

from July 1, 1919, therefore an emergency is hereby declared to exist and this Act shall take effect and be in force immediately after its passage and approval.

Approved March 5, 1919.

INSURANCE COMPANIES

CHAPTER 163.

(H. B. No. 63—Magnuson.)

CAPITAL STOCK REQUIRED BY DOMESTIC AND OTHER STOCK INSURANCE COMPANIES.

An Act to Amend and Re-enact Section 4863 of the Compiled Laws of North Dakota for the Year 1913, Relating to Capital Stock Required by Domestic and Other Stock Insurance Companies.

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

Sec. 1. AMENDMENT.) That Section 4863 of the Compiled Laws of North Dakota for the year 1913, be and the same is hereby amended and re-enacted to read as follows:

Sec. 4863. CAPITAL STOCK REQUIRED.) No Stock Company shall be incorporated under this chapter unless it has a capital stock of at least \$250,000, twenty-five per cent of which must be paid in previous to the issuance of any policy and the residue within twelve months from the time of filing the articles of incorporation; provided, that the Commissioner of Insurance may for good cause shown extend the time of payment of such residue for the further period of not to exceed one year. No fire, cyclone, tornado, hail, marine, life or accident insurance company of any other state, territory or nation shall hereafter be admitted to do business in this state unless it has a paid-up capital stock of at least Two Hundred and Fifty Thousand Dollars in available cash assets, over and above all liabilities for losses reported, expenses, taxes and reinsurance of all outstanding risks.

Sec. 2. All Acts and parts of Acts in conflict with this Act are hereby repealed.

Approved February 18, 1919.

CHAPTER 164.

(H. B. No. 88—Magnuson.)

INCORPORATED MUTUAL INSURANCE COMPANIES.

An Act to Provide for the Organization or Admission and the Regulation and Taxation of Incorporated Mutual Insurance Companies Other than Life.

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

Sec. 1. That any number of persons, not less than twenty, a majority of whom shall be bona fide residents of this State, by complying with the provisions of this Act, may become, together with others who may hereafter be associated with them or their successors, a body corporate for the purpose of carrying on the business of mutual insurance as herein provided.

Sec. 2. That any persons proposing to form any such company shall subscribe and acknowledge articles of incorporation specifying:

(a) The name, the purpose for which formed, and the location of its principal or home office, which shall be within this state;

(b) The names and addresses of those composing the board of directors in which the management shall be vested until the first meeting of the members;

(c) The names and places of residence of the incorporators.

Sec. 3. That no name shall be adopted by such company which does not contain the word "Mutual" or which is so similar to any name already in use by any such existing corporation, company or association, organized or doing business in the United States, as to be confusing or misleading.

Sec. 4. Such articles of incorporation shall be submitted to the Commissioner of Insurance, herein called "Commissioner" and if found to comply with this Act, he shall approve and file the same in his office. The Commissioner shall thereupon deliver to the company a certified copy of such articles with his certificate that such company has complied with this Act. Such certified copy and certificate shall be filed in the office of the register of deeds of the county in which the principal office of the company is located.

Sec. 5. The company shall have legal existence from and after the date of filing such articles in the office of the register of deeds. The board of directors named in such articles may thereupon adopt by-laws, accept applications for insurance and proceed to transact the business of such company; provided that no insurance shall be put into force until the company has been licensed to transact insurance as provided by this Act.

Sec. 6. Any Company organized under the provisions of this Act is empowered and authorized to make contracts of

insurance or to re-insure or accept re-insurance on any portion thereof, to the extent specified in its articles, for the kinds of insurance following:

1. FIRE INSURANCE.) Against loss or damage to property and loss of use and occupancy by fire, lightning, hail, tempest, flood, earthquake, frost or snow, explosion, fire ensuing, and explosion, no fire ensuing, except explosion by steam boilers or fly-wheels; against loss or damage by water caused by the breakage or leakage of sprinklers, pumps or other apparatus, water pipes, plumbing, or their fixtures, erected for extinguishing fires, and against accidental injury to such sprinklers, pumps or other apparatus, water pipes, plumbing or fixtures; against the risks of inland transportation and navigation; upon automobiles, whether stationary or operated under their own power; against loss or damage by any of the causes or risks specified in this sub-section, including also transportation, collision, liability for damage to property resulting from owning, maintaining or using automobiles, and including burglary and theft, but not including loss or damage by reason of bodily injury to the person.

2. LIABILITY INSURANCE.) Against loss, expense or liability by reason of bodily injury or death by accident, disability, sickness or disease suffered by others for which the insured may be liable or have assumed liability, including workmen's compensation.

3. DISABILITY INSURANCE.) Against bodily injury or death by accident and disability by sickness.

4. AUTOMOBILE INSURANCE.) Against any or all loss, expense and liability resulting from the ownership, maintenance or use of any automobile or other vehicle, provided no policies shall be issued under this sub-section against the hazard of fire alone.

5. STEAM BOILER INSURANCE.) Against loss or liability to persons or property resulting from explosions or accidents to boilers, containers, pipes, engines, fly-wheels, elevators and machinery in connection therewith and against loss of use and occupancy caused thereby and to make inspections and issue certificates of inspection thereon.

6. USE AND OCCUPANCY INSURANCE.) Against loss from interruption of trade or business which may be the result of any accident or casualty.

7. MISCELLANEOUS INSURANCE.) Against loss or damage by any hazard upon any risk not provided for in this section, which is not prohibited by statute or at common law from being the subject of insurance, except life insurance.

Sec. 7. No such company shall issue policies or transact any business of insurance unless it shall hold a license from the Commissioner authorizing the transaction of such business, which license shall not be issued until and unless the company shall comply with the following conditions:

(a) It shall hold bona fide applications for insurance upon which it shall issue simultaneously, or it shall have in force, at least twenty policies to at least twenty members for the same kind of insurance upon not less than two hundred separate risks, each within the maximum single risk described herein.

(b) The "maximum single risk" shall not exceed twenty per cent of the admitted assets or three times the average risk or one per cent of the insurance in force, whichever is the greater, any re-insurance taking effect simultaneously with the policy being deducted in determining such maximum single risk.

(c) It shall have collected a premium upon each application which premiums shall be held in cash or securities in which insurance companies are authorized to invest and shall be equal in case of fire insurance to not less than twice the maximum single risk assumed subject to one fire nor less than ten thousand dollars and in any other kind of insurance to not less than five times the maximum single risk assumed, and in case of workmen's compensation insurance to not less than fifty thousand dollars.

(d) For the purpose of transacting employer's liability and workmen's compensation insurance, the applications shall cover not less than one thousand five hundred employees, each such employee being considered a separate risk for determining the maximum single risk.

Sec. 8. Any public or private corporation, board or association in this state or elsewhere may make applications, enter into agreements for and hold policies in any such mutual insurance company. Any officer, stockholder, trustee, or legal representative of any such corporation, board, association or estate may be recognized as acting for or on its behalf for the purpose of such membership, but shall not be personally liable upon such contract of insurance by reason of acting in such representative capacity. The right of any corporation organized under the laws of this State to participate as a member of any such mutual insurance company is hereby declared to be incidental to the purpose for which such corporation is organized and as much granted as the rights and powers expressly conferred.

Sec. 9. Every member of the company shall be entitled to one vote, or to a number of votes based upon the insurance in force, the number of policies held, or the amount of premiums paid, as may be provided in the by-laws.

Sec. 10. The maximum premium payable by any member shall be expressed in the policy or in the application for insurance. Such maximum premium may be a cash premium and an additional contingent premium not less than the cash premium, or may be solely a cash premium. No policy shall be issued for a cash premium without an additional contingent premium unless the company has a surplus which is not less in amount than the

capital stock required of domestic stock insurance companies transacting the same kinds of insurance.

Sec. 11. No such company shall invest any of its assets except in accordance with the laws of this state relating to the investment of the assets of domestic stock companies transacting the same kinds of insurance.

Sec. 12. Such company shall maintain unearned premium and other reserves separately for each kind of insurance, upon the same basis as that required of domestic stock insurance companies transacting the same kind of insurance; provided, that any reserve for losses or claims based upon the premium income shall be computed upon the net premium income after deducting any so-called dividend or premium returned or credited to the member.

Sec. 13. Such company not possessed of assets at least equal to the unearned premium reserve and other liabilities shall make an assessment upon its members liable to assessment to provide for such deficiency, such assessment to be against each such member in proportion to such liability as expressed in his policy; provided, the Commissioner may, by written order, relieve the company from any assessment or other proceedings to restore such assets during the time fixed in such order; and provided that any domestic company which shall be deficient in providing the unearned premium reserve required hereby, may, notwithstanding such deficiency, come under this Act on the condition that it shall each year thereafter reduce such deficiency at least fifteen per centum of the original amount thereof, and in such case it may increase its assessments accordingly.

Sec. 14. Any director, officer or member of any such company, or any other person, may advance to such company, any sum or sums of money necessary for the purpose of its business or to enable it to comply with any of the requirements of the law, and such moneys and such interest thereon as may have been agreed upon, not exceeding ten per cent per annum, shall not be a liability or claim against the company or any of its assets, except as herein provided, and shall be repaid only out of the surplus earnings of such company. No commission or promotion expenses shall be paid in connection with the advance of any such money to the company and the amount of such advance shall be reported in each annual statement.

Sec. 15. Such mutual company shall comply with the provisions of any law applicable to any stock insurance companies effecting the same kind of insurance requiring that policies be countersigned and delivered through a resident agent; provided, that this requirement shall not apply to any policy of such mutual company on which no commission shall be paid to any local agent. Such mutual company may insert in any form of policy prescribed by law of this State any provisions or condi-

tions required by its plan of insurance which are not inconsistent or in conflict with any law of this State. Such policy, in lieu of conforming to the language and form prescribed by such law, may conform thereto in substance, if such policy include a provision or endorsement reciting that the policy shall be construed as if in the language and form prescribed by such law, and a copy of such policy and endorsement, if any, shall have been first filed with and shall not have been disapproved by the Commissioner.

Sec. 16. Any mutual insurance company organized outside of this State and authorized to transact the business of insurance on the mutual plan in any state, district or territory, shall be admitted and licensed to transact the kinds of insurance authorized by its charter or articles to the extent and with the powers and privileges specified in this Act when it shall be solvent under this Act, and shall have complied with the following requirements:

(a) Filed with the Commissioner a certified copy of its charter or articles of association;

(b) Filed with the Commissioner a copy of its by-laws certified to by its secretary;

(c) Appointed the Commissioner its agent for the service of process, in any action, suit or proceeding in any court of this State, which authority shall continue as long as any liability shall remain outstanding in this State;

(d) Filed a financial statement under oath, in such form as the Commissioner may require, and have complied with other provisions of law applicable to the filing of papers and furnishing information by stock companies on application for authority to transact the same kind of insurance;

(e) If organized without the United States, make and maintain the deposit required of stock insurance companies formed without the United States transacting the same kinds of insurance;

(f) Its name shall not be so similar to any name already in use by any such existing corporation, company or association organized or licensed in this State as to be confusing or misleading.

Upon compliance by any such foreign company with the provisions in this section, such company shall be licensed and authorized to transact business in this State, subject to all the provisions of law relating to information to and examinations by the Commissioner, annual reports, taxes and the renewal of licenses applicable to stock insurance companies transacting the same kinds of insurance, except as otherwise provided in this Act.

Sec. 17. Every such mutual insurance company shall make its annual report in such form and submit to such examinations

and furnish such information as may be required by the Commissioner. As far as practicable, such examinations of foreign mutual insurance companies shall be made in co-operation with the insurance departments of other states and the forms of annual report shall be such as are in general use throughout the United States.

Sec. 18. 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.

Sec. 19. The taxable premiums or premium receipts of any mutual insurance company organized in or admitted to this State, for the purpose of taxation under any law of this State, shall be the gross premiums received for direct insurance upon property or risks in this State, deducting amounts paid for reinsurance upon which a tax has been or is to be paid to this State, and deducting premiums upon policies not taken, premiums returned on cancelled policies, and any refund or return made to the policy holder other than for losses.

Sec. 20. Any such mutual insurance company organized or admitted to transact insurance in this State may reinsure any part or all of any risk or risks in any insurance company or insurer licensed in any state of the United States or in the District of Columbia; provided that no such re-insurance shall be effected with any company or insurer disapproved therefor by written order of the Commissioner filed in his office.

Sec. 21. All laws or parts of laws in conflict with the provisions of this Act are hereby repealed; provided that such repeals and the provisions of this Act shall not apply to or affect any company or association of this State now doing business. Any such company or association may, however, by resolution of its Board of Directors, duly approved by the majority of its members at a meeting specially called for that purpose, and duly certified to by the President and Secretary, and filed with and approved by the Commissioner, elect to adopt and become subject to the provisions of this Act, in lieu of any Act or Acts theretofore governing such company or association. Any company or association, so electing and fully complying with this Act, may thereafter effect such kinds of insurance as authorized by this Act, and specified in its articles of association then in force, or as then or thereafter amended, together with such additional kinds of insurance as are specified in such resolution and authorized by this Act.

Approved March 3, 1919.

CHAPTER 165.

(H. B. No. 99.—Frederickson)

DISCRIMINATING IN INSURANCE.

An Act Amending and Re-enacting Section 4922 of the Compiled Laws of the State of North Dakota for the Year 1913, Relating to the Revocation of the Certificate of Authority of Insurance Companies.

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

Sec. 1. AMENDMENT.) Section 4922 of the Compiled Laws of the State of North Dakota for the year 1913 is hereby amended and re-enacted to read as follows:

Sec. 4922. AUTHORITY REVOCATED. WHEN REVOCATION SET ASIDE.) If the Commissioner of Insurance has, or shall have at any time after examination, reason to believe that any annual statement or other report required or authorized by this article, made or to be made out by an officer or agent of any insurance company, is false, or if the Commissioner of Insurance has or shall have, at any time after examination, reason to believe that any insurance company is practicing discrimination against individual risks in the issuing or cancellation of policies, it shall be the duty of said Commissioner of Insurance immediately to revoke the certificate of authority of such company and mail a copy of such revocation to such company and to the agents thereof in this State, and such company and its agents, after such notice, shall discontinue the issuance of any new policies or the renewals of any policies previously issued; and such revocation shall not be set aside nor any new certificate of authority be given until satisfactory evidence shall have been furnished to said Commissioner of Insurance that such company is in substance and in fact in the condition set forth in such statement or order (or that such discrimination has not been practiced or that such practice of discrimination will immediately cease), and that the requirements of this article have been fully complied with. No action on the grounds of discrimination shall be taken by said Commissioner unless upon a written complaint under oath or information and belief of the person or persons interested, showing in substantial detail the ground for complaint with such data as will reasonably enable the Commissioner to determine whether there is probable cause therefor, and no such action shall be taken, nor shall there be any examination thereon until a copy of said complaint and data shall have been sent by registered mail to the insurance company concerned and such insurance company shall have had at least ten (10) days' notice of the date when such examination is to be held.

Sec. 2. REPEAL.) All Acts and parts of Acts in conflict herewith are hereby repealed.

Approved February 26, 1919.