

INSURANCE.

CHAPTER 73.

[H. B. No. 64.]

PROVIDING FOR THE INCORPORATION OF LIFE AND CASUALTY INSURANCE COMPANIES.

AN ACT to Provide for the Incorporation and Regulation of Life and Casualty Insurance Companies, Corporations or Societies, Other than Co-operative or Assessment Life and Casualty Association or Societies.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. WHO MAY FORM INCORPORATION.] Any number of persons not less than seven may organize an incorporate company to make insurance upon the lives of persons and every insurance pertaining thereto, and against accidental injuries, including the granting, purchasing and paying of annuities and indemnities.

§ 2. CAPITAL REQUIRED, AND HOW INVESTED.] That before any company, corporation or society shall commence business of life or accident of whatsoever kind of insurance pertaining thereto, or any company, corporation or society other than co-operative or assessment companies, association or societies, in this State or elsewhere, and no other life or accident insurance company, corporation or society, other than co-operative or assessment companies, corporations or societies organized under the laws of any other state or territory of the United States or foreign government, shall do business in this State. Such company, corporation or society as aforesaid shall have a capital stock of at least \$100,000, or in lieu thereof has actual assets to the amount of at least \$100,000, invested in stocks or bonds of the United States or state securities, or such other stocks and securities as may be approved by the Commissioner of Insurance, or mortgages on unincumbered real estate, bearing at least 5 per cent. per annum, situated in the State where such company is located, and must be worth at least double the amount of such mortgage securities exclusive of improvements. Such securities must be shown to be deposited in the hands of the proper state officers and certified to the Commissioner of Insurance of this State by the insurance officer of the state in which such deposit is made; *Provided, however,* That in case any

company, corporation or society (other than co-operative or assessment) organized under the laws of any foreign government, shall have a deposit of at least \$100,000 in some state of the United States for the benefit of all its policy holders in the United States, then it shall be deemed sufficient security when certificate from the company and signed by the officer holding such security is deposited with the Commissioner of Insurance of this State.

§ 3. CORPORATORS MUST FILE DECLARATION WITH COMMISSIONER AND PUBLISH SAME.] The persons proposing to organize shall be designated as corporators, and they shall file with the Commissioner of Insurance a declaration signed by each of the corporators, setting forth their intentions to form a company for the purpose of conducting the business of life and accident insurance named in this act, which declaration shall comprise a copy of the charter they propose to adopt, and shall be published at least once a week, for four consecutive weeks, in a newspaper in the county in which the company is organized. The said charter shall set forth the name of the company, the place where it is to be located, the mode and manner in which the corporate powers of the company are to be exercised, the manner of electing the trustees or directors, a majority of whom shall be citizens of this State at the time of such election; the manner of filling vacancies; the amount of capital stock; and such other particulars as may be necessary to explain and make manifest the object and purpose of the company and the manner in which it is to be conducted. On the filing of such declaration as aforesaid, the Commissioner of Insurance shall submit the same to the Attorney General for examination, and, if found by him to be in accordance with the provisions of this act and not inconsistent with the laws and Constitution of this State, and of the United States, he shall certify to the same and deliver it back to the Commissioner of Insurance, who shall cause said declaration, with the certificate of the Attorney General, to be recorded in a book to be kept for that purpose, and he shall furnish a certified copy of such declaration and certificate to the corporations.

§ 4. WHEN SUBSCRIPTION BOOKS MAY BE OPENED.] Whenever the corporators who shall have received from the Commissioner of Insurance such certified copy, and shall have published the same in a newspaper published in the county in which such insurance company, corporation or society is proposed to be located, they may open books to receive subscriptions to the capital stock, and shall keep such books open until the amount required is subscribed, and then shall proceed to complete the organization.

§ 5. WHEN POLICIES MAY BE ISSUED.] No policy shall be issued until a certificate from the Commissioner of Insurance has been obtained authorizing such company to issue policies. The said Commissioner of Insurance

or some person appointed by him shall examine the company, corporation or society, and if by such examination the said Commissioner of Insurance or person so appointed shall find that the capital stock has been subscribed and the provisions of this act have been complied with, he shall issue or cause to be issued a certificate authorizing said corporators to issue policies. Every such company, corporation or society incorporated in this State shall pay the Commissioner of Insurance or the person so appointed for said examination all necessary expenses incurred therein.

§ 6. BY-LAWS, HOW MADE, LIABILITIES OF STOCKHOLDERS.] The corporators or trustees or directors as the case may be of any company, corporation or society organized under this act shall have power to make such by-laws not inconsistent with the Constitution of this State or of the United States as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same whenever necessary to be altered and amended; and they and their successors may have a common seal and may change and alter the same at their pleasure, and such companies, corporations or societies in its corporate name may sue and be sued, may own so much real and personal property as shall be necessary for the transaction of its business, and may sell and dispose of the same when deemed necessary. Each stockholder of any company, corporation or society organized under this act shall in his individual capacity be severally liable for the debts of such company, corporation or society only to the amount of his unpaid stock.

§ 7. WHEN INSURANCE MAY BE SOLICITED.] It shall not be lawful for any person to act within this State as agent or otherwise in receiving or procuring applications for life insurance of whatsoever kind, or in any manner to aid in transacting the business referred to in the second section of this act, for any company, corporation or society incorporated by or organized under the laws of any other state, territory or foreign government unless such company has conformed in such state, territory or foreign government or in this State to the same requirements in regard to capital that are imposed by Section 2 of this act upon companies, corporations or societies in this State to the amount of at least \$100,000, invested in bonds and such other securities as set forth in Section 2 of this act, and shall be satisfactory to the Commissioner of Insurance in the State where said company, corporation or society is organized and certified to the Commissioner of Insurance of this State.

§ 8. REPORTS, WHEN AND HOW MADE.] Every life insurance company, corporation or society of whatsoever kind incorporated in this State, or doing business in this State shall, on or before the 1st day of March in each year, transmit to the Commissioner of Insurance and file in his office a statement of its business standing and affairs in the form prescribed or authorized by law and adapted to the business done by such companies, corpora-

tions or societies, signed and sworn to by the president or vice-president and secretary and made out for the year ending on the preceding 31st day of December.

§ 9. FORM OF STATEMENTS.] The form of annual statement for life and accident insurance companies, corporations and societies shall be the standard form adopted by the national insurance convention, or such form as the Commissioner of Insurance may choose. Such form shall be condensed as the Commissioner of Insurance shall deem expedient so to do, and shall be published the same as fire insurance companies doing business in this State.

§ 10. FOREIGN COMPANIES TO MAKE STATEMENTS WHEN.] All life and accident companies, corporations or societies chartered or organized in any other state of the United States or beyond the limits of the United States, and doing business in this State, shall make an annual statement of their condition and affairs to the Insurance Department in the same manner and in the same form as similar companies, corporations or societies organized under the laws of this State.

§ 11. PENALTY FOR FALSE STATEMENTS.] Any life or accident company, corporation or society organized under the laws of this State or in the United States or any foreign country must transmit to the Commissioner of Insurance a statement of its condition and business for the year ending on the preceding 31st day of December, which shall be rendered on the 1st day of March in each year, and every company, corporation or society that shall willfully make false statement shall be liable to a fine of not less than five hundred (500) dollars nor more than \$1,000, and any new business done by any company, corporation or society or its agents in this State after neglect to make the prescribed return, shall be deemed to be done in violation of the law.

§ 12. COMMISSIONER MUST ASCERTAIN NET CASH VALUE OF POLICIES IN FORCE.] The Commissioner of Insurance shall, at the expense of the company, as soon as practicable after statements are filed, proceed to ascertain the net cash value of all policies in force. The Commissioner of Insurance of this State may, however, accept such valuation from the proper officer of the company or the insurance officer of the state of which said company is located, should he deem it expedient so to do. When the actual funds of any life or accident company, corporation or society doing business in this State are not of a net value equal to the net value of its policies, according to the "combined experience" or "actuaries" rate of mortality, with interest at 4 per cent. per annum, it shall be the duty of the Commissioner of Insurance to give notice to such company, corporation or society and its agents to discontinue issuing new policies within this State until such times as its funds have become equal to its liabilities, valuing its policies as aforesaid. Any officer or agent, who, after such notice has been given, issues or delivers a new policy from and in behalf of such company, corporation or society before its funds have become equal

to its liabilities as aforesaid, shall forfeit for each offense the sum not to exceed \$1,000.

§ 13. HOW FUNDS MAY BE INVESTED.] It shall be lawful for any life or accident company, corporation or society organized in this State to invest its funds or accumulations in the stocks or bonds of the United States or of this State, or of any city or town in this State, or in any national bank, or in such other stocks and securities as may be approved by the Commissioner of Insurance, or in mortgages being first liens upon real estate worth at least twice the amount of money loaned thereon, or in real estate and buildings necessary in carrying on their business.

§ 14. FUNDS IN OTHER STATES.] When any life and accident insurance company, organized in this State, shall transact business in any other State, it may invest its surplus funds in such State in like securities and the same restrictions as in this State.

§ 15. COMMISSIONER MAY INQUIRE INTO CONDITION OF CORPORATIONS.] The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any life or accident insurance company, corporation or society, or to the secretary thereof, in relation to its doings or conditions, or any other matter connected with its transactions, and it shall be the duty of any such company, corporation or society so addressed to reply promptly in writing to any such inquiries; and all such companies, corporations or societies not incorporated under the laws of this State, failing to answer all such inquiries, shall not be authorized to transact any business in this State, and their certificate of authority may be revoked and cancelled.

§ 16. WHEN COMMISSIONER MUST EXAMINE AND HIS POWERS—HOW SECURITIES MAY BE CHANGED.] It shall be the duty of the Commissioner of Insurance, at any time he shall deem it necessary for the good of policy holders, to examine or cause to be examined by some competent person duly appointed by him, all insurance companies, corporations or societies doing business of insurance of whatsoever kind in this State, or that may make application so to do, and it shall be the duty of the officers or agents of any company, corporation or society doing business in this State or making application so to do, to cause their books to be opened for the inspection of the Commissioner of Insurance or the person so appointed, and to otherwise facilitate such examination so far as it may be in their power to do, and for that purpose the said Commissioner of Insurance, or person so appointed, shall have power to examine under oath the officers and agents of such companies relating to the business of said company, corporation or society. And if upon such examination the Commissioner of Insurance is of the opinion that the company is insolvent or its financial condition impaired to a degree that is dangerous to its policy holders he shall communicate the fact to the Attorney General, who shall at once

apply to a judge of the circuit court to issue an injunction restraining such company from doing business (except the payment of losses due and accepted by the company) until a full hearing can be had. Should the company so enjoined and found insolvent beyond their power of reparation it shall be the duty of the court to cause to be divided for the benefit of the policy holders in proportion to the last valuation of said policies or applied for reinsurance, the deposit held by the Commissioner of Insurance; Provided, That nothing in this act shall be construed to prevent insurance companies having such deposit in this State to change such securities for other securities that may be acceptable to the Commissioner of Insurance and the collection of interest thereon.

§ 17. COMMISSIONER TO BE APPOINTED AS ATTORNEY UPON WHOM PROCESS MAY BE SERVED.] Any insurance company, corporation or society not organized under the laws of this State shall not directly or indirectly take any risks or transact the business of insurance in this State until it shall first appoint in writing the Commissioner of Insurance of this State to be the true and lawful attorney of such company in and for this State, upon whom all lawful process in any action or proceeding against the company may be served with the same effect as if the company existed in this State. Said power of attorney shall stipulate and agree, on the part of the company, that any lawful process against the company which is served on said attorney shall be of the same legal force and validity as if served on the company, and that the authority shall continue in force so long as any liability remains outstanding against the company in this State. A certificate of such appointment, duly certified and authenticated, shall be filed in the office of the Commissioner of Insurance, and copies certified by him shall be received in evidence in all the courts of this State. Service upon such attorney shall be deemed sufficient service upon the company. Whenever lawful process against any insurance company doing business in this State shall be served upon the Commissioner of Insurance, he shall forthwith transmit a copy of said process served on him by mail, postpaid and directed to the secretary or president of the company. For each process so served the Commissioner of Insurance shall collect the sum of five dollars, which shall be paid by the plaintiff at the time of such service, the same to be recovered by him as part of the taxable costs if the suit prevails.

§ 18. INSURANCE, HOW PAYABLE.] It shall be lawful for any person to insure his or her life for those depending upon them for support for any definite period or for their natural life and in case they survive such time or period the sum or net amount of the insurance becoming due and payable by the terms of the insurance shall be payable to the benefactors, his, hers or them as the case may be, and for his, her or their own use, exempt from the claims of the representatives of or the creditors of the assured.

§ 19. RE-INSURANCE MAY BE EFFECTED.] All companies, corporations or societies organized under this act or organized under any law in this State before this becomes a law shall have power to effect re-insurance of any or all risks taken by them respectively.

§ 20. WHEN DEPOSITS AND SECURITIES IS REQUIRED IN OTHER STATES.] Whenever the existing or future laws of any other state of the United States or foreign country shall require of life and accident companies, corporations or societies of whatever kind, incorporated by or organized under the laws of this State, or of the agent thereof any deposits of securities in such state for the protection of policy holders or otherwise, or any payment for taxes, fines, penalties, certificate of authority, license, fees or otherwise greater than the amount required for such purposes from similar companies of other states by the then existing laws of this State, then and in every such case, all life or accident insurance companies of such states establishing, or having heretofore established, an agency or agencies in this State, shall be and are hereby required to make the same deposit, for a like purpose, with the State Treasurer of this State, and to pay to the Commissioner of Insurance an amount equal to the amount of such charges and payment imposed by the laws of such other states upon the companies of this State and the agents thereof.

§ 21. COPY OF CHARTER MUST BE FILED.] Every life and accident insurance company, corporation or society not organized under the laws of this State shall, before doing business in this State file with the Commissioner of Insurance a copy of the charter of the company, corporation or society, and a statement signed and sworn to by the president or vice president and secretary in the form prescribed or authorized for the annual statement adapted to the business done by such company, corporation or society.

§ 22. PENALTY FOR FAILURE TO TAKE OUT CERTIFICATE OF AGENCY.] Any person or persons soliciting life or accident insurance of whatsoever kind for any company, corporation or society organized under the laws of this or any other state in the United States or foreign government before he has received a certificate of authority to act as agent from the Commissioner of Insurance of this State, stating that such company, corporation or society has complied with this act, shall forfeit for each offense a sum not to exceed five hundred (500) dollars.

§ 23. FEES REQUIRED.] Every company, corporation or society, person or persons, or agents doing business in this State, to whom this act shall apply, shall be liable to the same fees and obligations as other insurance companies doing business in this State.

§ 24. HOW PENALTIES RECOVERED.] Every penalty provided for by this act shall be sued for and recovered in the name of the State by the state attorney in whose jurisdiction the company,

agent or agents so violating shall be doing business; and one-half of such penalties shall be paid, when recovered, into the treasury of said county, and the other half to the informer; and in case of the non-payment of such penalties, the party so offending shall be liable to imprisonment for a period not exceeding six months, in the discretion of any court having cognizance thereof.

§ 25. LIMIT OF ORGANIZATION.] All companies, corporations or societies incorporated under this act shall be for a period of not longer than ninety-nine (99) years.

§ 26. WHEN REPORTS TO BE MADE.] It shall be the duty of all receivers of insurance companies, on or before the 1st day of March of each year, and at any other time when required by the Commissioner of Insurance, to make and file annually their statements of their assets and liabilities, and of their incomes and expenditures, in the manner and form, and under the same penalties, as the officers of such companies are now required by law to make annual and other statements.

§ 27. TO WHAT COMPANIES APPLIED.] The provisions of this act shall apply to fidelity and surety companies doing business in this State, and to mutual life insurance companies so far as the valuation of its policies, the payment of fees and the necessary investment of \$100,000 of its assets for the protection of its policy holders therein concerned.

§ 28. WHO ARE DEEMED AGENTS.] Any person or firm in this State who shall receive or receipt for any money on account of or for any contract of insurance made by him or them or for any such insurance company or individual aforesaid, who will receive or receipt for any money from other persons to be transmitted to any such company or individual aforesaid for a policy or policies of insurance, of whatsoever class or kind, or any renewal thereof, although such policy or policies of insurance may not be signed by him or them as agent or agents of such company or who shall in any way directly or indirectly make or cause to be made any contracts of insurance for or on account of such company aforesaid shall be deemed to all intents and purposes an agent or agents of such company and shall be subject and liable to all the provisions as set forth by the insurance laws of this State.

§ 29. POWERS OF COMMISSIONER OF INSURANCE.] The Commissioner of Insurance shall have the power to adopt for use in the insurance department such forms of annual statements as may to him be considered the most practicable for the various kinds of insurance companies doing business in this State.

§ 30. REPEAL.] The provisions of this act may be altered, amended or repealed at any time.

§ 31. EMERGENCY.] Whereas, an emergency exists in that there is no law providing for the incorporation and regulation of life endowment and casualty insurance companies, therefore this act shall be in force from and after its passage and approval. All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1891.

CHAPTER 74.

[H. B. No. 65.]

RELATING TO ASSESSMENT INSURANCE COMPANIES.

AN ACT Relating to Life, Casualty and Other Insurance on the Assessment Plan, and the Conduct of the Business of Such Insurance.

Be it Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. CONTRACT OF MUTUAL INSURANCE ON THE ASSESSMENT PLAN DEFINED—FRATERNAL SOCIETIES EXEMPTED.] Every contract whereby a benefit is to accrue to a party or parties named therein upon the death or physical disability of a person insured thereunder, or for the payment of any money or benefit from the proceeds of dues or assessments collected from persons holding similar contracts, but which contracts must show that the liabilities of the insured or members thereunder are not limited to fixed or artificial premiums, shall be deemed a contract of mutual insurance on the assessment plan; and the business involving the issuance of such contracts shall be carried on in this State only by duly organized and authorized corporations, which shall be subject only to the provisions and requirements of this act; but nothing herein contained shall be construed to apply to secret or fraternal societies, lodges or councils, now doing business in this State, or hereafter seeking to do business therein, which conduct their business and secure members on the lodge system exclusively, having ritualistic work and ceremonies in their societies, lodges or councils, and are under the supervision of a grand or supreme body, nor to any associations organized solely for benevolent purposes, and not for profit, which do not employ paid agents in soliciting business, nor to any association that limits its certificate holders to a particular order, religion or fraternity, or to the employees of a designated firm, business house or corporation.

SEC. 2. HOW SUCH A CORPORATION IS FORMED.] Nine or more persons, citizens of this State, may form a corporation to carry on the business of mutual insurance on the assessment plan, as defined in the first section. Such persons shall file in the office of the Commissioner of Insurance and with the register of deeds of the county where the principal office is located, a declaration signed by each of the incorporators and duly acknowledged before an officer authorized under the laws of this State to take acknowledgement of deeds, and shall therein express their intention to form an organization for the transaction of life or casualty insurance upon the assessment plan; the place where the principal office for the transaction of its business shall be

located, which shall be in this State; the manner in which the corporate powers granted by this act are to be exercised; the manner of electing trustees, or directors, or other persons, not less than nine in number, a majority of whom shall be residents of this State, by whatever name or title designated, who are to have and exercise the general control and management of its affair and funds, which election shall be in the manner prescribed by the by-laws of such corporation.

SEC. 3. CONDITIONS UPON WHICH CERTIFICATE OF AUTHORITY TO DO BUSINESS MAY ISSUE.] Upon filing in the office of the Commissioner of Insurance a copy of the declaration required by the preceding section, together with proof satisfactory to said Commissioner that at least 200 persons having made application in writing for membership therein, and have each made one payment of assessment, aggregating \$5,000, which is invested in State or county bonds of this State, and deposited with the State Treasurer, the principal to be by him held in trust for the benefit of the beneficiaries thereof, the same shall be referred to and examined by the Attorney General of the State, and if by him found conformable to the requirements of this act and not inconsistent with the Constitution and laws of the United States, or of this State, he shall certify accordingly and return the same with his certificate of such conformity to such Commissioner, to be filed and recorded in his office, and thereupon said Commissioner shall issue to said corporation a license or certificate of authority to engage in the business set forth in such declaration and the said corporators and those who may thereafter become associated with them or their successors shall be constituted a body politic and corporate and be lawfully entitled to commence business, and any copy of any paper referred to in this act, certified by said Commissioner, may be used and read in evidence in any action or legal proceeding with the same effect as the original.

§ 4. CONTINUANCE OF SUCH INCORPORATION AND HOW ITS AUTHORITY MAY BE REVOKED.] Every corporation created by or under this act shall continue until revoked by the judgment of a court of competent jurisdiction. No articles of incorporation, or certificate of incorporation, or corporation under the provisions of this act, shall continue valid, or have legal existence after one year from the date of such articles, unless the organization has been completed, and business begun thereunder within that time in accordance with the provisions of this act. Nor shall any corporation, company or individual solicit or cause to be solicited for such corporation any business until such corporation shall have complied with all the provisions of this act; *Provided, always,* That the name or title of any such proposed corporation shall not be the same as, nor too closely resemble, the name or title already in use by a corporation of this or other states, as indicated by the reports of the several insurance departments on file

in the office of the said Commissioner of Insurance, and said Commissioner shall not license any corporation the name or title of which so closely resembles one already in use as to mislead the public.

§ 5. HOW BY-LAWS ARE MADE, AMENDED OR CHANGED.] The corporators, trustees, directors, members or representatives, as may be provided in the declaration aforesaid, of any corporation, association or society organized or reorganized under this act shall have power to make such by-laws, not inconsistent with the Constitution or laws of this State or of the United States, or of this act, as may be deemed necessary for the government of its officers and the conduct of its affairs, and the same when necessary to alter and amend; and they and their successors may have a common seal, and may change and alter the same at their pleasure.

§ 6. HOW EXISTING ASSESSMENT ORGANIZATIONS MAY RE-ORGANIZE.] Any corporation existing under the laws of this State, and now engaged in transacting the business of mutual insurance on the assessment plan, may re-incorporate under the provisions of this act; *Provided*, That nothing in this act contained shall be construed as requiring or making obligatory upon any such corporation to re-incorporate, and any such corporation may continue to exercise all rights, powers and privileges conferred by this act, or its articles of incorporation, not inconsistent with this act and its provisions, the same as if re-incorporated hereunder.

§ 7. COMMISSIONER OF INSURANCE MAY SUSPEND SUCH CORPORATION, AND PROCEEDINGS THEREUNDER.] When the Commissioner of Insurance, on investigation, is satisfied that any corporation doing business in this State under this act has exceeded its powers, or failed to comply with any of the provisions of this act, or is conducting business fraudulently, he shall forthwith report the facts to the Attorney General, who shall thereupon give to the Commissioner of Insurance his written opinion upon such report, and if it appears thereby that the Attorney General is of the opinion there has been any violation of the provisions of this act, or of any provisions of law, then the Commissioner may suspend the power of such corporation to do business in this State until such corporation has complied with the provisions of this act, and with the laws of this State applicable to it, or until the court in which suit may be brought for that purpose shall revoke such suspension, or determine that there has been no such violation; *Provided*, Such suit be brought within ten days after such suspension. Pending such action the court may continue such order of suspension of the Commissioner of Insurance, or revoke the same on such terms as it may deem proper, and may make such order or decree as the interest of the corporation and the public may require.

§ 8. WHAT THE POLICY OR CERTIFICATE OF INSURANCE MUST CON-

TAIN. Every policy or certificate hereafter issued by any corporation doing business under this act, and promising a payment to be made upon any contingency, shall specify the sum of money which it promises to pay upon each contingency insured against, and the number of days after satisfactory proof of the happening of such contingency at which such payment will be made; and upon the occurrence of such contingency, unless the contract shall have been invalidated by fraud or by breach of its conditions, the corporation shall be obligated to the beneficiary for such payment at the time and to the amount specified in the policy or certificate; and this indebtedness shall be a lien upon all the property, effects and bills receivable of the corporation, with priority over all indebtedness thereafter incurred, except as hereinafter provided in case of the distribution of assets of an insolvent corporation. If the Commissioner of Insurance shall be satisfied, on investigation, that any such corporation has refused or failed to make such payment for thirty days after it became due, and after proper demand, he shall notify the corporation to issue no new policies or certificates until such indebtedness is fully paid; and no officer or agent of the corporation shall make, sign or issue any policy or certificate of insurance while such notice is in force.

§ 9. COMMISSIONER OF INSURANCE TO EXAMINE CORPORATIONS AND SUSPEND BUSINESS WHEN.] Whenever the Commissioner of Insurance shall have given the notice required by the last section, he shall proceed without delay to investigate the condition of the corporation, and shall have full power, in person or by deputy, to examine its books, papers and accounts, and to examine under oath its officers, agents, clerks, employees, certificate or policy holders, or any other person having knowledge of its business; and if it shall appear to him that its liabilities exceed its resources, and that it cannot within a reasonable time, not more than three months from the date of the original default, pay its accrued indebtedness in full, he shall suspend the power of such corporation to do business in this State, and in case of a corporation of this State shall forthwith apply to the district court of the county or city and county wherein such corporation has its principal place of business for an order closing the business of the corporation, and appointing a receiver or trustee for the distribution of its assets among its creditors; Provided, That no such final order shall be made until the corporation shall have had ten days' notice of the application within which time it may appear and show cause against application, if any it has; and *Provided*, That upon hearing the matter, the court shall have power to make any order which the interests of the corporation and the public may require.

§ 10. AN EMERGENCY FUND TO BE CREATED AND HOW USED.] Corporations organized or reorganized under this act shall provide in their contracts with policy or certificate holders for the accumulation of an emergency fund, to be disposed of as

provided in such contracts, but which shall be at all times not less than the proceeds of one periodical payment or assessment on all policy or certificate holders thereof; and *Provided*, That said fund in the case of casualty insurance companies shall not be less than \$5,000, and need not exceed the sum of \$10,000. Said funds shall be accumulated by existing corporations already formed for like purposes within six months from the passage of this act, and by all corporations, formed under this act, within six months from the date of their articles of incorporation, and, together with the income thereon, shall be a trust for the payment of policy or certificate obligations, and shall be invested in securities in which other insurance companies are allowed by law to invest their capital. When any such corporation shall discontinue business, the district court of the county or city and county wherein its principal place of business is situated may appoint a receiver or agent or trustee to administer the fund deposited with the State Treasurer, as provided in the second section of this act, and any unexpended portion of this emergency fund, which shall be applied, less a compensation not to exceed 5 per cent. to such receiver, agent or trustee, as said court may allow, first to the payment of accrued death or disability claims, and second, if a balance remains, the same to be distributed pro rata among the members in good standing at the time such corporation ceased to do business; *Provided always*, That any fund collected for a particular class of members shall be used and distributed exclusively for the benefit of that class.

§ 11. CONDITIONS UPON WHICH FOREIGN CORPORATIONS CAN DO BUSINESS.] Any corporation organized under the laws of another state or government to issue policies or certificates of life, casualty or other insurance upon human life on the assessment plan, shall, as a condition precedent to transacting business in this State, deposit with the Commissioner of Insurance a certified copy of its charter or articles of incorporation, a certificate from the insurance officer of its own state, showing its authority to do such business, a statement under oath by its president and secretary in the form required by the Commissioner of Insurance, of its business for the preceding year; and appointment of general agent, and a certificate under oath by its president and secretary that it is paying, and for twelve months next preceding has paid, the maximum amount named in its policies or certificates in full; and also a certificate from the proper authority in its own state or government that corporations of this State, engaged in life or casualty insurance on the assessment plan, as the case may be, are upon compliance with the laws of this State legally entitled to do business in such state or government; and also a copy of its policy or certificate and application, which must show that the liabilities of the insured or members are not limited to fixed or artificial premium, and also evidence satisfactory to the Commissioner of Insurance that the corporation accumulates a fund,

equal in amount to that required by Section 7 of this act, that such accumulation is permitted by the law of its incorporation and is a trust for the benefit of policy or certificate holders only, and is invested as required by laws of the State where incorporated. The Commissioner of Insurance shall thereupon issue a certificate of authority to such corporation to do business in this State, receivable annually, and such authority shall be revoked whenever the Commissioner of Insurance, on investigation, finds that such corporation is not paying the maximum amount named in its policies or certificates in full, or that the statements of its conditions and affairs required under the provisions of this act are false and fraudulent. Upon such revocation the Commissioner shall cause notice thereof to be published daily for four weeks, in some newspaper published in the County of Burleigh, and no insurance business shall thereafter be written by it or its agents in this State. When any other state or country shall impose any additional license fees, taxes or penalties upon any corporation organized under this act, life [like] license, fees, taxes or penalties shall be imposed upon corporations of the same kind and their agents of such state or country doing business in this State.

§ 12. LIMIT OF POLICY OR CERTIFICATE OF INSURANCE.] No corporation doing business under this act, excepting casualty insurance corporations, shall issue a certificate or policy upon the life of any person under fifteen or more than sixty years of age, nor upon life in which the beneficiary named has not an insurable interest.

§ 13. PENALTY FOR FALSE STATEMENTS OR REPRESENTATIONS.] Any solicitor, agent, examining physician or other person, who shall knowingly make any false or fraudulent statement or representation in or with reference to any application for insurance, or for the purpose of obtaining any money or benefit from any corporation doing business under this act, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not less than one hundred (100) or more than five hundred (500) dollars, or by imprisonment in the county jail for not less than thirty days or more than one year, or by both such fine and imprisonment, in the discretion of the court, and any person who shall willfully 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 corporation for the purpose of procuring the payment of a benefit named in the certificate of such holder, 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.

§ 14. WHAT THE CONTRACT OF INSURANCE MUST SPECIFY.] Every contract made by any such corporation or association with its members, or in lieu thereof every notice of assessment or call for the payment of money, shall specify the amount to be paid, the object and purpose for which it is to be paid, the

time the same shall become due, and no funds or moneys received or collected by any corporation or association organized, existing or doing business hereunder, for the purpose of paying or providing for the payment of death losses, casualty indemnities or other benefits, shall be used or paid out for any other purpose whatever, except as provided in such contract or notice.

§ 15. TO WHOM POLICY OF INSURANCE IS PAYABLE.] The proceeds of any certificate or policy issued by any such corporation or association, except such as are expressly made payable to a creditor or the legal representative of a member, shall be payable in case of death or accident to the beneficiary named therein, free from all claims of the representatives of such member or of any of his creditors.

§ 16. WHEN POLICY OF INSURANCE LAPSES.] No policy or certificate issued by any corporation or association doing business under the provisions of this act shall lapse or be lapsed for the non-payment of any assessment, dues or premium, unless the corporation or association has first mailed to the assured member under such policy or certificate at his or her last given postoffice address, a notice setting forth the amount to be paid, and the time the same is due and payable; and an affidavit made by the officer, bookkeeper or clerk of any such corporation having charge of the mailing of notices setting forth the facts as they appear on the records in the office of the said corporation, showing that such notice was mailed and the date of mailing, shall be accepted by all courts of this State as conclusive evidence of the mailing of such notice.

§ 17. WHEN REPORTS TO BE MADE.] Every corporation doing business under this act shall annually return to the Commissioner of Insurance, on or before the 1st day of March, in such manner and form as is prescribed or may be prescribed by the laws of this State relating to corporations doing business of insurance on the assessment plan in this State, a statement of its conditions and affairs for the year ending on the preceding 31st day of December, which statement must be filed with the said Commissioner and published the same as fire insurance companies doing business in this State, and the said Commissioner, in person or by deputy, shall have the power of visitation and examination into the affairs of any such corporation at any time in his discretion.

§ 18. FOREIGN COMPANIES MUST DESIGNATE PERSON UPON WHOM SERVICE OF LEGAL PAPERS MAY BE MADE.] Every such corporation, association or society of any other state or territory doing business within this State, except such as have already made such designation, and every such association hereafter commencing business within this State shall, before doing business therein, designate some person residing in this State as a person upon whom service of legal proceedings and papers may be made, as upon such association, such designation

to be made by an instrument under the hand of the president and secretary or other duly authorized officers of such association, filed in the office of the Commissioner of Insurance of this State, and any legal process affecting such association, corporation or society served on the Commissioner of Insurance of this State, shall have the same effect as if personally served on the association or its authorized attorney. Whenever service of any such legal process is made on the Commissioner of Insurance, he shall at once notify by mail the association, corporation or society affected thereby. If the person designated as above provided shall die or remove from such place, another person shall be appointed in his place within thirty days and such attorney, at the option of association, corporation or society, be changed at any time. Notice of any change of such association, or any new or different designation of a person upon whom service may be made as above provided, shall, under the hand of such president and secretary, or other officer, be filed with the Commissioner aforesaid, within thirty days after such change or new designation is made. Upon failure to comply with any of the provisions of this section within thirty days after written notice by said Commissioner of such default and requiring such compliance, such association shall cease to do business in this State until compliance therewith; and any officer, agent or representative of such association who shall issue any certificate during such failure, after the expiration of such notice to comply with those requirements, shall be liable to punishment as hereinafter provided.

§ 19. HOW REVOCATION OF LICENSE MAY BE SET ASIDE.] Any such corporation, the license of which is refused or revoked, may apply to the district court of Burleigh county, North Dakota, for an order directing said Commissioner of Insurance to show cause at special term why said revocation of said license shall not be set aside or license issued. On the return of such order the issue of fact shall be put in writing and shall be tried at special term in the usual mode of trials of fact in actions, unless said corporation shall request a trial by jury. If a jury trial is requested by said corporation the court shall order said case to be placed on the general term calendar for trial. If the verdict or decision shall be in favor of said corporation the court shall direct said Commissioner to issue a license to said corporation forthwith.

§ 20. COMMISSIONER OF INSURANCE TO INQUIRE INTO CONDITION OF SUCH ORGANIZATION.] The Commissioner of Insurance is hereby authorized and empowered to address any inquiries to any of the corporations, associations or societies referred to in this act, in relation to its doings or condition, or any other matter connected with its transactions relative to the business contemplated by this act; and it shall be the duty of the officers of the corporation, association or society so addressed to promptly reply in writing to all such inquiries, under the oath of its president and secretary, or other officers, if required.

§ 21. FEES TO BE PAID.] Every company, corporation or society, person or persons to whom this act shall apply shall be liable to the same fees and obligations as other insurance companies doing business in this State.

§ 22. WHAT CORPORATIONS SUBJECT TO THIS ACT.] All corporations of this State transacting the business of life or casualty insurance on the assessment plan, as referred to in this act, are hereby made subject to all the provisions of this act, and all corporations organized under this act shall hold, within the county in which the principal office is located in this State, a stated annual meeting of their members or policy holders, in such manner and subject to such regulations, restrictions and provisions as the constitution or by-laws of the same may provide. At such meeting a full and specific report of all receipts and expenditures of the preceding year, or since the last meeting, as the case may be, shall be submitted. Notice of each such meeting shall be given in such manner as the by-laws may direct, but not less than fifteen days before such meeting, to each director, member or policy holder. The books and papers of such association shall at all reasonable times be opened for examination by members or their representatives. At the stated meeting for the election of officers, trustees, directors or managers, a majority of the persons entitled to vote at such meeting shall not be necessary to a quorum, nor shall failure to elect on the day designated for such meeting dissolve any corporation under this act, but it shall be lawful to hold such election on a subsequent day on the same notice as required for the stated meeting. No newspaper publication of a by-law regulating any election shall be necessary to its validity.

§ 23. RIGHTS OF MEMBERS.] That membership in any corporation authorized to do business under this act shall give to any member thereof the right at all times, with the consent of such corporation, to make any change in his or her payee or payees, beneficiary or beneficiaries, without requiring the consent of such payee or payees, beneficiary or beneficiaries.

§ 24. HOW ARTICLES OF INCORPORATION MAY BE AMENDED.] Any corporation, association or society organized under this act may, at any regular or special meeting called for that purpose by a majority vote of the members present, or by proxy, amend its articles of association; notice of such meeting, stating the proposed amendment, shall be mailed to each member thirty days before such meeting. Amended articles shall be certified under oath by the president and secretary, approved and filed the same as the original articles. Whereas, a number of assessment insurance companies are now ready to comply with the provisions of this act; therefore, an emergency exists, this act shall be in force from and after its passage and approval.

Approved March 6, 1891.