mar. 28, 1929, c. 99.)

§3587. Reciprocal or inter-insurance contracts.

Reciprocal or interinsurance exchange may be adjudicated an involuntary bankrupt. 36F(2d) 371.

INSURANCE ON STATE BUILDINGS AND PROPERTY

§3599. State property—Rural Credits Bureau may insure buildings.—No public funds shall be expended on account of any insurance upon state property against loss or damage by fire or tornado, nor shall any state officer or board contract for or incur any indebtedness against the state on account of any such insurance, except that the state board of control is authorized in its discretion to insure the state of Minnesota against loss by fire or tornado to the state prison at Stillwater, or the contents hereof, in any insurance companies licensed to do business in this state, in such an amount as such board may from time to time determine, and to pay the premiums therefor from the revolving fund of said institution; except also that the rural credit bureau is authorized in its discretion to insure in such companies the state of Minnesota against loss by fire or tornado of buildings upon real estate acquired by the bureau and in such amounts as such bureau may from time to time determine, and to pay the premiums therefor from the rural credit expense fund. (As amended Mar. 22, 1929, c. 78.)

University may insure its property against fire and tornado, but may not insure against public liability (not being liable for damages for personal injuries), provided the premiums are not paid out of appropriations made by the legislature. This right arises under Const., Art. 8, §4. Op. Atty. Gen., Nov. 4, 1929.

FIRE INSURANCE RATING BUREAUS AND RATE REGULATION

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

Such agreement must be in writing, and, prior to its taking effect, must be approved by the commissioner of insurance, and a copy thereof, together with a copy of the order of approval, be filed with the commissioner of insurance and with each rating bureau of which any of the parties thereto shall be a member or subscriber.

The commissioner of insurance, shall, after notice to interested parties and hearing, as

provided in Section 3609, General Statutes 1923, make an order either approving or disapproving any such agreement. Such order shall be subject to review by the district court, in the same manner provided in Section 3609, General Statutes 1923. (As amended Apr. 24, 1929, c. 321, §1.)

§3609. Commissioner to review rate fixed by bureau—Appeals.—The commissioner of insurance shall have power, at any time, on written petition or upon his own motion, to review any rate fixed by any bureau for fire insurance upon property within this state for the purpose of determining whether the same is discriminatory or unjust. He shall have power to order the discrimination or unjust rate removed and fix and order a rate in lieu of the bureau rate found to be discriminatory or unjust and the rate so ordered and fixed shall become the bureau rate.

No increase in fire insurance rates affecting the general rates or rating classification in the entire state or in an entire zone, city, village, town, county or other political subdivision, shall go into effect until the same has been approved by the commissioner of insurance after notice to the interested parties hereinafter provided and hearing thereon. Provided that the commissioner of insurance may also hold a hearing on any decrease of rates as herein provided at his discretion.

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

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

be prima facie evidence of the matters therein stated.

During the pendency of such proceedings upon review the order of the commissioner of insurance shall be suspended, but in event of final determination against any insurer, any overcharge by such insurer during review shall be refunded to the persons entitled thereto. (As amended Apr. 24, 1929, c. 321, §2.)

COMPENSATION INSURANCE BUREAU

§3612. Definitions.—The word "insurer" as used in this act means any insurance carrier authorized by license issued by the department of insurance, to transact the business of workmen's compensation insurance in this state. The word "insurance" as used in this act means workmen's compensation insurance and insurance covering any part of the liability of an employer exempted from insuring his liability for compensation as provided in Section 4288. The word "board" means the compensation insurance board. (As amended Apr. 25, 1931, c. 353, §1.)

Sec. 2 of Laws 1931, c. 353, provides that the act shall take effect from and after July 1, 1931. This act is not retroactive and the rates adopted apply only to contracts of insurance entered into after July 1, 1931. Op. Atty. Gen., May 20, 1931.

§3618. Duties—Rates of insurance.

A binder and policy of insurance held not to have imposed upon the insurer liability for a premium deposit paid to former insolvent insurer. 177M36, 224NW253.

§3620. Classification of workmen's compensation insurance.—No classification for compensation insurance purposes shall be effective until approved as correct by the board. No rule or regulation with reference to compensation risks filed by any insurer or by the bureau herein provided shall be effective until approved by such board. No kind of insurance covering any part of the liability of an employer exempted from insuring his liability for compensation as provided in Section 4288 shall be effective in this State unless approved by the Board. If it shall appear at any time that reasonable doubt on the part of the board as to the proper classification or rate for any risk exists, such risk may be bound for insurance subject to rate and classification to be established therefor. (As amended Apr. 25, 1931, c. 392, §1.)

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

§3634-1. Insurance companies must insure in certain cases.—It shall be the duty of companies carrying workmen's compensation insurance and being members of the rating bureau of Minnesota, as defined in the statutes of this state, to insure and accept any workmen's compensation insurance risk which shall have been tendered to and rejected by any three members of said bureau, in the manner herein provided. (Act Apr. 18, 1929, c. 237, §1.)

§3634-2. Bureau to fix premium rates.—When any such rejected risk is called to its attention and it appearing that said risk is

in good faith entitled to coverage, said bureau shall fix the initial premium therefor, and upon its payment, said bureau shall designate a member whose duty it shall be to issue a policy containing the usual and customary provisions found in such policies therefor but for which undertaking all members of said bureau shall be reinsurers as among themselves in the amount which the compensation insurance written in this state during the preceding calendar year by such member bears to the total compensation insurance written in this state during the preceding year by all the members of said bureau. (Act Apr. 18, 1929, c. 237, §2.)

§3634-3. Bureau to adopt rules.—The bureau shall within thirty days after the approval of this act make and adopt such rules as may be necessary to carry this law into effect, subject to an appeal to the compensation insurance board as in all other cases. (Act Apr. 18, 1929, c. 237, §3.)

§3634-4. Insurance companies to come under act.—As a prerequisite to the transaction of workmen's compensation insurance in this state, every insurance carrier shall file with the commissioner of insurance written authority permitting said bureau to act in its behalf, as provided in this act. (Act Apr. 18, 1929, c. 237, §4.)

§3634-5. Effective July 1, 1929.—This act shall take effect and be in force on July 1, 1929. (Act Apr. 18, 1929, c. 237, §5.)

FARMERS' MUTUAL COMPANIES

§3645. Farmers' mutual fire companies.

Doctrine of estoppel is applicable to mutual companies. 181M8, 231NW401.

TOWNSHIP MUTUAL COMPANIES. ORGANIZATION

§3646. Township mutual fire insurance companies.—It shall be lawful for any number of persons, not less than twenty-five (25), residing in adjoining towns in this state, who shall collectively own property worth at least fifty thousand dollars (\$50,000) 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 eighty-five (85) towns in the aggregate at the same time. Provided, that when any such company confines its operations to one county it may transact business in the whole thereof by so providing its certificate of incorporation. (As amended Apr. 13, 1931, c. 151.)

Laws 1931, c. 197, legalizes renewal of corporate existence of township mutual fire insurance companies.

§3649. Powers of such corporation.

Township mutual companies are governed by the statutes specially applicable to them and are not required to issue policies in standard form. 177M509, 225NW445.

Rights of mortgagee on transfer of insured property. 177M509, 225NW445.

Policy held not to have been amended. 177M509, 225NW445.

§3649-1. Insurance Companies may enter into agreements for fire protection.—The

members of a township mutual fire insurance company may, at any regular, or at any special meeting called for that purpose, authorize its officials or directors to enter into an agreement with any municipal subdivision of the state or with any fire department whereby the fire department of such municipality shall respond to calls in case of fire in territory where the company does business, or respond to calls in case of fire on the premises of a member of such mutual company on such terms and conditions as may be mutually agreed upon. (Act Apr. 5, 1929, c. 139.)

§3652. Corporate existence not to exceed, etc.

Act to legalize renewal of corporate existence of township mutual fire insurance companies. Laws 1931, c. 197.

§3659. Mutual fire insurance companies not to insure outside of own territory.—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, livestock, farm machinery, automobiles, country store buildings, and the household goods therein, threshing machines, farm produce anywhere on the premises, churches, and their contents, school houses, and their contents, society and town halls, and their contents, country blacksmith shops and their contents, parsonages and their contents, and the barns and contents used in connection therewith, buttermaker's dwelling houses and contents, and barns and contents used in connection therewith.

No such company shall insure any property within the limits of any city or village, except that located upon lands actually used for farming or gardening purposes, but whenever the dwelling house of any person insured is within the limits of a town where the company is authorized to do business, and the farm on which such dwellings are situated is partly within and partly without such town, it may include in such insurance any out-buildings, farm produce, stock or other farm property on such farm outside of such limits; provided, however, any such company is hereby authorized to insure county fair buildings whether the same are situated either within or without the limits of a duly incorporated village or city.

No law relating to insurance companies now in force in this state shall apply to township mutual fire insurance companies unless it shall be expressly designated in such law that it is applicable to such companies. (As amended Apr. 20, 1931, c. 269.)

172M122, 214NW926; note under §3512.

§3662. Advance assessments.—The directors of any such company may collect by advance assessments and maintain in its treas-

ury an emergency fund not exceeding five 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. (As amended Mar. 16, 1931, c. 63.)

§3663. Joint or partial risks permissible.

Insurer did not waive forfeiture of policy as to building on premises through having paid loss on personal property. 176M31, 222NW514.

§3670. All companies to be governed by this act.

72M122, 214NW926; note under §3512.

Township mutual companies are governed by the statutes specially applicable to them and are not required to issue policies in standard form. 177M509, 225NW445.

FARMERS AND TOWNSHIP REINSURANCE ASSOCIATIONS

§3675. Mutual reinsurance or guarantee associations.—Not less than six duly licensed township mutual fire insurance companies or farmers' mutual fire insurance companies may organize a mutual association for the purpose of reinsuring specific risks in such amounts as shall be fixed by the by-laws of such association and/or for the purpose of reinsuring all risks of the member companies in excess of such amounts as shall be fixed by the by-laws of such association. (As amended Apr. 16, 1931, c. 178, §1.)

§3681. Assessments to be paid.—Member companies, of any such association shall each year pay to the treasurer thereof such assessments as shall be fixed or authorized by the by-laws of such association, which assessments shall be based upon the amount of insurance of each of its member companies during the calendar year ending December 31st next preceding. The individual members of the member companies shall be subject to assessment in case the funds of the member companies are insufficient to pay any assessment made by the association, to the same extent and in the same manner as though said assessment by the association were to cover a loss by fire for which the member company was liable. (As amended Apr. 16, 1931, c. 178, §2.)

MUTUAL HAIL, TORNADO AND CYCLONE COMPANIES

§3690. Limit of premiums and assessments.

This section requires a minimum premium of 2½ per cent of the amount insured as to hail insurance. Op. Atty. Gen., June 19, 1931.

§3691. Notice and payment of assessments—Etc.

Provisions for cancellation of insurance and for notice of payment of assessments apply to all forms of insurance. Op. Atty. Gen., June 19, 1931.

FIDELITY AND SURETY COMPANIES

§3710. Fidelity and surety companies.

Bank held entitled to recover where its employee acted wrongfully or dishonestly and in bad faith, resulting in a money loss. 177M65, 224NW461.

Evidence sustains the finding that notice of loss was given in time to indemnity company, except as to one item. 177M65, 224NW461.

Surety on bond of treasurer of corporation was not liable for loss resulting from failure of the bank in which it was the duty of the treasurer to deposit corporate monies. 177M575, 225NW724.

PROVISIONS REGARDING FOREIGN COMPANIES

§3711. Requirements—Certificates.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

222NW901; note under §3713.

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

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

Service of summons upon the insurance commissioner is not limited to actions which arise out of business transacted in this state or with residents thereof. 176M143, 222NW901.

§3716. Deposit to be made with commissioner of insurance.

275US274, 48SCR124, aff'g 169M516, 211NW478; note under §3313.

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

§3725. Auditor's warrant.

Loans and investment of the 2% tax imposed by this section are made by the board of trustees of the Firemen's Relief Association after they are approved at a regular meeting by a three-fourths' vote of all members present. Op. Atty. Gen., Apr. 2, 1931.

§3726. 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 and for construction, acquisition or repair of buildings, rooms and premises for fire department use or otherwise.

(3) For the payment of the fees, dues and assessments in the Minnesota State Volunteer Firemen's Benefit Association so as to entitle the members of any fire department to membership in and benefits of such state association.

Provided, that the treasurer of the association may and shall loan or invest the funds of such association in such properties or securities as shall be directed by the trustees or board of managers of the association, but the said trustees or board of managers shall not have authority to make any such loan or investment until after the same shall be approved at a regular meeting of the members of the association, and by a three-fourths vote of all the members present at said meeting; and, provided further, the treasurer of said association shall not be held responsible for any such use or investment of such funds, under the direction of said trustees or managers, but only for the safe keeping of the securities.

But if there shall be a duly incorporated fire department relief association in such municipality, organized with the consent of the

governing body thereof, such amount shall be paid to the treasurer of said relief association, to be disbursed as hereinabove prescribed for municipalities, and as hereinafter provided for service pensions, or relief of sick, injured, or disabled, active or retired members of the fire department in such city, who are members of such relief association. In case any fire department relief association or any trustee having any of said funds in its hands shall resign its trust in relation thereto, or shall be dissolved or shall have been heretofore, or shall be hereafter removed as such trustee, the district court of the proper county may appoint a trustee or trustees of said funds, or cause such trust to be executed by its officer under its direction, or such court may direct that such trust funds be paid to the treasury 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 purpose provided in this section. (As amended Apr. 11, 1929, c. 165, §1.)

Mechanic who was member of St. Paul Bureau of Fire Protection was entitled to membership in the St. Paul Fire Department. Relief Association organized under this section. 175M600, 604, 222NW283, 284.

Proceeds of refund of premiums paid to insurance companies cannot be used to apply on bonded indebtedness of a village, though it is to be replaced at some future time. Op. Atty. Gen., Dec. 21, 1929.

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

Interest received on moneys in special fund cannot be placed in the general fund of the association. Op. Atty. Gen., Feb. 28, 1930.

Village council cannot reimburse firemen's relief association for funds used by it in the

purchase of fire apparatus. Op. Atty. Gen., Feb. 28, 1930.

City is without power to pay expenses of delegates from its fire department to state firemen's association convention. Op. Atty. Gen., June 2, 1930.

In order to be entitled to benefits, a man must be a member of the fire department or retired after serving twenty years and having reached the age of 50, and an association has no authority to create "honorary members." Op. Atty. Gen., Jan. 24, 1931.

The funds raised under this section and §1200 should be kept separate so that investment of each could be approved by the proper authority. Op. Atty. Gen., Mar. 12, 1931.

Firemen's relief association may expend money from its special fund for the purchase of fire fighting equipment for a village as far as funds received under section 3726 are concerned, but not from funds arising under section 1919. Op. Atty. Gen., Apr. 21, 1931.

Right to relief from a firemen's relief association does not bar a member thereof from participating in benefits conferred by Laws 1931, c. 307. Op. Atty. Gen., May 23, 1931.

§3728. Service pension.

One acting as secretary of the fire department and as secretary of the association cannot draw a service pension. Op. Atty. Gen., July 16, 1930.

§3748. Pensions and relief in cities of first class, etc.

Resignation of fireman filed with fire department and civil service commission terminated right to pension, and withdrawal after death of copy filed with civil service commission was not reinstatement. 180M157, 230NW 633.

PENALTIES

§3757. When agent of insurer, etc.

Agent of insurer cannot bind his principal by agreement that premium shall be applied in payment of his personal debt. 179M545, 229NW 879.

**CHAPTER 20
Inspector of Oils**

§3770. Abolishing of office of state oil inspector and transferring powers, etc.

Superseded by §§53-25, 53-27½.

§3771. Dairy and food commissioner to be appointed by governor.

Superseded in part by §§53-25, 53-27½.

§3774. Reports and inspection—improper traffic.

Superseded by §3787-3.

§3776. Kerosene must be inspected.

Superseded by §§3787-7 to 3787-9.

§3778. Gasoline must be inspected.

Superseded by §§3787-5, 3787-6. 175M276, 221NW6.

§3779. Duties of oil inspector and deputies.

Superseded by §3787-11.

§3780. Sale of adulterated kerosene or gasoline forbidden.

Superseded by §3787-12.

§3781. Must be inspected before unloading.

Superseded by §§3787-4, 3787-5.

§3783. Fees for inspection.

Superseded by 3787-14.

§3785. Penalty for adulteration or changing of certificate.

Superseded by §3787-16.

§3786. Violations—penalties.

Superseded by §§3787-16, 3787-18.

§3787-1. Definitions.—Unless the language or context clearly indicates that a different meaning is intended the following words and terms shall, for the purpose of this act, be given the meaning hereinafter subjoined to them.

(a) "Motor gasoline" includes all gasoline, benzene, naphtha, benzol and other volatile and inflammable liquids by whatever name called, used for generating power in combustion engines, but does not include the products herein defined as kerosene, furnace oil