

repealed; provided, however, that the board of trustees appointed pursuant thereto shall continue to act until their successors, to be appointed under this act, shall have been appointed, and shall have qualified.

§ 14. EMERGENCY.] An emergency exists in this, that there is no legislation authorizing the appointment of successors for the present board of trustees, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved February 28, 1903.

INSURANCE.

CHAPTER 109.

[H. B. No. 123—Mooney.]

PROHIBITING BUSINESS BY FOREIGN MUTUAL HAIL INSURANCE COMPANIES.

AN ACT Prohibiting Foreign Mutual Insurance Companies From Transacting a Hail Insurance Business in This State, Making Contracts Void and Providing a Penalty for the Violation Thereof.

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

§ 1. PROHIBITING HAIL INSURANCE.] No foreign insurance company incorporated upon the mutual plan shall directly, or indirectly, take any hail risk, or transact the business of hail insurance in this state.

§ 2. CONTRACTS AND NOTES VOID.] All contracts, notes, mortgages and other evidence of indebtedness made or taken in violation of section 1 hereof is hereby declared void.

§ 3. PENALTY.] Any person who violates any of the provisions of this act or who procures or induces another to do so is guilty of a misdemeanor.

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 All acts and parts of acts in conflict with the provisions of this act are hereby repealed.

§ 5. EMERGENCY.] Whereas, an emergency exists in this, that there is no law prohibiting foreign mutual insurance companies from transacting a hail insurance business, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 4, 1903.

CHAPTER 110.

[H. B. No. 248—Allen.]

ELECTION OF DIRECTORS OF MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Section 3146 of the Revised Codes of 1899, Relating to the Time for the Holding of the Annual Meeting for the Election of Directors, and Who May Vote.

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

§ 1. AMENDMENT.] That section 3146 of the revised codes of 1899 be amended so as to read as follows:

§ 3146. ELECTION OF DIRECTORS.] The directors of each company so formed, shall be chosen by a vote at the annual election thereof, which shall be held on the last Tuesday in June of each year, and every member shall have one vote, but no person shall vote by proxy at such election; provided, that in any company organized under the provisions of this article, whose policies of insurance shall not run for a longer period than one year, all persons holding policies of insurance therein during the year immediately preceding the annual election, shall be considered as members of said company and shall be entitled to vote at such election.

§ 2. EMERGENCY.] Whereas, an emergency exists in this, that there is no sufficient law governing same, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.

CHAPTER 111.

[S. B. No. 25—Lewis.]

SUICIDE NO DEFENSE IN LIFE INSURANCE.

AN ACT in Relation to the Defense of Suicide in Suits Brought Upon Life Insurance Policies.

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

§ 1. SUICIDE NO DEFENSE AFTER ONE YEAR.] In all suits upon policies of insurance on life hereafter issued by any regular or assessment insurance company, doing business in this state, it shall be no defense after the policy has been in force one year, that the insured committed suicide, and any stipulation in the policy to the contrary shall be void.

Approved March 5, 1903.

CHAPTER 112.

[S. B. No. 17—Little.]

LICENSING INSURANCE AGENTS.

AN ACT to Provide for the Licensing of Agents to Solicit for Insurance Companies and Fixing the Penalty for Violation of the Same.

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

§ 1. AGENTS DEFINED.] Whoever solicits insurance on behalf of any insurance corporation or person desiring insurance of any kind, or transmits an application for a policy of insurance, other than for himself, to or from any such corporation, or who makes any contract for insurance, or collects any premium for insurance, or in any manner aids or assists in doing either, or in transacting any business of like nature for any insurance corporation, or advertising to do any such thing, shall be held to be an agent of such corporation to all intents and purposes, unless it can be shown that he receives no compensation for such services. This section shall not apply to fraternal, assessment or beneficiary associations.

§ 2. MUST HAVE LICENSE. PENALTY FOR NON-COMPLIANCE.] No officer or broker, agent or sub-agent of any insurance corporation of any kind, except county mutual insurance corporations of this state, shall act or aid in any manner in transacting the business of or with such corporation, in placing risks or effecting insurance therein, without first procuring from the commissioner of insurance a certificate of authority as provided by law, nor after the period named in such certificate shall have expired. Every person violating the provisions of this act shall be guilty of a misdemeanor and be punished by a fine of not less than fifty dollars nor more than five hundred dollars for each offense.

§ 3. EMERGENCY.] Whereas, an emergency exists in that the present law is inadequate to prevent unauthorized persons or agents from soliciting insurance without a certificate of authority, this act shall take effect and be in force from and after its passage and approval.

Approved February 11, 1903.

CHAPTER 113.

[H. B. No. 32—Underwood.]

FIDELITY INSURANCE AND CORPORATE SURETYSHIP.

AN ACT to Provide Uniform Regulations Governing Corporations Organized in Whole or in Part for the Purpose of Transacting the Business of Fidelity Insurance and Corporate Suretyship.

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

§ 1. FIDELITY INSURANCE AND CORPORATE SURETYSHIP. MAY BE SOLE SURETY ON BONDS.] Any corporation organized under the laws of the state of North Dakota, or of any state of the United States, or of any foreign country, to transact the business of fidelity insurance and corporate suretyship, and authorized to do business in this state, as hereinafter provided, may make contracts of insurance to guarantee the fidelity of persons holding positions of trust in private or public employment or responsibility, and may; if accepted and approved by the court, magistrate, obligee or person competent to approve such bond act as surety upon the official bond or undertaking of any person or corporation, to the United States, to the state of North Dakota, or to any county, city, town, school district, court, judge, magistrate or public officer, or to any corporation or association, public or private; and may also act as surety upon any bond or undertaking to any person or corporation conditioned upon the performance of any duty or trust, or for the doing or not doing of anything in such bond specified, and to indemnify against loss any person who is responsible as surety upon a written instrument or otherwise, for the performance of the officers of any office, employment, contract or trust. When by law two or more sureties are required upon any obligation, any corporation qualified as herein provided is authorized to insure, and it may act as sole surety thereon, and may be accepted as such by the court, magistrate or other officer or person authorized to approve of the sufficiency of such bond or undertaking.

§ 2. ACCEPTANCE OF SUCH BOND.] Whenever any bond, undertaking, recognizance or other obligation is, by law, or the charter, ordinance, rules or regulations of any municipality, board, body, organization, court, judge, or public officer, required or permitted to be made, given, tendered or filed with any surety or sureties, and whenever the performance of any act, duty or obligation or the refraining from any act, is required or permitted to be guaranteed, such bond, undertaking, obligation, recognizance or guarantee may be executed by a surety company, qualified under this chapter; provided, that such execution by such company of such bond, undertaking, obligation, recognizance or guarantee, shall be in all respects a full and complete

compliance with every requirement of every law, chapter [charter] ordinance, rule or regulation; and such bond shall be valid and shall be accepted notwithstanding any requirement of law that such bond, undertaking, obligation, recognizance or guarantee shall be executed by one or more sureties, or that such sureties shall be residents or householders or freeholders, or either or both, or possess any other qualifications, and all courts, judges, heads of departments, boards, bodies, municipalities and public officers of every character, shall accept and treat such bond, undertaking, obligation, recognizance or guarantee when so executed by such company, as conforming to and fully and completely complying with every such requirement, and every such law, charter, ordinance, rule or regulation.

§ 3. EXPENSE OF BOND. HOW PAID.] Any receiver, assignee, guardian, trustee, committee, executor, administrator or other fiduciary required by law or ordered by any court or judge to give a bond or other obligation as such, may include as a part of the lawful expense of executing his trust, such reasonable sum paid to a corporation authorized under the laws of this state so to do, for acting as surety on such bond, as may be allowed by the court in which the judge before whom he is required to account, not exceeding one per cent per annum, or fraction thereof, on the amount of such bond, and in all actions and proceedings a party entitled to recover disbursements therein shall be allowed, and may tax and recover such sum paid such corporation for executing any bond, recognizance or undertaking therein, not less than five dollars, nor more than one per cent per year, or fraction thereof, on the amount of the penalty or liability in such bond, recognizance or undertaking specified, while the same has been in force.

§ 4. MUST COMPLY WITH THE LAWS OF STATE.] Every corporation not organized under the laws of the state of North Dakota, to be qualified to act as surety or guarantor, must comply with the requirements of every law of this state applicable to such company, and to foreign insurance companies doing business thereunder; must be authorized under the laws of the state wherein incorporated, and under its charter to be surety upon such bond, undertaking, recognizance or obligation, must have fully paid up and safely invested and unimpaired capital of at least two hundred thousand dollars; must have good and available assets exceeding its liabilities, which liabilities, for the purpose of this article, shall be taken to be its capital stock, debts outstanding, and a premium reserve at the rate of fifty per centum of the current annual premiums on each outstanding bond or obligation of like character in force; must file with the commissioner of insurance a certified copy of its certificate or incorporation, a written application to be authorized to do business in this state, also with such application, and in each year thereafter, a statement, verified under oath, made up to December 31 preceding, stating the amount

of its paid up cash capital, particularizing each item of investment, the amount of premiums upon existing bonds, undertakings and obligations of like character in force upon which it is surety, the amount of liability for unearned portion thereof, estimated at the rate or fifty per centum of the current annual premiums on such bond, undertaking, recognizance and obligation in force, stating also the amount of debts outstanding, obligations of all kinds, and such further facts as may be by the laws of this state required of such company in transacting business therein; and if such company be organized under the laws of any other state than this state, it must have on deposit with a state officer of one of the states of the United States not less than one hundred thousand dollars in securities prescribed by law, deposited with and held by such officer for the benefit of the holders of its obligations. It must also, by a duly executed instrument, filed in his office, constitute and appoint the commissioner of insurance of this state and his successors, its true and lawful attorney, upon whom all process in any action or proceeding against it may be served, and therein must agree that any process which may be served upon its attorney shall be of the same force and validity as if served upon the corporation, and that the authority thereof shall continue in force irrevocable, so long as any liability of the company remains outstanding in this state. Service upon such attorney shall be deemed sufficient service upon the corporation.

§ 5. DOMESTIC SURETY COMPANIES.] Every corporation organized under the laws of this state, and for the purpose in whole or in part of transacting the business of fidelity or corporate suretyship, must comply with the provisions of chapter 20½, civil code, 1899, revised codes, being chapter 142 of the laws of 1897, and amendments thereto, and section 3132, revised codes of 1899, and upon such corporations filing in the office of the commissioner of insurance a certificate issued by the state auditor, to the effect that such corporation has complied with the provisions of section 3258c, together with a certified copy of its articles of incorporation, and the payment of the proper fees therefor, the commissioner of insurance shall issue to such corporation a certificate as provided in section 3115d, and shall issue to its agents certificates as provided in section 3124, which certificate shall be issued yearly on the filing by such corporation of a statement of its condition as of December 31 of the year last ending.

§ 6. CONCURRENT UNDERTAKINGS.] Whenever any bond, undertaking or other obligation is by law, or the charter, ordinances, rules and regulations of any municipality, board, body, organization, court or public officer, required or permitted to be made, given or filed as hereinbefore provided, and whenever the amount thereof is fixed by law or by the charter, ordinances, rules or regulations of any municipality, board, body, organization, court, judge or public officer, then two or more such bonds executed by corporations qualified under the laws of this state, and aggregating the amount so fixed or determined, may be accepted and shall be in all things treated as one bond or ob-

ligation, and in case of loss or liability thereunder, the amount of such loss or liability, chargeable against each such bond or undertaking, shall be the same proportion of the entire loss or liability, as such bond or obligation bears to the aggregate amount of the penalty or liability specified in all of such bonds, whether such proportion be stated therein or not.

§ 7. RELIEF FROM LIABILITY.] The surety, or the representative of any surety upon a bond of any officer or fiduciary, may apply by petition to the court wherein said bond is directed to be filed or which may have jurisdiction of the beneficiary thereunder, praying to be relieved from further liability thereon, and to require said officer or fiduciary to show cause why he should not account and said surety be relieved from such further liability as aforesaid, and the said principal be required to give a new bond, and thereupon and upon the filing of said petition, said court shall issue an order returnable at such time and place, and to be served in such manner as said court shall direct, and may restrain such officer or fiduciary from acting except in such manner as it may direct therein, to preserve the trust estate, and upon the return of such order to show cause, if the principal in the bond account in due form of law and file a new bond, duly approved; then said court must make an order releasing said surety filing the petition aforesaid from further liability upon the bond for any subsequent act or default of the principal, and in default of said principal this accounting and filing said new bond, the said court shall make an order directing such officer and fiduciary to account in due form of law within thirty days, and that if the trust fund or estate shall be found or made good, or properly secured in the manner directed by the court, such company shall be discharged from any and all further liabilities as such for the subsequent acts or omissions of the said officer or fiduciary after the date of the said surety being so relieved or discharged, and discharging said trustee, officer or other fiduciary.

§ 8. REPORT OF TAXES.] Every foreign corporation doing business in this state, under the provisions of this article, shall, at the time of making the annual statement of business done as required by law, pay to the commissioner of insurance two and one-half per cent of the gross premiums, fees or charges received in this state during the preceding year upon all bonds or undertakings written by it, for or in behalf of any person in this state, and only upon and after the payment of such sum, the commissioner of insurance shall issue the annual certificate provided by law.

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

§ 10. EMERGENCY.] Whereas, there are now in force apparently conflicting provisions of law relating to fidelity insurance, therefore, this act shall take effect upon its passage and approval.

Approved March 10, 1903.

CHAPTER 114.

[H. B. No. 97—Watts.]

REGULATING MUTUAL HAIL INSURANCE COMPANIES.

AN ACT Requiring Mutual Hail Insurance Companies to Deposit with the State Treasurer Funds for the Security of their Members.

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

§ 1. MUTUAL INSURANCE COMPANIES CAN ENGAGE IN HAIL INSURANCE. WHEN.] No mutual insurance company hereafter organized under the laws of this state, or now or hereafter organized under the laws of any state or country, shall engage in the business of hail insurance in this state without first depositing and thereafter keeping on deposit with the treasurer of this state, the sum of twenty-five thousand dollars in money, or in lieu thereof bonds of this state or of the United States, of the par value of twenty-five thousand dollars.

§ 2. DUTIES OF STATE TREASURER.] Said money or securities so deposited shall be and remain in the hands of the treasurer of this state as a fund to secure the payment of all losses occurring under all policies or contracts for hail insurance, made by such company in this state, or covering property situated within the state. And the treasurer of this state shall not permit said deposit or any part thereof to be withdrawn by said company from his custody except as hereinafter provided.

§ 3. PENALTY.] If any such company hereafter organized under the laws of this state shall violate any of the provisions of this act, the charter of said company or association shall thereupon be forfeited and it shall be the duty of the attorney general, on complaint of the commissioner of insurance, to take all legal proceedings necessary to have such forfeiture enforced and such company dissolved and its affairs wound up.

§ 4. CAN RELINQUISH BUSINESS. How.] When any such company or corporation, having made the deposit as herein provided, desires to relinquish the transaction of the business of hail insurance in this state and withdraw such deposit, and shall file with the commissioner of insurance an application, under the oath of its officers, stating that all its liabilities arising under the contracts or policies above mentioned are paid, the commissioner of insurance shall thereupon publish notice of such application in a newspaper published at the capital of the state, twice a week for a period of three months, and after such publication, on his being satisfied by the exhibition of the books and papers of such company, and on examination by himself or a person appointed by him, that all liabilities under the policies or contracts herein mentioned have been fully paid and extinguished, the

commissioner of insurance shall thereupon file a certificate to that effect with the treasurer of this state, who shall thereupon deliver such deposit to said company, or its assigns. Or if it shall appear from such application and examination that all the liabilities of such company have not been paid and extinguished, and that the amount of such deposit is more than equal to twice the amount of such remaining liabilities, and the treasurer shall thereupon pay to such company, or its assigns, a part of such deposit, retaining an amount equal to twice the amount of the liabilities so remaining.

§ 5. COMPANIES MAY COLLECT INTEREST.] So long as any deposit required by this act is kept good, and the depositing company is solvent, the state treasurer may permit the company to collect the interest on the securities so deposited, and from time to time to withdraw any such certificate [securities] on depositing with him others of the value and character required by this act.

§ 6. WHO MAY INSTITUTE PROCEEDINGS.] Any insurance company which has made such deposit, or the commissioner of insurance in the name of the state, or any person entitled to the benefit of such deposit, may at any time institute in the district court of Burleigh county legal proceedings against this state and other parties properly joined therein to enforce, administer or terminate the trust created by such deposit. The process in such suits shall be served upon the insurance commissioner of this state, who shall appear and answer in its behalf, and he and the treasurer of this state shall perform such orders and decrees as the court may make therein.

§ 7. EMERGENCY.] Whereas, an emergency exists in this, that there is no law prohibiting mutual insurance companies from transacting hail insurance business without first making deposit with the state treasurer, therefore, this act shall take effect and be in force from and after its passage and approval.

Approved March 10, 1903.