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# INSURANCE

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## CHAPTER 172.

[H. B. No. 165—Liudahl.]

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### ORGANIZATION OF MUTUAL INSURANCE COMPANIES.

AN ACT Providing for the Organization, Regulation and General Management of County and District Mutual Fire, Lightning and Cyclone Insurance Companies, and Repealing Acts and Parts of Acts in Conflict Therewith.

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

#### ARTICLE I.

§ 1. Any number of persons, not less than fifty, residing in not more than ten counties in this state, who collectively own property of not less than one hundred thousand dollars in value, which they desire to insure, or any number of persons not less than twenty-five, residing in any one county, owning property of not less than twenty-five thousand dollars in value, which they desire to insure, may form a corporation for mutual insurance against loss or damage by fire, lightning or cyclone, or all of the above, which shall possess the powers and be subject to the duties and liabilities of other insurance companies, except as hereinafter provided:

The principal office of the corporation must be located within the limits of the county or counties in which the incorporators reside. The name of the county, together with the word "county" shall be embraced in the corporate name of the company when organized by the residents of a single county. *Provided*, that any corporation, organized under the provisions of this Act for mutual protection against loss or damage by tornadoes, wind storms, and cyclones only, may operate and issue policies in all the counties of the state, but shall in all other matters be regulated and limited by the provisions of this Act.

§ 2. Such persons shall file with the Commissioner of Insurance a declaration of their intention to form a company for the purpose expressed in the preceding Section, which declaration shall be signed by not less than three of the incorporators, and shall be accompanied by sufficient evidence of the execution of bona fide application for such insurance to the number and amount stated in the preceding Section, and which said declaration shall contain a copy of the articles of incorporation proposed to be adopted by said incorporations. Such articles of incorporation shall set forth the name of the corporation, the name of the city, town or village in which the business office of such company is to be located, and the intended duration of the company, and if it is found conformable

to this Act and not inconsistent with the laws and Constitution of this state, the Commissioner of Insurance shall thereupon deliver to such persons a certified copy of its articles of incorporation, and a certificate to the effect that said corporation has complied with all the requirements of law, which, on being filed in the office of the Register of Deeds of the county where the principal office of the corporation is located shall be its authority to commence business and issue policies, and such certified copy of the articles of incorporation and of such certificate may be used for or against such company, with the same effect as the original, and shall be conclusive evidence of the fact of the organization of such corporation.

§ 3. The number of directors shall be not less than five (5) and not more than fifteen (15), a majority of whom shall constitute a quorum to do business, to be elected by the members of said company in the manner provided by the by-laws of said company, and, if not otherwise provided, by ballot, of whom one-third shall be elected for one year, one-third for two years and one-third for three years, and until their successors are elected and qualified; in all subsequent elections, except to fill vacancies, one-third of said board of directors shall be elected for three years; said election shall be held at the annual meeting of the company which shall be held on the second Thursday of January of each year, unless otherwise provided by their by-laws. In the election of the first board of directors each incorporator shall be entitled to one vote. At every subsequent election each person insured shall be entitled to one vote for each director to be elected. Twenty members shall constitute a quorum at such annual meeting for the transaction of business.

§ 4. The directors shall elect from their number, a president, and a vice-president, and shall also select a secretary and treasurer, who may or may not be members of the company, all of whom shall hold their office for one year, and until their successors are elected and qualified, provided that the office of secretary and treasurer may both be held by one person.

§ 5. The treasurer and secretary shall each give bonds to the company for the faithful performance of their duties in such amounts as shall be prescribed by the board of directors.

§ 6. Such corporation and its directors shall possess the usual powers and be subject to the usual duties of corporations and directors thereof and may make by-laws, not inconsistent with the Constitution or laws of this state, as may be deemed necessary for the management of its affairs in accordance with the provisions of this Act; also to prescribe the duties of its officers and fix their compensation, and to alter and amend its by-laws when necessary.

§ 7. Any person owning property within the limits of the territory in which such company is authorized to transact business may become a member of such company by insuring therein, and shall be entitled to all the rights and privileges appertaining there-

to; but no person not residing within said territory shall become a director of said company.

§ 8. No company formed under the provisions of this Act shall insure any property beyond the limits of the territory comprised in the formation of such company, nor shall it insure any property other than detached dwellings, their contents; farm buildings, their contents; country school houses, furniture, books and fixtures; country churches, furniture and other contents; automobiles, only while in the buildings on premises; live stock on the premises or anywhere within the limits of said territory; farm machinery and vehicles in the buildings or on the premises including threshing machines while not in service, only, and hay or grain in stack on said premises; said policies may cover loss or damage to live stock, harness and vehicles temporarily taken from the territory of the company; *provided*, said live stock, harness and vehicles be not removed to exceed twenty-five miles from the territory of the company. Said policies shall be issued for not to exceed five years, and not to extend beyond the limited duration of said company. Nor shall any policy be issued covering property located within the platted limits of any incorporated city, town or village in this state.

§ 9. Any such company may classify the property insured therein at the time of issuing policies thereon under different rates corresponding as nearly as may be to the greater or less risk from fire or lightning and loss which may attach to each several buildings insured.

§ 10. Every person insured under the provisions of this Act shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns, to pay his pro rata share to the company of all losses or damages by fire, lightning or cyclone, which may be sustained by any member thereof, which said undertaking shall be filed with the secretary in the office of said company before the issuance of such policy, and shall remain on file in the office except when required to be produced in court as evidence. He shall also at the time of receiving such insurance pay such percentage in cash, or such reasonable sum named in the policy as may be required by the rules and by-laws of the company.

§ 11. Every member of such company who may sustain loss or damage by fire, lightning or cyclone, shall immediately notify the secretary of such company, or in case of his absence, the president thereof, which officer shall forthwith ascertain and cause to be adjusted in manner provided for in the by-laws of said company, or forthwith convene the directors of said company, whose duty it shall be to appoint a committee of not more than three members of such company to ascertain the amount of such loss, and in case of the inability of the parties to agree upon the amount of damage the claimant shall choose a disinterested party, and the company shall choose a disinterested party, who shall constitute a board of arbitra-

tion to settle such loss, and in case these parties cannot agree, they shall choose a third party to act with them and such board of arbitration shall have power to examine witnesses and to determine all matters in dispute and the decision of such board shall be final. Any officer or member of such company acting as an adjuster, and the members of any board of arbitration which may be appointed in accordance with the provisions of this Section shall have full power to subpoena witnesses, administer oath, examine witnesses and take acknowledgments while acting in the capacity of such adjuster or member of board of arbitration.

§ 12. Whenever the amount of any loss shall have been ascertained if it exceed the amount of cash funds of the company applicable to the payment of such loss, the president shall convene the directors of the company, who shall make an assessment sufficient at least to pay such loss from all members of the company in proportion to the amount of insurance carried. *Provided*, that, if there be no quorum present, the secretary shall enter the fact on his journal and the names of the directors present, whereupon the president, secretary and treasurer shall proceed to estimate the rate per cent. necessary to cover the loss and expense thereby incurred, and assess the same upon all the insured members of the said company, which said assessment shall be valid and shall be collected in the same way as though it had been made by the board of directors, in the regular manner. The board of directors may levy and collect an assessment for the purpose of providing funds for the payment of current expenses of the company or for the purpose of establishing a permanent loss fund, which permanent loss fund shall at no time exceed one per cent. of the insurance in force, and such assessments so levied shall be collectable in the same manner as assessment made for the payment of current losses. In case an assessment made shall not be collected at the time same is due and the amount actually collected is insufficient to pay the losses or expenses of the company, then a second assessment shall be made in the manner above provided upon the policy holders who have paid their assessment for an amount that shall be sufficient to pay all losses and expenses in full. Such assessments shall be made from time to time until a sufficient amount is collected to pay all losses and expenses in full. In case any such delinquent assessment is collected after other assessments have been made and collected, then such assessment so collected shall be added to the permanent loss fund.

§ 13. It shall be the duty of the secretary whenever such assessments shall have been completed to notify every member of such company by letter sent to his last known post office address, postage prepaid, of the amount of such assessment, the purpose for which made, and if for the payment of certain losses, the amounts of such losses, the sum due from such member as his share of such assessment, the time when and to whom payment shall be paid which time shall not be less than thirty nor more than sixty days from the

date of such notice. The board of directors shall have authority, in their discretion to borrow money for the payment of any unpaid losses, said borrowed money to be repaid from moneys collected from the next ensuing assessment levied in accordance with the provisions of this act.

§ 14. Suits at law may be brought against any member of said company who shall neglect or refuse to pay any assessment made upon him under the provisions of this Act; and the directors of any company so formed who shall willfully refuse to neglect to perform the duties imposed upon him by the provisions of this Act, shall be liable in their individual capacity to any person sustaining such loss. Suits at law may also, be brought and maintained against such company, by members thereof, for losses sustained, if payment is withheld after such losses have become due.

§ 15. Any members of such company may withdraw therefrom by surrendering his policy for cancellation at any time while the company continues to transact the business for which it was organized, by giving notice in writing to the secretary thereof, and paying his share of all claims then existing against said company; *provided*, that by the withdrawal of such member, the number of members remaining in such company shall not be reduced below the original number of incorporators, or that the assets will not be reduced below the amount at the time of incorporation; *provided*, further, that the company shall have power at any time to terminate or cancel any policy, by giving the insured written notice to that effect and returning to such insured any unearned premium which he may have paid, pro rata.

§ 16. Non-residents of any county in this state, owning property therein, may become members of any company incorporated under this Act, and shall be entitled to all the rights and privileges pertaining thereto, except that they cannot become directors of such company.

§ 17. No company formed under the provisions of this Act shall continue for a longer term than thirty years.

§ 18. The secretary of the company shall prepare and submit to the members thereof, at each annual meeting, a copy of the annual statement required to be filed with the Commissioner of Insurance, as provided in Section 4949 of the Compiled Laws of 1913, of the State of North Dakota.

§ 19. In all other respects companies organized under the provisions of this Act shall be subject to the provisions of the general laws of the State of North Dakota relating to such insurance companies.

§ 20. Any such companies now organized and transacting business in this state, whose articles of incorporation or by-laws or any part of them conflict with the provisions of this Act, shall within a reasonable time after the passage and approval of this Act, amend

such articles or by-laws to conform to the provisions hereof and file such amendments with the Commissioner of Insurance.

§ 21. All Acts or parts of Acts which conflict with the provisions of this Act are hereby repealed.

Approved, March 9, 1915.

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## CHAPTER 173.

[S. B. No. 103—Englund.]

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### LIFE INSURANCE POLICIES, EXEMPTING FROM CLAIMS OF CREDITORS.

AN ACT to Exempt Policies of Life Insurance and Annuities from the Claims of Creditors, in Certain Cases.

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

§ 1. The surrender value of any policy of life insurance, which policy of insurance would upon the death of the insured be payable to the wife or children or any relative of the insured dependent or liable to be dependent upon him for support, shall be absolutely exempt from the claims of creditors of the insured, and no creditor and no court or officer of a court acting for the creditors of such insured shall have the right under any circumstances to elect for the insured to have such policy of insurance surrendered or in any wise converted into money; and no such policy of life insurance and no property right therein belonging to the holder and no value thereof shall, under any circumstance, be subject to seizure under any process of any court.

Approved, March 5, 1915.

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## CHAPTER 174.

[S. B. No. 109—Porter.]

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### MUTUAL HAIL INSURANCE COMPANIES.

AN ACT to Amend and Re-enact Section 4896 of the Compiled Laws of the State of North Dakota for the year 1913.

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

§ 1 AMENDMENT.] Section 4896 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

§ 4896. MUTUAL INSURANCE COMPANIES ENGAGED IN HAIL BUSINESS, WHEN.] No mutual insurance company hereafter organized under the laws of this state shall engage in the business of hail insurance in this state without first filing a bond in the office of the

Commissioner of Insurance in the sum of twenty-five thousand dollars (\$25,000.00), said bond to be satisfactory in form and surety to the Commissioner of Insurance, and no mutual hail insurance company now or hereafter organized under the laws of any other state or county shall be admitted to engage in the business of hail insurance in this state without having net cash assets in the sum of one hundred thousand dollars (\$100,000.00) above its liabilities and without first depositing and thereafter keeping on deposit with the Treasurer of this state the sum of twenty-five thousand dollars (\$25,000.00) in money, or first mortgage loans on real estate in the State of North Dakota or certificates of deposit issued by banks in North Dakota, both mortgage and certificate to be approved by the Commissioner of Insurance, said mortgages or deposits to be of the face value of twenty-five thousand dollars (\$25,000.00), the said bond and said deposit conditioned for the carrying [out] of its contracts and obligations incurred by its policies.

Approved, March 9, 1915.

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## CHAPTER 175.

[H. B. No. 73—Hjort.]

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### SALARIES OF OFFICERS AND AGENTS OF LIFE INSURANCE COMPANIES.

AN ACT to Amend and Re-enact Section 4859 of the Compiled Laws of 1913, and Repealing Section 4860 of the Compiled Laws of 1913, Relating to the Salaries of Officers and Agents of Life Insurance Companies.

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

§ 1. EXPENSES OF OFFICERS, HOW REGULATED.] No domestic life insurance company shall pay any salary, compensation or emolument to any officer, trustee or director thereof, nor any salary, compensation or emolument amounting in any one year to more than five thousand dollars to any one person, firm or corporation unless such payment be first authorized by a vote of the board of directors of such life insurance company. No such life insurance company shall make any agreement with any of its officers, trustees or salaried employees whereby it agrees that for services rendered or to be rendered he shall receive any salary, compensation or emolument that will extend beyond a period of twelve months from the date of such agreement; and no officer, director or trustee, who is paid a salary for his services of more than one hundred and fifty dollars per month, shall receive any other compensation or emolument; *provided*, that the limitation as to time contained herein shall not be construed as preventing a life insurance company from entering into contracts with its agents for the payment of renewal commissions. No such company shall grant any pension to any officer,

director or trustee thereof or to any member of his family after his death.

§ 2. Said Section 4860, laws of 1913, and all Acts, or parts of Acts in contravention of this Act, are hereby repealed.

Approved, February 10, 1915.

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## INTEREST

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### CHAPTER 176.

[H. B. No. 2—Everson.]

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#### REDUCES LEGAL AND CONTRACT RATE OF INTEREST.

AN ACT to Amend and Re-enact Sections 6072 and 6073 of the Compiled Laws of North Dakota for the Year 1913, Relating to Legal Rate of Interest and Usury.

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

§ 1. AMENDMENT.] That Section 6072 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 6072. LEGAL RATE OF INTEREST SIX PER CENT.] Interest for any legal indebtedness shall be at the rate of six (6) per cent. per annum unless a different rate is contracted for in writing, and all contracts shall bear the same rate of interest after they become due as before, unless it clearly appears therefrom that such was not the intention of the parties.

§ 2. AMENDMENT.] That Section 6073 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted so as to read as follows:

§ 6073. USURY DEFINED.] No person, firm, company or corporation shall directly or indirectly take or receive, or agree to take or receive, in money, goods or things in action, or in any other way, any greater sum or any greater value for the loan or forbearance of money, goods, or things in action than ten (10) per cent. per annum; and in the computation of interest the same shall not be compounded. Any violation of this Section shall be deemed usury; *provided*, that any contract to pay interest not usurious on interest overdue shall not be deemed usury.

§ 3. REPEAL.] All Acts and parts of Acts in so far as they are in conflict with this Act are hereby repealed.

Approved, January 25, 1915.