

any railroad to construct and maintain overhead or underground crossings and separate grades when in its opinion the interest and safety of the public require, and may apportion the costs therefor in such manner as the Commission deem proper, and no overhead or underground crossing, nor separation of grades shall be made except upon petition therefor to the Board of Railroad Commissioners and with such board's approval.

§ 2. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 13, 1935.

INSURANCE

CHAPTER 150

H. B. No. 217—(Fedje)

APPOINTMENT, LICENSE, ETC., INSURANCE AGENTS, RECIPROCAL EXCHANGES

An Act to amend and re-enact Section 6548a11 of the Supplement to the Compiled Laws of the State of North Dakota, 1913, relating to exchange of reciprocal or inter-insurance contracts; providing for appointment of resident agents; license fees and tax; publication of abstract of annual statement.

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

§ AMENDMENT.] That Section 6548a11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§6548a11. APPOINTMENTS OF AGENTS: LICENSE FEES: TAX: PUBLICATION OF ANNUAL STATEMENT.] Such attorney shall designate and appoint only resident agents who shall before writing or soliciting any of the insurance provided for under this chapter secure a certificate of authority from the Commissioner of Insurance. The fee for such agent's license shall be two dollars (\$2.00). Such attorney shall further in lieu of all other taxes and fees, state, county or municipal of whatever character in this state, except as herein provided, pay annually to the state on account of the transaction of such business in this state, a license fee of \$15.00 and a tax of 2½% of the gross premiums or deposits collected from subscribers in this state after deducting therefrom all sums returned to such subscribers or credited to their accounts, other than for losses. Such attorney shall in addition be required to publish the abstract of Annual Statement as provided for in Section 4915 of the 1913 Compiled Laws.

Approved March 12, 1935.

CHAPTER 151**S. B. No. 159—(Whelan)****RECIPROCAL FIRE UNDERWRITERS' LICENSES****An Act to provide for Reciprocal Fire Underwriters' Licenses.***Be It Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. A non-resident insurance agent or solicitor placing insurance other than life, health or accident insurance through a resident insurance agent of this state shall be permitted to do so only where he shall have first made written application for and procured from the Commissioner of Insurance a license therefor upon a form prescribed by the said Commissioner of Insurance and upon the payment of a fee of ten dollars. Such license shall expire one year from its date and shall in no case be granted to a resident of any state which does not permit the licensing of an agent of this state under like circumstances.

Approved March 4, 1935.

CHAPTER 152**S. B. No. 138—(Thatcher, Drew and Cain)****LICENSED RESIDENT AGENTS SURETY AND
INSURANCE COMPANIES**

An Act providing that surety and insurance companies other than life insurance companies, shall do business in this state only through duly licensed resident agents, regulating the practice of such resident agents, providing that the Commissioner of Insurance shall have the power to refuse, suspend or revoke licenses of such resident agents, authorizing the Commissioner of Insurance to examine the records of surety or insurance companies, to collect premium taxes on surety or insurance companies that have transacted business within the state without authority, providing penalties for the violations thereof, and repealing Sections 4961, 4962, 4963 and 4964 of the Compiled Laws of North Dakota for 1913 and Chapter 133, of the Session Laws of North Dakota for 1933, and declaring an emergency.

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

§ 1. No surety company, or insurance company, or association, except life insurance companies, not incorporated under the laws of this state, shall issue any surety bond, or policy of insurance of any kind on persons, firms or corporations, or property in this state, except through a local agent, who is a resident of this state, regularly commissioned and licensed to transact insurance business therein, who shall countersign all surety bonds and contracts of insurance so issued and make a record of the same in books provided for that purpose, and who shall receive the usual and customary

commission thereon when the premium is paid; provided, however, that nothing herein shall be construed to prevent any such surety company, or insurance company or association, authorized to transact business in this state, from issuing bonds, or contracts of insurance at its principal or department offices, covering persons, firms or corporations, or property in this state, provided that such bonds, or contracts of insurance, when issued, shall be countersigned by a local agent who is a resident of this state. On any bonds or contracts of insurance, except life insurance policies, so written, the local agent shall be paid the usual brokerage commission. No provision of this act shall apply to direct insurance covering the rolling stock of railroad corporations, or property in transit, while in possession and custody of railroad corporations or other common carriers, nor to movable property of such common carriers used or employed by them in their business as common carriers, nor to insurance written or carried by the State of North Dakota nor to any policy or bond of any mutual company on which no commission shall be paid to any local agent. All surety bonds, or contracts of insurance not written in accordance with the provisions hereof shall be a violation of this act.

§ 2. The Commissioner of Insurance is hereby prohibited from issuing any license of authority to write or countersign surety bonds, or contracts of insurance, other than life insurance, or to solicit, negotiate and effect such bonds, or contracts of insurance, to any person who is not a legal resident of this state at the time such license of authority is issued except as otherwise provided by law. To the end that the Commissioner of Insurance may satisfy himself that an applicant for a license of authority to write or solicit surety bonds, or contracts of insurance, other than life insurance, is legally eligible to receive such license, he may submit to any person applying for such license, any interrogatories on forms such as he may prepare, to which the applicant shall first make answer in writing and under oath.

§ 3. The Commissioner of Insurance shall have power to refuse to issue a license to any agent, or to suspend or revoke a license issued to any agent upon proof that such agent has violated any of the provisions of this act, provided that such Commissioner shall first give such agent not less than ten (10) days written notice of a hearing thereon, containing a statement of any alleged violations, and affording such agent a reasonable opportunity to offer a defense thereto before the Commissioner; and provided further that within thirty (30) days after any order of refusal, suspension or revocation of license is made by the Commissioner of Insurance, the person aggrieved may petition the District Court of Burleigh County for a review of such proceeding, and the Court shall thereupon issue an order to the Commissioner to show cause why such license should not be issued, or re-instated, and upon a hearing thereon, shall make

such decision as the facts and the law shall warrant. In any case where a license has been suspended or revoked hereunder, the Commissioner may, in his discretion, refuse to issue a new license to such offending agent for a period of not exceeding one year thereafter.

§ 4. No surety, or insurance company shall insure, or assume as a re-insurance company, or otherwise in any manner or form whatever, the whole or any part of any risk or liability covering property located in this state of any insurance company or association not authorized to transact business in this state.

§ 5. Whenever the Commissioner of Insurance shall have cause to believe that any provision of this act has been violated, he is authorized, at the expense of such company, or association, to examine at the offices of such company, or association, located within or without the State of North Dakota, all books, records and papers of such company, or association, and also any books, records and papers of any assured within this state, and may examine under oath, the officers, managers and agents of such company, association or assured, as to such violation or violations

§ 6. Before any surety company, or insurance company, other than the life insurance companies, shall be authorized to transact business in this state, it shall file a sworn statement with the Insurance Commissioner, if required, and furnish proof that said company has not at any time prior to filing application for authority to transact business in this state, written, or caused to be written any surety bond, or insurance contracts on property in this state while not authorized; and if it shall appear that said company has written insurance on property in this state while not authorized, said company shall file a statement of all such surety bonds, or insurance contracts written, and such surety company, or insurance company shall thereupon be required to pay the premium tax due thereon before a license of authority shall be granted to such company.

§ 7. Any surety company, or insurance company, violating, or failing to comply with any of the provisions of this act shall be liable to a penalty equal to double the amount of the tax now provided by law, which sum shall be collected by the Commissioner of Insurance, and may be recovered in an action brought in the name of the state. Any agent who shall write any surety bonds, or insurance business in any company not authorized to transact business in this state, or as otherwise provided by law, shall be personally liable to the state for the legal tax on any bonds or insurance business so written.

§ 8. The term "local agent" as used herein, shall be construed to mean a resident of this state licensed to countersign policies. This act shall not apply to any general agent, insurance broker, state agent, special agent, traveling representative or salaried employe of any insurance company; provided, however, that the company shall pay

the usual brokerage commission to "local agent" as heretofore specified.

§ 9. REPEAL.] That Sections Numbers 4961, 4962, 4963 and 4964 of the Compiled Laws of North Dakota for 1913 and Chapter 133 of the Session Laws of 1933 be and the same are hereby repealed.

§ 10. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1935.

CHAPTER 153

H. B. No. 165—(Fedje and Aljets)

FIRE AND TORNADO INSURANCE PUBLIC BUILDINGS.

An Act to amend and re-enact Sections 189c1, 189c2, 189c3, 189c5, 189c6, 189c7, 189c8, 189c9, 189c13, 189c14 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota as amended and re-enacted by Chapters 173 and 174 of the 1929 [1927] Session Laws and Chapters 162, 163, and 164 of the 1931 Session Laws, and Chapter 135 of the 1933 Session Laws, and Sections 189c4 and 189c11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota relating to Fire and Tornado Insurance on Public Buildings and fixing rates of premiums to be charged and providing for deposit on investments of State Fire and Tornado Fund; repealing all acts or parts of acts in conflict herewith, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 189c1 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 1 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c1. STATE BUILDINGS INSURED.] On and after August 1st, 1935, no officer or agent of this state and no person or persons having charge of any public buildings or property of the state including state industries shall pay out any public moneys or funds on account of any insurance against loss by fire, lightning, tornado, hail or inherent explosion or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any of the public buildings, furniture or fixtures or property of any kind whatever belonging to the state, except in the manner hereinafter provided

Provided, however, that none of the provisions of this act shall apply to farm buildings situated on lands owned by the State of North Dakota, nor shall the provisions of this act apply to any property of the Bank of North Dakota except only its banking house,

furniture and fixtures located in the City of Bismarck, North Dakota.

§ 2. AMENDMENT.] That Section 189c2 of the 1925 Supplement of the 1913 Compiled Laws of North Dakota as amended by Section 2 of Chapter 135 of the 1933 Session Laws of the State of North Dakota, be and is hereby amended and re-enacted to read as follows:

§ 189c2. REPORT ON STATE BUILDINGS.] On August 1st, of each odd numbered year, each officer, Board of Administration, or agent of this state of any kind having in charge any public buildings or property of any kind whatsoever belonging to the state, shall report to the Commissioner of Insurance of the state the sound depreciated value of each building or risk and the contents therein, and such other information as may be required by the Commissioner of Insurance on forms provided by him, and it shall be the duty of the Commissioner of Insurance to determine the value thereof subject to the approval of the board or officer in charge of the property to be insured.

§ 3. AMENDMENT.] That Section 189c3 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 3 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c3. INSURANCE PROVIDED—RATE OF PREMIUM.] On or between July 1st and August 1st, 1935, and each odd numbered year thereafter the Commissioner of Insurance shall provide for the insurance in the State Fire and Tornado Fund and in some reliable fire and tornado insurance company or companies doing business in the State of North Dakota as hereinafter provided, on all state property subject to destruction by fire, lightning, tornado, hail or inherent explosion for an amount not to exceed 90% of the actual value of the property as such value is determined by the Commissioner of Insurance and approved by the officer or board having control of such property, and for such purpose the Commissioner of Insurance is hereby designated and constituted the custodian of such property. The commissioner shall first determine the insurable value of each article of property and then fix the rate and amount of premiums to be paid by the insured, said rates to be based upon the rates as promulgated and published by the Fire Underwriters Inspection Bureau. Provided, however, that the excess insurance, as hereinafter provided, shall be placed by the Commissioner of Insurance with some reliable fire and tornado insurance company or companies doing business in the State of North Dakota.

§ 4. AMENDMENT.] That Section 189c4 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c4. PREMIUMS TO BE PAID.] The Commissioner of Insurance shall as soon thereafter as possible certify to the State Auditor the amount of insurance placed upon such property with a statement showing the amount of premium, also the name, location of, and description of the property insured, and it shall be the duty of the State Auditor to issue a state warrant on the State Treasurer for the payment of premiums so certified to the Commissioner of Insurance for the benefit of and to the credit of the State Fire and Tornado Fund and it shall be used only for the purposes provided for in this act.

§ 5. AMENDMENT.] That Section 189c5 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Section 4 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c5. REPORT ON OTHER BUILDINGS.] On August 1st of each odd numbered year each county auditor, city auditor, township, village and school district clerk, as the case may be, shall report to the Commissioner of Insurance the sound depreciated value of each building or risk and the contents therein and such other information as may be required by the Commissioner of Insurance on forms provided by him, and it shall be the duty of the Commissioner of Insurance to determine the value thereof subject to the approval of the board or officer in charge of the property to be insured.

§ 6. AMENDMENT.] That Section 189c6 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Section 5 of Chapter 135 of the 1933 Session Laws of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c6. INSURANCE PROVIDED: PREMIUM.] From and after August 1st, 1935, the insurance on all property of any such county, city, township, village, or school district shall be provided for by the Commissioner of Insurance in the manner provided for the insurance of the property of the state except that the amount of insurance and the premiums thereon shall be certified by the Commissioner of Insurance to the clerk or auditor of the township, village, city, county or school district. Upon receipt of such certification, the amount of premium so certified shall on or before 60 days from the date of such certification be remitted by the proper officer to the Commissioner of Insurance to be by him deposited with the State Treasurer to the credit of the State Fire and Tornado fund and it shall be used only for the purposes provided for in this act. The excess insurance, as hereinafter provided, shall be placed by the Commissioner of Insurance with some reliable fire and tornado insurance company or companies doing business in the State of North Dakota. In case of failure to pay the premium so

certified by the Commissioner of Insurance within 60 days from the date of such certification, the township, village, city, county, or school district official or officials, responsible therefor, shall become jointly and severally, as the case may be, personally liable for the same, in an amount equal to double the premium due from such township, village, city, county or school district, and in the case of default it shall be the duty of the Commissioner of Insurance to notify the Attorney General, who shall bring an action in the courts of this state or shall direct the state's attorney of the county in which such delinquency occurs to bring such action to recover the amount hereinbefore provided for.

§ 7. AMENDMENT.] That Section 189c7 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Section 6 of Chapter 135 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c7. RE-PLACEMENT OF POLICIES.] No policies of insurance in force on the first day of August, 1935, and covering the risks not heretofore required by law to be insured with the State Fire and Tornado Fund, shall be cancelled by the Commissioner of Insurance; but all such risks as and when the policies covering the same shall lapse, expire, or otherwise be cancelled, shall be insured with the State Fire and Tornado Fund as herein provided, and the amount of such insurance in the State Fire and Tornado Fund shall be from time to time increased or decreased so as to maintain at all times on the property covered thereby, the amount of insurance required by the provisions of this act.

§ 8. AMENDMENT.] That Section 189c8 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 173 of the 1927 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c8. LOSSES: HOW PAID.] All losses by fire, lightning, tornado, hail or inherent explosion shall be paid out of the State Fire and Tornado Fund, and by other reliable insurance companies in which such property shall be insured, as provided by law, in amount not exceeding the amount of the insurance upon the particular risk. The losses upon any building or property insured in the State Fire and Tornado Fund, and in reliable fire and tornado insurance companies, whether totally destroyed or partially damaged by fire, lightning, tornado, hail or inherent explosion shall be adjusted by the Commissioner of Insurance, or his duly authorized representative, and by the duly authorized representative of the private insurance companies interested. Immediately upon the happening or occasion, agents or agency having charge or control of the property destroyed or damaged, shall by telegram or in writing, notify the Commissioner of Insurance, giving the description of the property, the amount of insurance carried, the probable amount of

loss or damage and the probable cause of loss or damage, and such information shall be immediately transmitted to the private insurance companies interested by the Commissioner of Insurance. The persons or agency having control of such damaged property shall not disturb the same, except as provided in the policy until the Commissioner of Insurance or his agent, and the duly authorized agent or representative of the interested private insurance companies, shall have appeared and adjusted the loss or shall have notified them that the information on which adjustment is to be made has been secured. Adjustments and allowances for loss and damage to insured property shall be paid out of the State Fire and Tornado Fund upon warrants drawn by the Commissioner of Insurance upon the State Treasurer against the State Fire and Tornado Fund in proportion to the amount covered by said State Fire and Tornado Fund.

However, if at any time sufficient funds are not available in the State Fire and Tornado Fund to cover its proportion of any loss or damage sustained by fire, lightning, tornado, hail or inherent explosion, the person or board under whose supervision or charge such building or property might be, shall submit to the Commissioner of Insurance a claim for the amount of its proportion of the adjustment of loss or damage, made by him, which claim, when approved by the Commissioner of Insurance shall be by him submitted to the State Auditing Board, and if the State Auditing Board shall approve the same it shall make it payable ninety days after the end of the next session of the legislature, it shall bear interest at five percent per annum, and the State Auditor shall on the ninetyeth day succeeding the last day of the next session of the legislature draw a warrant upon the State Treasurer against any fund appropriated by such legislature for that purpose, payable to such person or board, as trustee for the State or political subdivision which they represent, in the amount of such claim with interest. Thereafter, whenever the State Fire and Tornado Fund shall have acquired a surplus sufficient to pay any and all of the claims paid out of such special funds of the state, the Commissioner of Insurance shall draw his warrants upon the State Treasurer against the State Fire and Tornado Fund, payable to the State Treasurer, and deliver the same to the State Treasurer, and the amount of said warrants shall be credited to the General Fund of the State.

§ 9. AMENDMENT.] That Section 189c9 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 164 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c9. FREE INSURANCE: ASSESSMENTS.] When the State Fire and Tornado Fund shall equal the sum of one million five hundred thousand dollars the insurance retained net by the State Fire and Tornado Fund shall be provided without cost to the state,

county, city, township, village, or school district until and unless losses and expenses reduce the aggregate liquid assets of the fund below one million five hundred thousand dollars, in which event an annual assessment shall be made against all the policy holders of the fund in an amount which will as nearly as may be re-establish the fund to the amount of one million five hundred thousand dollars of liquid assets, but such assessment shall in no event exceed the policy premium for one year at the rate provided for under the provisions of Section 189c3 of this act. Provided, however, before any property or risk shall be entitled to the benefits of the free insurance as herein provided for, the said property or risk shall have been insured in the Fire and Tornado Fund for at least five consecutive years at the rates provided for under Section 189c3.

§ 10. AMENDMENT.] That Section 189c11 of the 1925 Supplement to the 1913 Compiled Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c11. EXPENDITURES.] The Commissioner of Insurance may employ the State Fire Marshall and any of the employees in the Department of Insurance and such other assistance, and incur such expense as may be necessary to carry out the provisions of this act, but all the expenditures made hereunder for such purposes shall be paid out of the State Fire and Tornado Fund, upon the warrant of the Commissioner of Insurance drawn upon the State Treasurer against the State Fire and Tornado Fund.

§ 11. AMENDMENT.] That Section 189c13 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended by Chapter 162 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189c13. CLASSIFICATION AND LIMIT OF RISK.] It shall be the duty of the Commissioner of Insurance to classify all property reported to him under the provisions of Sections 1, 2, 3, 4, 5, and 6 of this act, into six distinct classifications as hereinafter set forth, and to provide insurance thereon in the State Fire and Tornado Fund and with some reliable fire and tornado insurance company or companies authorized to transact such business in this state, in accordance with the limitations shown by this classification. Provided, further, that the insurance upon that portion of the valuation above the net retention carried by the State Fund, shall by the Commissioner be placed with reliable mutual or old line insurance companies authorized to do business in the state.

CLASS 1. All of the following described property shall be designated as Class 1, and no single risk thereon in an amount greater than four hundred thousand dollars (\$400,000.00) shall be carried by the State Fire and Tornado Fund.

"A" and "AX." Fire-proof buildings in protected areas.

CLASS II. All of the following-described property shall be designated as Class II, and no single risk thereon in an amount greater than two hundred thousand dollars (\$200,000.00) shall be carried by the State Fire and Tornado Fund.

"A" and "AX." Fireproof buildings in unprotected areas.

CLASS III. All of the following described property shall be designated as Class III, and no single risk thereon in an amount greater than fifty thousand dollars (\$50,000.00) shall be carried by the State Fire and Tornado Fund.

"B." Brick, stone or concrete buildings, with gravel, slag, metal, slate, tile composition, or other approved roof in protected areas.

"BX." Brick, stone or concrete buildings, with shingle, board or unapproved composition roof, in protected areas.

"E." Hollow concrete block, concrete block, or hollow tile building, (with nor without 4-inch facing, with gravel, slag, metal, slate, tile or approved composition, or other approved roof in protected areas.

"EX." Hollow concrete block, concrete block, or hollow tile building, (with or without 4-inch facing), with shingle, board, or other unapproved composition roof in protected areas.

CLASS IV. All of the following described property shall be designated as Class IV, and no single risk thereon in an amount greater than twenty-five thousand dollars (\$25,000.00) shall be carried by the State Fire and Tornado Fund.

"B." Brick, stone or concrete buildings, with gravel, slag, metal, slate, tile composition, or other approved roof in unprotected areas.

"BX." Brick, stone or concrete buildings, with shingle, board or unapproved composition roof in unprotected areas.

"E." Hollow concrete block, concrete block or hollow tile buildings, (with or without 4-inch facing), with gravel, slag, metal, slate, tile or approved composition, or other approved roof in unprotected areas.

"EX." Hollow concrete block, concrete block or hollow tile building (with or without 4-inch facing), with shingle, board or other unapproved composition roof in unprotected areas.

CLASS V. All of the following described property is hereby designated as Class V, and no single risk thereon in an amount greater than twenty-five thousand dollars (\$25,000.00) shall be carried by the State Fire and Tornado Fund.

"D." Frame building, with gravel, slag, metal, slate, tile or approved composition or other approved roof in protected areas.

"DX." Frame building, with shingle, board or unapproved composition roof in protected areas.

"IC." Frame, wood-sheathed, iron-covered building

with gravel, slag, metal, slate, tile or approved composition, or other approved roof in protected areas.

"ICX." Frame, wood-sheathed, iron-covered building, with shingle, board or unapproved composition roof, in protected areas.

"SIC." Skeleton wood frame, without wood sheathing, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in protected areas.

"BV." Brick, stone or hollow-block veneered building, with shingle, board or metal slate, tile or approved composition or other approved roof, in protected areas.

"BVX." Brick, stone, or hollow-block veneered building, with shingle, board or unapproved composition roof, in protected areas.

"P." Frame, plaster or stucco covered building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in protected areas.

"PX." Frame, plaster or stucco covered building, with shingle, board or unapproved composition roof, in protected areas.

"S." Skeleton steel (incombustible) construction with incombustible roof, in protected areas.

"SS." Skeleton steel construction with combustible roof covered with gravel, slag, metal, slate, tile or approved composition or other approved roof covering, in protected areas.

"SSX." Skeleton steel construction with combustible roof covered with shingle, board or unapproved roof covering, in protected areas.

CLASS VI. All of the following described property is hereby designated as Class VI, and no single risk thereon in an amount greater than fifteen thousand dollars (\$15,000.00) shall be carried by the State Fire and Tornado Fund.

"D." Frame building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in unprotected areas.

"DX." Frame building, with shingle, board or unapproved roof, in unprotected areas.

"IC." Frame, wood-sheathed, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in unprotected areas.

"ICX." Frame, wood-sheathed, iron-covered building, with shingle, board or unapproved composition roof, in unprotected areas.

"SIC." Skeleton wood frame, without wood sheathing, iron-covered building with gravel, slag, metal, slate, tile or approved composition, or other approved roof, in unprotected areas.

"BV." Brick, stone or hollow-block veneered building, with shingle, board or metal slate, tile or approved composition or other approved roof, in unprotected areas.

"BVX." Brick, stone, or hollow-block veneered building, with

shingle, board or unapproved composition roof, in unprotected areas.

"P." Frame, plaster or stucco covered building, with gravel, slag, metal, slate, tile or approved composition or other approved roof, in unprotected areas.

"PX." Frame, plaster or stucco covered building, with shingle, board or unapproved composition roof, in unprotected areas.

"S." Skeleton steel (incombustible) construction with incombustible roof, in unprotected areas.

"SS." Skeleton steel construction with combustible roof covered with gravel, slag, metal, slate, tile or approved composition or other approved roof covering, in unprotected areas.

"SSX." Skeleton steel construction with combustible roof covered with shingle, board or unapproved roof covering, in unprotected areas.

§ 12.AMENDMENT.] That Section 189C14 of the 1925 Supplement to the 1913 Compiled Laws of North Dakota as amended and re-enacted by Chapter 163 of the 1931 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 189C14. COLLECTION OF PREMIUM: INVESTMENT BY STATE TREASURER.] The Commissioner of Insurance shall collect from the state or the political subdivisions thereof, the entire premium for all the excess insurance and for such assessment as may be made as hereinbefore provided and deposit it in the State Fire and Tornado Fund, as herein provided, and shall draw his warrant upon the State Treasurer against the State Fire and Tornado Fund for the amount of premium due for the excess insurance placed with such reliable fire and tornado insurance company or companies.

The State Treasurer shall deposit with the State Fire and Tornado Fund in the Bank of North Dakota at the usual rate of interest paid on other funds of the state, subject to check, but whenever there is in such checking account more than \$50,000.00, the State Treasurer shall deposit the same upon time certificates of deposit drawing the same rate of interest as other state funds deposited upon time certificates, or such funds may be invested upon the recommendation of the Commissioner of Insurance in bonds of any state or of the United States. Provided, further, such funds may be invested in bonds of political subdivisions of the State of North Dakota, but investment in bonds of political subdivisions shall at no time exceed 25% of the amount of the fund and must be in bonds of political subdivisions with an assessed valuation in excess of two million dollars (\$2,000,000.00). In addition to the investments hereinbefore provided for, such funds may be invested in legally issued and registered warrants of any school district in this state issued in payment of teachers' salaries. Such warrants shall be bought at par value and only from the payee named in such war-

rant. The Attorney General shall approve such bonds and warrants as to form and legality.

§ 13. REPEAL.] All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 14. EMERGENCY.] This act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1935.

CHAPTER 154

H. B. No. 170—(Cosgriff)

STANDARD POLICY FIRE INSURANCE

An Act to amend and re-enact Section 6625 of the Compiled Laws of 1913, with regard to a standard fire insurance policy.

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

§ 1. That section 6625 of the Compiled Laws of 1913 be amended and re-enacted to read as follows:

§ 6625. STANDARD POLICY.] No fire insurance company, corporation or association, their officers or agents, shall make, issue, use or deliver for use any fire insurance policy or renewal of any fire policy on property in this state other than such as shall conform in all particulars as to blanks, size of type, context, provisions, agreements and conditions with the printed form of contract or policy heretofore filed in the office of the commissioner of insurance as a standard policy for this state and no other or different provisions, agreement, condition or clause shall in any manner be made a part of such contract or policy or be indorsed thereon or delivered therewith, except as follows, to wit:

1. The name of the company, its location and place of business, the date of its incorporation or organization, and the state or county under which the same is organized, the amount of paid up capital stock, whether it is a stock or mutual company, the names of its officers, the number and the date of the policy; and if it is issued through a manager or agent of the company, the words, "this policy shall not be valid until countersigned by the duly authorized manager or agent of the company, at....." may be printed on policies issued on property in this state.

2. Printed or written forms of description and specifications or schedules of the property covered by any particular policy and any of the matter necessary to express clearly all the facts and conditions of insurance on any particular risk, which facts or conditions shall in no case be inconsistent with or a waiver of any of

the provisions or conditions of the standard policy herein provided for may be written upon or attached or appended to any policy issued on property in this state.

3. A company, corporation or association organized or incorporated under and in pursuance of the laws of this state or elsewhere, if entitled to do business in this state, may with the approval of the commissioner of insurance, if the same is not already included in the standard form as filed in the office of the commissioner of insurance, print on its policies, any provision which it is required by law to insert therein, if said provision is not in conflict with the laws of this state or the United States, or of the provisions of the standard form provided for herein, but said provision shall be printed apart from the other provisions, agreements or conditions of the policy and in type not smaller than the body of the policy and a separate title, as follows: "Provisions required by law to be stated in this policy" and be a part of said policy.

4. There may be indorsed on the outside of any policy herein provided for the name, with the word "Agent or agents" and place of business, of any insurance agent or agents, either by writing, printing, stamping or otherwise.

5. When two or more companies, each having previously complied with the laws of this state, unite to issue a joint policy, there may be expressed in the head line of such policy the fact of the severalty of the contract; also the proportion of premiums to be paid to each company and the proportion of liability which each company agrees to assume. And in the printed conditions of such policy the necessary change may be made from the singular to the plural number, when reference is had to the companies issuing such policy.

6. Provided, however, that this section shall not apply to automobile insurance, and provided also that by and with the approval of the Insurance Commissioner, a combined farm policy may be used, the fire portion of which shall be substantially in accord with the fire insurance policy herein provided.

§ 7. REPEAL.] All acts or parts of acts in conflict with the provisions of this act are hereby repealed.

Approved March 13, 1935.

CHAPTER 155

H. B. No. 339—(Traynor, Odegard and Hill)

LIMITATION HAIL INSURANCE PERMANENT SURPLUS FUND.

An Act reducing, defining and limiting the permanent surplus fund of the State Hail Insurance Department to three million (\$3,000,000) dollars; declaring the reasons for such limitations thereon; providing the manner of disbursement and refunding of moneys in excess of said sum; repealing all acts or parts of acts in conflict therewith; declaring an emergency.

WHEREAS, under the statutes of the State of North Dakota enacted pursuant to constitutional authority there has been created a State Hail Insurance Department of this state and a Permanent Surplus Fund for the prompt payment of hail losses, and

WHEREAS, there is contained in said Permanent Surplus Fund, first created by Chapter 77, Session Laws of North Dakota for 1921, as shown by the records of the State Hail Insurance Department, being public records of the State of North Dakota, as of December 31, 1934, the sum of \$4,038,865.41, after setting aside a reserve fund of \$779,000 for uncollected taxes, and

WHEREAS, after more than ten years' experience it has been determined to be an established fact, shown by the records of the State Hail Insurance Department and of the State Treasurer of the State of North Dakota, that the aforesaid Permanent Surplus Fund in the amount now contained therein is substantially in excess of that required or which may be required for the purpose for which it was created, and that such surplus over and above the requirements of said Surplus Fund to carry out the purpose for which said fund was created is not less than \$1,038,865.41, and

WHEREAS, the experience of the State Hail Insurance Department, as shown by its public records and reports over a period of the last ten years discloses and establishes that the highest demand upon the said Permanent Surplus Fund for the prompt payment of hail losses in any one of said years was the sum of \$2,571,000, and that the average year's demand upon said fund for the said ten-year period was the sum of \$1,266,000, and

WHEREAS, an exhaustive study of the prospective future demands upon said Permanent Surplus Fund has been made, taking into consideration the past experience of the said Hail Insurance Department in administering the State Hail Insurance Act, the past demands upon said Permanent Surplus Fund, the insurable acreage of this state, the average hail losses over a long period of years, the average acreage withdrawals, the yearly and average of hail indemnity tax payments, the effect upon said Permanent Surplus Fund of proposed legislative changes in the existing hail insurance law, and all other known pertinent factors affecting or which might effect the said Permanent Surplus Fund, and

WHEREAS, from a careful consideration and study of all of the foregoing facts this Legislative Assembly concludes and finds that the Permanent Surplus Fund aforesaid for the payment of all claims and demands present and future against it exceeds by \$1,038,865.41 the amount needed and necessary to carry out the original purpose for which said fund was created, and that to the extent of \$1,038,865.41 there is a permanent surplus in said Permanent Surplus Fund which is not needed or necessary to carry out the original purpose for which said fund was created, and which said surplus in said fund cannot at this time or in the future be used for such original purpose, and in fact is an unexpended balance over and in excess of any claim or demand, present or future, which may be made against said Permanent Surplus Fund, and

WHEREAS, an emergency exists in this that due to crop failures and a world-wide depression there is insufficient money available through the normal tax statutes of the State of North Dakota to keep open and properly maintain the public school system of this state and that unless immediate and direct help be given, many of the elementary public schools within this state will cease to function, now, therefore,

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

§1. PERMANENT SURPLUS FUND; TRANSFER AND/OR REFUND.] There is hereby created, defined and shall hereafter be maintained a permanent surplus in the sum of three million (\$3,000,000) dollars in the State Hail Insurance Fund, for the purpose of carrying out the provisions of this act, and to enable the State Hail Insurance Department to pay hail losses promptly. All funds in such Permanent Hail Insurance Fund on December 31st, 1934, in excess of three million (\$3,000,000) dollars shall be transferred or refunded by the Commissioner of Insurance in the manner herein provided.

Forthwith after the taking effect of this act it shall be the mandatory duty of the Commissioner of Insurance to pay all of such funds in said permanent surplus fund in excess of three million (\$3,000,000) dollars, as shown by the books of the State Hail Insurance Department as of December 31st, 1934, namely one million, thirty eight thousand, eight hundred sixty-five dollars and forty-one cents (\$1,038,865.41) to the State Treasurer to be by him credited to the State Equalization Fund, created and established by Chapter 229, Session Laws of 1933, and acts amendatory thereof or supplemental thereto, or to any fund which may be established and created to replace such State Equalization Fund; provided, however, that should the aforesaid allocation or distribution of such transfer from said fund be held to contravene the provisions of the Constitution, then and in that event said \$1,038,865.41, after such determination by the Supreme Court of this state, shall be paid to the treasurer of the several counties of the state in the following proportions; such

payment to each of the said county treasurers shall be an amount bearing the same ratio to the total amount paid to all county treasurers as the number of acres of tillable land upon which the one cent per acre flat tax was levied in the year 1927 in such county bears to the total number of acres so taxed in the entire state in the year 1927. Upon receipt of such payment, it shall be the duty of each county treasurer to refund such payments, by crediting upon his tax records each tract of land upon which such flat tax was levied in the year 1927, its pro-rata share of the sum so paid to the county treasurer, which credit shall be applied in payment of any outstanding school taxes due on said land in the reverse order of the years in which such taxes were levied, to the extent of the amount of such credit; provided that if there are no outstanding school taxes upon any part of such land, such credit shall be applied as a credit against any school taxes subsequently levied thereon; provided further, that if there are any unpaid flat hail taxes due on any part of such land, such credit shall first be applied in its entirety against such unpaid outstanding flat hail taxes and the overage, if any, shall be credited against outstanding school taxes; provided, however, that should the allocation or distribution of such refund of taxes be held to contravene the provisions of the Constitution, then and in that event, such refunded hail taxes, after any such holding by the Supreme Court, shall be paid to the then record owner of the land, or his legally qualified agent, against which such flat tax was levied; upon such owner, or his so qualified agent, presenting written application therefor with proof of such ownership, to the treasurer of the county within which such land is located; within thirty days after any such decision; provided, however, that if such record owner or his so qualified agent, fail to make such application or present such proof within such time, then and in that event, such refunded hail tax shall be credited to flat hail taxes and school taxes as hereinbefore provided;

Provided, however, that in the case of any land owner other than the original owner of the land, who acquired title to such land subsequent to the first day of January, 1928, such payments, as provided for herein, shall be made directly into the General Fund of the School District in which said land or lands is or are located, and in such event no credit shall be given on the unpaid or subsequent school taxes on such land or lands.

Provided, further, that in cases where the said refund payment accrues to land, the title of which is in the state or in any board or agency thereof, or in the county, the refund accruing to such land shall be paid into the general fund of the school district in which such land is located.

Provided further, that in cases where lands have been sold for taxes to individuals, that the refund shall not be applied to such taxes so sold but shall be applied to the payment of the unpaid taxes

subsequent thereto, in the reverse order of their becoming due and delinquent.

§ 2. SAVING CLAUSE.] It is hereby declared that if any of the provisions of this act in any manner contravene the provision of the Constitution, the remaining provisions would have been enacted by this Legislative Assembly even though such provision had been eliminated from the act. Hence, if any of the provisions are found to be violative of the Constitution, the remaining provisions shall not be affected by such invalidity but shall remain in full force and effect.

§ 3. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 4. EMERGENCY.] This act is declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 2, 1935.

CHAPTER 156

S. B. No. 151—(E. E. Green of Stutsman)

HAIL TAX REFUND, ASSIGNMENT, CANCELLATION

An Act to amend and re-enact Section 2 of Chapter 138 of the 1933 Session Laws of the State of North Dakota relating to hail tax refund.

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

§ 1. AMENDMENT.] That Section 2 of Chapter 138 of the 1933 Session Laws of the State of North Dakota be and is hereby amended and re-enacted to read as follows:

§ 2. REFUND. ASSIGNMENT. CANCELLATION.] The holder of the certificate must make application for the refund to the Commissioner of Insurance, tendering his certificate and an assignment thereof to the Hail Insurance Department, and making proof satisfactory to the Commissioner of Insurance that the title of the land has been lost under a paramount lien and that he has not been compensated in any way for the money paid for the certificate. Upon being so satisfied, the Commissioner of Insurance shall refund to the holder, such amount with interest. Upon making any such refund, the Commissioner shall take an assignment of the certificate in trust for the benefit of the Hail Insurance Department, and in case the tax debtor becomes the owner of the land affected, the hail indemnity tax represented by such certificate shall again attach as a lien upon his interest. Provided, further, that at any time after the expiration of three years from the time the title of the land has been lost under a paramount lien, and the

land affected has not reverted back to the original owner within such three year period, the Commissioner of Insurance shall upon satisfactory proof cancel the said hail indemnity tax certificate and the assignment thereof so held in trust and surrender same to the county auditor; but in no event shall such tax sale certificate be cancelled prior to the expiration of ten years from the date of the tax sale certificate or where there has been a subsequent hail indemnity tax paid, then ten years from the payment of the last subsequent hail indemnity tax paid, or in case of sales heretofore made, under the six year limitation, then prior to the expiration of six years from the date of such tax sale certificate or last subsequent hail tax paid.

Approved February 27, 1935.

INTEREST

CHAPTER 157

H. B. No. 3—(Parkinson)

LEGAL RATE OF INTEREST

An Act to amend and re-enact Section 6072 of the Supplement to the 1913 Compiled Laws of North Dakota.

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

§ 1. AMENDMENT.] That Section 6072 of the Supplement to the 1913 Compiled Laws of North Dakota be, and the same is hereby amended and re-enacted to read as follows:

§ 6072. LEGAL INTEREST.] Interest for any legal indebtedness shall be at the rate of four per cent per annum, unless a different rate not to exceed the maximum rate allowed by law, is contracted for in writing and all contracts shall bear the same rate of interest after they become due as before.

§ 2. REPEAL.] All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 11, 1935.

CHAPTER 158

H. B. No. 100—(Noben)

INTEREST RATE ON JUDGMENTS

An Act amending and re-enacting Section 6077 of the 1913 Compiled Laws of the State of North Dakota relating to the rate of interest on judgments.

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

§ 1. AMENDMENT.] That Section 6077 of the 1913 Compiled