

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

Approved March 10, 1937.

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## INSURANCE

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### CHAPTER 144

H. B. No. 163—(Byrne)

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#### ACCIDENT AND SICKNESS INSURANCE COMPANIES REQUIRED TO CARRY RESERVE

An Act to amend and re-enact Section 4969 Compiled Laws of North Dakota for 1913; requiring accident and sickness insurance corporations, associations or societies to have and maintain admitted assets of \$5,000.00; 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.] Section 4969 of the Compiled Laws of North Dakota for 1913 is hereby amended and re-enacted to read as follows:

§ 4969. APPLICATION CONTAINS WHAT.] Each corporation, association or society organized under this Act shall, before issuing any policy or certificate of membership, have actual applications upon at least 250 persons for accident indemnity or accident and sickness benefits in such corporation, association or society as the case may be, and shall file satisfactory proof with the Insurance Commissioner that the president, secretary and treasurer of such association or society will satisfactorily discharge their duties as such officers and fully comply with this Act in the organization and carrying on the business of such corporation, association or society. A list of said applications giving the name, age, and residence of the applicants together with the annual dues and assessments thereon shall be filed with the Insurance Commissioner with a sworn statement of such officers and that such parties have deposited with them one advance assessment on the insurance applied for, and a certificate of a solvent bank that the funds herein provided for are deposited therein to be turned over to the treasurer of the corporation, association or society after the Certificate of Authority is issued by the Insurance Commissioner as provided herein. Provided, that in addition to the deposit of such funds as herein required, such corporation, association or society shall have admitted assets of an amount not less than \$5,000.00 before certificate of authority shall be issued. Provided further, that such corporation, as-

sociation or society shall at all times maintain admitted assets of at least \$5,000.00. Provided further, that any corporation, association or society authorized to transact business on the effective date of this Act shall comply with the provisions of this Section within two years after this Act becomes operative, and that one-half of such amount shall be accumulated within one year.

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

§ 3. EMERGENCY.] An emergency is declared to exist and this Act shall be in full force and effect from and after its passage and approval.

Approved March 10, 1937.

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## CHAPTER 145

S. B. No. 119—(Committee on Insurance)

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### REGULATION BENEVOLENT ASSOCIATIONS

An Act regulating all Benevolent Corporations, Associations, or Societies operating on voluntary or involuntary assessment or contribution plan, which provide for protective and/or indemnity benefits, excepting Fraternal Benefit Societies as defined by Section 5059 of the Compiled Laws of North Dakota for 1913 and for the repeal of Chapter 160 of the Session Laws of 1931, and Acts or parts of Acts in conflict herewith.

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

§ 1. BENEVOLENT SOCIETIES SUBJECT TO GENERAL INSURANCE LAWS. EXCEPTIONS.] All domestic corporations, associations or societies operating on the voluntary or involuntary assessment or contribution plan, providing protective and/or indemnity benefits, shall be under the jurisdiction of the Commissioner of Insurance of this State and shall be and remain subject to all laws, rules and regulations applicable to insurance companies transacting business within the State, except assessment benevolent societies providing only for a death benefit to the beneficiary of a deceased member, which shall be subject to the provisions of this Act.

§ 2. DEFINITION.] An assessment benevolent society is hereby defined as any domestic corporation, association or society, which operates on the voluntary assessment or contribution plan for the sole purpose of providing through assessments of its members for the payment of a death benefit to the beneficiary of a deceased member.

§ 3. HOW FORMED.] Any number of persons, not less than five, all of whom are residents of this State, may form a benevolent society in the manner hereinafter set forth.

§ 4. ARTICLES. CONTENTS. APPROVAL AND FILING.] The articles of incorporation shall set forth the name of the society, which shall include the words "Benevolent Society," the purpose for which formed, with the plan of doing business fully and clearly defined; the time and place of holding meetings of the membership; the location of its principal office, which must be within this State; the date for commencement and termination of its fiscal year; the term for which it is incorporated, not to exceed thirty years; the number of its directors, not less than five nor more than nine, all of whom shall be residents of this State; and the names and addresses of the directors selected to serve until the first meeting of the membership.

The articles of incorporation shall be submitted to the Attorney General and if found in conformity with this Act and not inconsistent with the Constitution and Laws of this State, shall be approved by him and certified to the Commissioner of Insurance, who shall also make an examination to ascertain if all requirements of law have been met. After approval by the Attorney General and Commissioner of Insurance the articles shall be filed with the Secretary of State, a certified copy filed with the Commissioner of Insurance and one certified copy filed with the Register of Deeds of the County where the principal office is located. Such filing with the Commissioner of Insurance, together with a deposit of United States Government Bonds, United States Treasury Certificates, bonds of the State of North Dakota, or certificates of deposit of the Bank of North Dakota, in the minimum amount of Two Hundred Fifty Dollars (\$250.00) shall constitute the society's authority to solicit and secure the necessary preliminary members as a basis for issue of certificate of authority; the solicitation of such preliminary members to be conducted in accordance with requirements and regulations prescribed by the commissioner.

Upon issue of certificate of authority as provided for in Section 10 hereof, there shall at all times be maintained the deposit above required, which shall be sufficient in amount until the society's membership reaches one thousand, after which there shall be maintained with the Commissioner a deposit of the nature herein provided for equal in amount to at least twenty-five cents (25c) per member in good standing.

§ 5. CLASSIFICATION OF MEMBERSHIP. UNITS.] Such society may provide for classification of its membership by one or more units, based on the age of individual members, or by the adoption of a maximum limit of one group or unit. On the organization of a new group or unit the society shall notify the Commissioner of Insurance of its proposal to so organize another unit, and the organization thereof shall be conducted in accordance with regulations and requirements prescribed by the Commissioner, the number of members in such unit to be not less than is required for the organization of a society.

Any group or unit of any such society whose membership falls below two hundred (200) shall be consolidated with another group or unit of such society; provided that such group or unit shall have a period of sixty (60) days in which to restore its membership to the minimum herein provided. Provided that an age group composed of members over age sixty-five (65) may be established and maintained at not less than one hundred (100) members.

§ 6. BY-LAWS. CONTROL OF SOCIETY.] By-laws shall be adopted, not contrary to the Articles of Incorporation and the provisions of this Act. Each member shall be entitled to one vote, and shall be notified of the time and place of annual meetings by a notice incorporated in the certificate of membership. Articles of incorporation may be amended and by-laws adopted, amended or repealed at any annual meeting or at a special meeting called for that purpose, by a two-thirds vote of the members voting in person or by proxy.

§ 7. CERTIFICATE OF MEMBERSHIP. MORTUARY FUND. CANCELLATION OF CERTIFICATE.] The certificate of membership shall fully state the conditions on which the benefit shall be paid, which shall be confined to a death benefit to the beneficiary of the deceased member, not exceeding One Thousand Dollars (\$1,000.00). The certificate shall provide for an assessment levy on the membership to be paid after notice and proof of death in an amount not exceeding Two Dollars (\$2.00), the proceeds of such assessment levy to be paid to the beneficiary of the deceased member, less an amount not exceeding ten per cent as an allowance for expenses, and in no event shall such death benefit exceed the maximum amount stated in the certificate. In case the proceeds of one such post-mortem assessment is more than sufficient to pay the death claim for which the levy was made, the balance shall be placed in a mortuary fund and be applied toward payment of the next claim within the unit from which it arose. No assessment levy shall be made unless the balance in the mortuary fund is insufficient to pay a claim on which notice and proof of death has been received. The notice of assessment shall provide that if the member does not make payment within the time named, not less than fifteen nor more than forty-five days from the date of such notice, upon further notice forthwith by mail to the last known address of the member, proof of such mailing to be established on forms provided for that purpose by the United States Post Office Department, his certificate shall be cancelled if payment is not made within ten days of the mailing of such cancellation notice. In case any such assessment is received subsequent to the date of cancellation, as provided in this Section, such assessment may be considered as a reinstatement fee, and placed in the Expense Fund of the society. The certificate together with the application therefor must be approved as to form by the Commissioner of Insurance prior to its issuance.

§ 8. ENTIRE CONTRACT. INCONTESTABILITY. SUICIDE.] The certificate of membership together with the application therefor shall constitute the entire contract, and shall be incontestable after two years from its date of issue, except for fraud, non-payment of assessments or military or naval service in time of war. In event of the member's suicide within two years from the date of issue of the certificate, the society's liability shall be limited to the return of all membership fees and assessments paid.

§ 9. REQUIRED PROVISION IN CERTIFICATE AND APPLICATION.] Every certificate of membership and application for such certificate shall have printed or stamped thereon in red ink and in ten point bold face type: "This is not an insurance policy. The Society maintains no reserve. All benefits are dependent upon voluntary assessments from members."

§ 10. PRELIMINARY APPLICATIONS. CERTIFICATE OF AUTHORITY.] Any such society, before any certificate of membership may be issued, must have actual applications from at least three hundred (300) persons upon which certificates may be simultaneously issued. Such applications shall be submitted to the Commissioner of Insurance, together with a certificate from a solvent bank stating that there has been deposited to the account of the society an amount which is determined by the preliminary applications presented as constituting the entire proceeds of membership fees collected. Upon submission of such preliminary applications and evidence satisfactory to the Commissioner of Insurance that all of the requirements of this Act have been complied with, certificate of authority may be issued.

§ 11. BONDS OF OFFICERS AND AGENTS.] After a society has been licensed by the Commissioner of Insurance the bonding of its officers and agents shall be discretionary with the Board of Directors; provided, however, that during the period between filing of articles of incorporation and issuing certificate of authority the amounts of bonds shall be fixed by the Commissioner of Insurance sufficient to guarantee return of membership fees collected in case the organization is not completed, such bonds to be placed on file with the State Insurance Department.

§ 12. ASSESSMENTS BENEFITS.] It shall be the duty of the secretary, upon receipt of notice and proof of death of a member, and if the Mortuary Fund is insufficient to meet the claim, to levy an assessment upon the membership in accordance with the provisions of the membership certificate and Section 7 of this Act. Such notice shall contain the name and address of the deceased member, the maximum benefit to be paid, the amount of the assessment, date upon which the assessment becomes delinquent, and shall be mailed to each member at the last post office address given the secretary. Upon expiration of the period in which payment of the assessment may be made, and the further period for cancellation hereinbefore provided

for, the secretary shall pay to the beneficiary of the deceased member the proceeds of the assessment then in his possession, and available for the purpose.

§ 13. FUNDS.] The society shall maintain and keep separate two funds, viz: An Expense Fund and a Mortuary Fund. The membership fee, not less than One Dollar (\$1.00) and not more than Five Dollars (\$5.00) may be used for expenses. The certificate of membership shall state the percentage of assessments, not exceeding ten per cent, that may be used for expenses. Such expense allowance shall be credited to the Expense Fund and the balance to the Mortuary Fund. Expense Fund assessments may be levied in accordance with the provisions therefor in the membership certificate, in amounts not exceeding One Dollar (\$1.00), and not more than four such assessments may be levied in any one calendar year; provided, however, that any society having a membership in good standing of five thousand (5000) or more may not levy more than three such Expense Fund assessments, and any society having a membership of ten thousand (10,000) or more may levy not more than two such Expense Fund assessments in any one calendar year. Such Expense Fund assessments, shall be levied uniformly, in point of time, throughout the year. In case of more than one unit of membership the Mortuary Fund shall be kept separate by units. No expenses may be paid from the Mortuary Fund.

§ 14. ANNUAL STATEMENT. RENEWAL CERTIFICATE OF AUTHORITY.] On or before February 1st of each year, all such societies shall file with the Commissioner of Insurance an annual statement as of December 31st next preceding, on forms provided by the Commissioner of Insurance, showing all income by sources, disbursements detailed as to nature, assets, liabilities, number of membership, and such other information as may be required, and shall pay a fee of Ten Dollars (\$10.00) for the filing of such statement. If it appears from such statement that the society has a membership at least equal in number to that required as a condition to authorization, and is otherwise qualified under the requirements of this Act, renewal certificate of authority shall be issued on April 1st next succeeding, for which a fee of Two Dollars (\$2.00) shall be paid.

§ 15. EXAMINATIONS OF SOCIETIES.] The Commissioner of Insurance shall have the same power and authority over all societies to which this Act is applicable as to visitation and examination as are given to him by the statutes of this State over domestic insurance companies, the expenses of such examination to be paid by the society examined. The Commissioner may require a deposit in advance of such examination to guarantee payment of the estimated necessary expense to be incurred.

§ 16. AGENTS LICENSED.] All agents of such societies must

be licensed in the same manner as agents for insurance companies and shall be residents of this State.

§ 17. NO BENEFITS EXCEPT AS PROVIDED.] No benefits on the voluntary contribution plan shall be provided for by any society, except as herein stated.

§ 18. TERRITORY.] Any society organized under the provisions of this Act shall confine its activities, insofar as solicitation by agents is concerned, to the State of North Dakota.

§ 19. APPLICABILITY TO SOCIETIES ALREADY DOING BUSINESS.] Assessment benevolent societies organized and doing business on the effective date of this Act shall, within thirty days of such date, comply with and become subject to the provisions hereof. Any such society having a membership at least equal to that required as a condition to first authorization of a society, shall not be required to present its applications to the Commissioner of Insurance, nor to make a showing that the membership fees are intact to the society. Any such society shall also be required to make a deposit with the Commissioner of Insurance of the nature provided for in Section 4 hereof in the sum of Two Hundred Fifty Dollars (\$250.00). Any additional deposit required to equal twenty-five cents (25¢) per member in good standing may be made in two installments: Fifty per cent within six months from the date of issue of certificate of authority, and the remaining fifty per cent within one year from such date of issue.

Any such society already organized on the effective date of this Act, having a name which does not include the words "Benevolent Society" shall not be required to change its name to comply with Section 4 of this Act; but its membership certificate, stationery and literature shall clearly state that it is a benevolent society.

§ 20. TRANSFER OF MEMBERSHIP.] Any society organized or operating under the provisions of this Act, may, by a two-thirds vote of its members present or voting by proxy at any annual meeting or special meeting called for that purpose, transfer its membership to any other society, or organization; provided, however, that notice of such contemplated action must be mailed to each member in good standing, at his last known post office address, at least fifteen days prior to the date of such meeting; provided, further, that any such transfer of membership, and the conditions thereof, shall have the approval of the Commissioner of Insurance.

§ 21. NOT APPLICABLE TO FRATERNAL BENEFIT SOCIETIES.] Nothing in this Act contained shall be construed as applying to Fraternal Benefit Societies as defined by Section 5059 of the Compiled Laws of North Dakota for 1913 nor to benefit societies organized within and limited to members of Fraternal Benefit Societies.

§ 22. PENALTY.] Any officer or agent violating the provisions

of this Act shall be guilty of a misdemeanor and upon conviction thereof, shall be sentenced to pay a fine of not more than Five Hundred Dollars (\$500.00) or, at the discretion of the Court, to imprisonment in the County jail for a period of not more than six months, or both.

§ 23. REPEAL.] Chapter 160 of the 1931 Session Laws, and all Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 3, 1937.

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## CHAPTER 146

H. B. No. 31—(Peterson of Bottineau)

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### COUNTY MUTUAL INSURANCE COMPANIES—POWER TO BORROW MONEY

An Act to amend and re-enact Section 4950a13 of the Supplement to the Compiled Laws of North Dakota relating to County Mutual Insurance Companies, and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 4950a13 of the Supplement to the Compiled Laws of North Dakota be amended and re-enacted so as to read as follows:

§ 4950a13. NOTICE OF ASSESSMENT. POWER TO BORROW MONEY.] It shall be the duty of the secretary, whenever such assessment shall have been completed to notify every member of such company by letter sent to his last known postoffice 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 made which time shall not be less than thirty (30) nor more than sixty (60) days from the date of such notice. Provided, however, that the Board of Directors shall have the power to grant an extension of not to exceed sixty days for the payment of such assessment if in their judgment it is for the best interest of the company to do so. 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.

§ 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 February 15, 1937.

**CHAPTER 147****S. B. No. 1—(Young, Coffey and Bilden)****PROVIDING FOR THE ORGANIZATION OF FARMERS MUTUAL  
FIRE AND LIGHTNING REINSURANCE COMPANIES**

**An Act providing for the organization of Farmers Mutual Fire and Lightning Reinsurance Companies, and repealing all Acts and parts of Acts in conflict herewith.**

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

§ 1. ORGANIZATION.] Any number of County mutual fire and lightning insurance companies, not less than five, organized under and by virtue of Sections 4932 to 4950, both inclusive, of the Compiled Laws of North Dakota for the year 1913, or Sections 4950a1 to 4950a21 both inclusive of the 1925 Supplement to the Compiled Laws of North Dakota for 1913, may form a corporation for the purpose of reinsuring the fire and lightning risks of the members, on the mutual plan.

§ 2. ARTICLES OF INCORPORATION. BY-LAWS.] The Articles of Incorporation of such corporation shall contain the name, which shall include the words "mutual reinsurance company," purpose, the location of its principal place of business which shall be within this State, the term of its corporation which may be perpetual, the number of directors which shall not be less than five nor more than thirteen, and the names and residences of the persons who are to serve as such until the election and qualification of their successors, and the said articles of incorporation may set forth any other provisions which are permitted under the general incorporation laws of the State, or are permitted in the case of County mutual insurance companies. The by-laws of such farmers state mutual fire and lightning reinsurance company shall contain such provisions for the government of the company and the conduct of its business, as are permitted in the case of County mutual insurance companies.

§ 3. CERTIFIED COPY OF CERTIFICATE OF COMPLIANCE WITH LAW.] The Articles of Incorporation and the by-laws of such corporation, if found in conformity with this Act and not inconsistent with the laws and Constitution of this State, shall be approved by the Commissioner of Insurance, and a certified copy thereof shall be delivered to such members, 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.

§ 4. ANNUAL STATEMENT.] 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.

§ 5. APPLICABILITY OF GENERAL LAWS.] 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 county mutual companies.

§ 6. REPEAL.] All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved February 9, 1937.

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## CHAPTER 148

### H. B. No. 173—(Byrne)

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#### LICENSE RESIDENT AGENTS

An Act to amend and re-enact Section 7 of Chapter 152 of the Session Laws of North Dakota of 1935 relating to the licensing of resident agents for surety and insurance companies other than life insurance companies; and declaring an emergency.

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

§ 1. AMENDMENT.] That Section 7 of Chapter 152 of the Session Laws of North Dakota of 1935 is hereby amended and re-enacted to read as follows:

§ 7. Any surety company or insurance company violating or failing to observe and comply with any of the provisions of this Act shall be subject to a penalty of \$500.00 for the first violation thereof and a penalty of One Thousand (\$1,000.00) Dollars for each subsequent violation or failure to observe and comply with any of the provisions of this Act. Such penalty may be collected and recovered in an action brought in the name of the State in any Court having jurisdiction thereof. Any surety company or insurance company affected hereby which shall neglect and refuse for thirty (30) days after judgment is entered in any such action to pay and discharge the amount of such judgment shall have its authority to transact business in this State suspended by the Commissioner of Insurance, and such suspension shall continue until said fine or fines are paid. Provided, further, that 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.

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

Approved March 10, 1937.

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## CHAPTER 149

H. B. No. 196—(Niewoehner and Biberdorf)

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### PREMIUMS STATE FIRE AND TORNADO INSURANCE

An Act to amend and re-enact Section 189c14 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 12 of Chapter 153 Session Laws of 1935 relating to collection of premiums for fire and tornado insurance on public buildings and investment by the State Treasurer, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 189c14 of the Supplement to the Compiled Laws of 1913 as amended and re-enacted by Section 12 of Chapter 153, Session Laws of 1935, is hereby amended and re-enacted as follows:

§ 189c14. 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 salaries. Such warrants shall be bought at par value and only from the payee named

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

§ 2. 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 10, 1937.

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## INTEREST

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### CHAPTER 150

H. B. No. 75 (Anderson and Livingstone)

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#### INTEREST RATE ON JUDGMENTS

An Act to amend and re-enact Section 6077 of the 1913 Compiled Laws of the State of North Dakota as amended and re-enacted by Chapter 158 of the Session Laws of 1935 relating to the rate of interest to be allowed on judgments.

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

§ 1. AMENDMENT.] That Section 6077 of the 1913 Compiled Laws of the State of North Dakota as amended and re-enacted by Chapter 158 of the Session Laws of 1931 be, and the same is hereby amended and re-enacted to read as follows:

§ 6077. JUDGMENTS BEAR 2% INTEREST.] Interest is payable on judgments recovered in the Courts of this State at the rate of 2% per annum, and no greater rate, and such interest must not be compounded in any manner or form.

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

Approved February 8, 1937.