

# INSURANCE

## CHAPTER 151

S. B. No. 101—(Committee on Insurance)

### CAPITAL STOCK, INSURANCE COMPANIES

An Act to amend and re-enact Section 4863 of the 1925 supplement to the Compiled Laws of North Dakota for the year 1913, as amended by Chapter 145 of the Session Laws of 1929, and further amended by Chapter 131 of the Session Laws of 1933, relating to capital stock of domestic and other insurance companies, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 4863 of the 1925 Supplement to the Compiled Laws of North Dakota for the year 1913 as amended by Chapter 145 of the Session Laws of 1929, and further amended by Chapter 131 of the Session Laws of 1933, is hereby amended and re-enacted as follows:

§ 4863. CAPITAL STOCK REQUIRED.] No stock life insurance company shall be incorporated under this Chapter unless it has an authorized capital stock of at least \$150,000 and a surplus of at least \$75,000; provided, that if the articles of incorporation of such company permits also the writing of accident and health insurance, such authorized capital stock shall be not less than \$200,000. Domestic stock insurance companies writing accident and health insurance shall have an authorized capital stock of at least \$200,000 and a surplus of at least \$75,000. Such domestic companies writing other than life and/or accident and health shall have an authorized capital of not less than \$250,000 and surplus of not less than \$100,000. No domestic stock insurance company may issue any policy of insurance until at least fifty (50%) per cent of the minimum capital stock required by this section, and all surplus required shall have been paid in, the residue of capital stock to be paid in within twelve months from the time of filing the articles of incorporation; provided, that the Commissioner of Insurance may, for good cause shown, extend the time of payment of such residue for the further period of one year.

No foreign stock insurance company shall hereafter be admitted to do business in this state unless it has fully paid up capital stock and surplus at least equal to the stock and surplus required of domestic companies transacting the same classes of insurance.

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 All acts and parts of acts in conflict herewith are hereby repealed.

§ 3. 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, 1943.

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## CHAPTER 152

S. B. No. 127—(Page, Lofthus, Wog, Brant, Bridston and Lavik)

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### CATASTROPHE INSURANCE

An Act to Require the Commissioner of Insurance to Procure Catastrophe Insurance, and to Regulate the Type and Extent thereof.

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

§ 1. From and after the first day of August, 1943, the Commissioner of Insurance is directed and required to procure and he shall keep in force a policy or policies of excess Catastrophe Insurance against the hazards of fire and windstorm on all property insured in the State Fire & Tornado Insurance Fund. Such Catastrophe Insurance shall insure the said Fund against any loss in excess of \$100,000.00 arising from any single catastrophe, as that term is defined in the usual policies of Catastrophe Insurance, against the hazards of fire and windstorm, except in the case of so-called fire proof buildings in protected areas, rated by the Fire Underwriters Inspection Bureau as Class "A" or "AX" risks, and as to such risks, such protection shall be afforded as to the hazard of windstorm only.

§ 2. On or before the second Monday in July of 1943, and of each odd numbered year thereafter, the Commissioner of Insurance shall publish in the official newspaper of Burleigh County, North Dakota, a notice that on the last Monday in July the Insurance Commissioner will accept bids for such Catastrophe Insurance at his office in the City of Bismarck. A copy of such notice shall also be posted at the office of the Fire and Tornado Fund. A schedule of all properties insured by the State Fire and Tornado Fund shall be made available by the Insurance Commissioner to any person, firm or corporation who may request the same. On said last Monday in July of each odd numbered year, the Commissioner of Insurance shall contract for such excess Catastrophe Insurance

from the Company or group of Companies submitting the lowest, responsible and qualified bid therefor for the two-year period commencing on the ensuing first day of August.

§ 3. If, for any reason, it is found impossible to secure Catastrophe Insurance exactly according to the stipulations in Section 1 of this Act, the Commissioner of Insurance may make whatever changes are necessary in these stipulations in order to secure catastrophe bids from insurance companies. Provided, however, that no loss shall be covered by such Catastrophe Insurance below \$100,000.00. Provided, further, that if the Commissioner of Insurance should find that insurance companies would not include the State Mill and Elevator, the twine and cordage plant or any other extraordinary risks of like nature owned by the State of North Dakota or any of its political sub-divisions, he may secure re-insurance on such risks, over \$100,000.00, through separate bids in similar manner to that provided in Section 2 above.

§ 4. No company shall be permitted to assume a share of such Catastrophe Insurance risk in excess of the amount permitted by law based upon the assets and liabilities of said company.

§ 5. All Acts or parts of Acts in conflict herewith are hereby repealed.

Approved March 20, 1943.

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## CHAPTER 153

S. B. No. 102—(Committee on Insurance)

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### DUTIES OF COMMISSIONER OF INSURANCE

An Act to amend and re-enact Section 172 of the Compiled Laws of North Dakota for the year 1913, relating to the duties of the Commissioner of Insurance.

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

§ 1. AMENDMENT.] Section 172 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted as follows:

§ 172. DUTIES OF.] It is the duty of the Commissioner of Insurance:

1. To see that all laws of this state respecting insurance companies are faithfully executed.

2. To file in his office the articles of incorporation of all insurance companies organized or doing business in this state, and on application to furnish a certified copy thereof.

3. To report in detail to the attorney general any violation of law relative to insurance companies, their officers or agents.

4. To furnish the insurance companies required to make reports to him the necessary blank forms for the statements required. However, the Commissioner of Insurance shall not be required to send blank forms to those insurance companies which do not use the forms furnished by him, but instead submit their reports on printed forms conforming to those furnished by the Commissioner of Insurance.

5. To preserve in permanent form a full record of his proceedings and a concise statement of each company or agency visited or examined.

6. To furnish at the request of any person and on payment of his fees certified copies of any record or paper in his office, when he deems it not prejudicial to public interests so to do, and to give such other certificates as may be provided by law.

7. To furnish a written report to the governor on or before the fifteenth day of November of each year showing his official acts, the receipts and expenditures of his department during the preceding fiscal year, the condition of the companies doing business in this state and such other information as will exhibit the affairs of his department; which report shall be printed, to the number of five hundred, at the expense of the state, and distributed among the members of the succeeding legislative assembly, and otherwise as provided by law. Such report must contain only an abstract of the reports of insurance companies.

8. To send a copy of his annual report to the insurance commissioner or other similar officer, of every state and to each company doing business in this state.

9. To communicate on request to the insurance commissioner of any other state any facts which by law it is his duty to ascertain respecting companies doing business within such state.

10. To have an official seal and to employ competent clerks, such clerks to discharge such duties as he may assign, and in case of his sickness or temporary absence from office, his chief clerk shall have authority to sign his name and perform such other duties as are required by law pertaining to the duties of such commissioner of insurance.

Approved March 11, 1943.

## CHAPTER 154

S. B. No. 100—(Committee on Insurance)

## FRATERNAL BENEFIT SOCIETIES, REGULATIONS

An Act to amend and re-enact Section 5061 of the Compiled Laws of North Dakota for the year 1913, relating to the government of fraternal benefit societies, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 5061 of the Compiled Laws of North Dakota for the year 1913 is hereby amended as follows:

§ 5061. REPRESENTATIVE FORM OF GOVERNMENT DEFINED; PROXY PROHIBITED; SUPREME MEETING IN EMERGENCY.] Any society of the kind mentioned in Section 5059, Compiled Laws of 1913, shall be deemed to have a representative form of government within the meaning of such section when it shall provide in its constitution and laws for a supreme legislative or governing body composed of representatives elected by the members or delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws if:

1. The elective members shall constitute a majority in number and shall have not less than two-thirds of the votes, nor less than the number of votes required to amend the constitution and laws of the society;
2. The meeting of the supreme governing body and the election of officers, representatives, or delegates shall be held as often as once in four years; and
3. The members, officers, representatives, or delegates of the society shall not vote by proxy.

However, during any period of a national emergency, upon petition or application duly made by the executive officer of any society to the commissioner of Insurance at least sixty days prior to the date on which said supreme or governing body is to meet, the Commissioner of Insurance in his discretion, upon a complete investigation of the merits of said petition or application, may grant a continuance or postponement of said meeting for a period of not to exceed one year. If said emergency shall continue to exist at the end of the postponement period, a further petition or application may be made and a further continuance or postponement may be granted as above provided; but no continuance shall be granted after the period of the emergency shall cease to exist.

§ 2. EMERGENCY.] This act is hereby declared to be an emer-

gency measure and shall be in full force and effect from and after its passage and approval.

Approved March 12, 1943.

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## CHAPTER 155

S. B. No. 129—(Page, Lofthus, Wog, Brant, Bridston and Lavik)

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### INSURANCE COMPANY EXAMINATIONS

An Act to require all Insurance Company Examinations conducted by the Commissioner of Insurance to be conducted by qualified regular employees, and to require the payment of compensation received for such services into the State Treasury.

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

§ 1. EXAMINATIONS; BY WHOM CONDUCTED; COMPENSATION TO BE PAID INTO STATE TREASURY.] From and after the effective date of this Act, all examinations of Insurance Companies required or permitted by law to be conducted by the Insurance Commissioner and whether or not the same are so-called convention examinations, shall be conducted by qualified regular employees of the Insurance Commissioner, and their compensation shall be paid out of the appropriation for that department. Any sums paid to said employees or to the Insurance Department or Commissioner by the company or companies examined, as an examination fee or otherwise, shall be deemed to be State money, and shall be forthwith paid into the State Treasury. Any sums paid to the employee or the Department or Commissioner as expense money for the examiner may be paid direct to the employee, and no employee may charge or collect from the State any expenses incurred in connection with any examination for or during which his expense or any part thereof have been paid by any other person, firm or corporation.

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

Approved March 20, 1943.

## CHAPTER 156

S. B. No. 97—(Committee on Insurance)

**INVESTMENT OF FUNDS DOMESTIC INSURANCE COMPANIES**

An Act to amend and re-enact Section 1 of Chapter 132 of the Session Laws of 1933, relating to the investment of funds of domestic insurance companies, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 1 of Chapter 132 of the Session Laws of 1933 is hereby amended and re-enacted as follows:

§ 1. INVESTMENT OF FUNDS MUST BE AUTHORIZED BY DIRECTORS; INVESTMENT PRACTICES WHICH ARE PROHIBITED.] No investment or loan, except a policy loan, shall be made by any domestic insurance company unless the same first shall have been authorized by the board of directors of the company or by a committee thereof charged with the duty of supervising the making of loans or investments by the company. No domestic insurance company shall:

1. Subscribe to or participate in any underwriting of the purchase or sale of securities or property;
2. Enter into any transaction for the purchase or sale of any securities or property on account of said company jointly with any other person, firm or corporation;
3. Enter into any agreement to withhold any of its property from sale, but the disposition of its property at all times shall be within the control of its board of directors;
4. Invest any of its funds in, or loan the same upon, the shares of stock of any corporation except as otherwise provided herein;
5. Invest any of its funds in, or loan the same upon, any bonds or obligations, except government, state or municipal securities, which are not secured by adequate collateral security to the full extent of the investment, except as otherwise provided herein;
6. Invest its capital, surplus funds or other assets in, or loan the same upon, any property owned by any officer or director of the company, or by any of the immediate members of the family of any such officer or director, nor in any manner which will permit any such officer or director to gain through the investment of funds of the company.

§ 2. INVESTMENT OF FUNDS OF INSURANCE COMPANIES; IN

WHAT AUTHORIZED.] A domestic insurance company may invest any of its funds and accumulations in:

1. Securities or obligations which are made eligible specifically to such investment by law;
2. Bonds or other evidences of indebtedness of the United States of America, or of any state in the United States, or of any county, city, village, township, duly organized school district, municipality or other civil division therein, including those payable from special revenues or earnings specifically pledged for the payment thereof, and those payable from special assessments;
3. Notes secured by mortgages on improved unencumbered real estate, including leaseholds substantially having and furnishing the rights and protection of a first real estate mortgage, within this state or within any state in which such company is, or becomes, duly authorized and licensed to transact business, or within any state contiguous to the state of North Dakota. No loan shall be made under this subsection, however, unless the property mortgaged is worth double the amount of the loan secured by the mortgage, except that where a loan is amortized on the basis of a final maturity twenty-five years or less from the date of the loan, it may be made in an amount not exceeding sixty-six and two-thirds per cent of the value of the property mortgaged. Buildings shall not be included in the valuation of such property unless they are insured and the policies are made payable to the company as its interest may appear, and then only to the extent of such insurance;
4. First mortgage bonds on improved city real estate, in any state, issued by a corporation duly incorporated under the laws of any state of the United States of America, if the loans on such real estate are made in accordance with the requirements as to the first mortgage loans set forth in Section 2, subsection 3;
5. Mortgage bonds and debentures of any solvent railway company duly incorporated and authorized under the laws of this state or of any other state in the United States;
6. Mortgage bonds and debentures of any solvent industrial or public utility corporation duly incorporated and authorized under the laws of the United States of America or of any state therein;
7. Promissory notes amply secured by the pledge of bonds or other evidences of indebtedness in which the company is authorized to invest its funds by the provisions of this section;



8. Bonds or other evidences of indebtedness issued or guaranteed by any instrumentality of the United States of America;
9. Shares and savings in domestic building and loan associations and Federal Savings and loan associations; shares and savings in building and loan associations organized under the laws of other states, provided such shares and savings are insured by the Federal Savings and Loan Insurance Corporation;
10. Loans made upon the security of its own policies, if a life insurance company, but no loan on any policy shall exceed the reserve value thereof.

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

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

Approved March 12, 1943.

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## CHAPTER 157

S. B. No. 99—(Committee on Insurance)

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### MUTUAL INSURANCE COMPANIES LIMITATION AND LICENSE

An Act to amend and re-enact Section 4881a7 of the 1925 Supplement to the Compiled Laws of North Dakota, relating to incorporated mutual insurance companies, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 4881a7 of the 1925 Supplement to the Compiled Laws of North Dakota is hereby amended and re-enacted as follows:

§ 4881a7. LICENSE NECESSARY; PREREQUISITES TO GRANTING.] No such company shall issue policies or transact any business of insurance unless it shall hold a license from the commissioner authorizing the transaction of such business, which license shall not be issued until and unless the company shall comply with the following conditions.

- (a) It shall hold bona fide applications for insurance upon

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

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

(c) It shall have collected a premium upon each application which premiums shall be held in cash or securities in which insurance companies are authorized to invest and shall be equal in case of fire insurance to not less than twice the maximum single risk assumed subject to one fire nor less than ten thousand dollars; and in any other kind of insurance as listed in Section 4881a6, to not less than five times the maximum single risk assumed nor less than ten thousand dollars.

(d) Such companies shall at all times maintain admitted assets of at least \$10,000, and surplus of admitted assets over all liabilities of at least \$5,000.

§ 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 12, 1943.

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## CHAPTER 158

S. B. No. 103—(Committee on Insurance)

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### ORGANIZATION, DOMESTIC MUTUAL LIFE INSURANCE COMPANIES

An Act to amend and re-enact Section 4870 of the Compiled Laws of North Dakota for the year 1913, relating to the organization of domestic mutual life insurance companies, and declaring an emergency.

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

§ 1. AMENDMENT.] Section 4870 of the Compiled Laws of North Dakota for the year 1913 is hereby amended and re-enacted as follows:

§ 4870. AMOUNT OF SUBSCRIBED INSURANCE REQUIRED. SURPLUS REQUIRED.] No policy shall be issued by a purely mutual life

insurance company until not less than two hundred thousand dollars of insurance in not less than two hundred separate risks have been subscribed for and entered on its books. The commissioner of insurance shall not grant a certificate of authority for the transaction of business to such a company unless it has assets of at least \$25,000 in cash or in investments as prescribed by law, and surplus of assets over all liabilities of at least \$10,000. Surplus of at least this amount shall be maintained by a domestic mutual life insurance company at all times.

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

§ 3. 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, 1943.

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## CHAPTER 159

S. B. No. 122—(Page, Lofthus, Wog, Brant, Bridston and Lavik)

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### STATE FIRE AND TORNADO ACT AMENDMENT

An Act to amend and re-enact Sections 189c1 to 189c14 inclusive of the 1925 Supplement to the Compiled Laws of 1925, as amended by Chapter 153, Laws of 1935 and Chapter 149, Laws of 1937, being Chapter 24 of Title 26, Insurance in North Dakota, Revised Code for 1943, and to provide for the risks to be covered, the method of valuing the same, the types of coverage, and the conduct of the business of the State Fire and Tornado Fund, and to provide the method of paying losses and expense of operation, to prohibit the Insurance Commissioner from writing, soliciting or brokering any Insurance Coverages other than those specifically authorized by law, and providing for the cancellation of re-insurance, and repealing all Acts or parts of Acts in conflict herewith.

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

AMENDMENT: That Sections 189c1 to 189c14 inclusive, of the 1925 Supplement to the Compiled Laws of 1925, as amended by Chapter 153, Laws of 1935 and Chapter 149, Laws of 1937, being Chapter 24 of Title 26, Insurance In North Dakota, Revised Code for 1943; be amended and re-enacted to read as follows:

§ 1. DEFINITIONS.] In this Act unless the context or subject matter otherwise requires;

- (1) Commissioner shall mean the Commissioner of Insurance;
- (2) Fund, shall mean the State Fire and Tornado Fund;
- (3) Political Subdivision, shall include a County, City, Township, Village, School District or Park District of this State;
- (4) Permanent Contents, shall refer only to such property as is regularly kept and used within an insured building and shall not include automobiles, trucks, tractors, road machinery or similar property used principally outside of such buildings.

§ 2. STATE FIRE AND TORNADO FUND UNDER MANAGEMENT OF COMMISSIONER OF INSURANCE.] The Fund shall be under the management of the Commissioner and shall be maintained as a fund to insure the various state industries and the various political sub-divisions against loss to the public buildings and fixtures and permanent contents therein, through fire, lightning, inherent explosion, windstorm, cyclone and tornado and hail, explosion, riot attending a strike, aircraft, smoke and vehicles. All monies collected under the provisions of this act shall be paid into such Fund and shall be used only for the purposes provided for in this act.

§ 3. EMPLOYMENT OF ASSISTANTS—EXPENDITURES FROM FUND.] To carry out the provisions of this Act, the Commissioner may utilize the services of any deputy fire marshal and of any of the employees in the Department of Insurance and he may employ such assistants and incur such expense as may be necessary but all expenditures made for such purposes shall remain within the limits of appropriations made therefor by the legislative assembly from time to time and shall be paid out of the fund upon warrant of the Commissioner drawn upon the State Treasurer against such Fund.

§ 4. PUBLIC BUILDINGS INSURABLE ONLY IN FUND.] The public buildings and fixtures and permanent contents therein belonging to the State, the various State industries and the political sub-divisions of the State, shall be insured under the provisions of this Act. No officer or agent of the State or of any political sub-division thereof and no person having charge of any public buildings belonging to the State, any State Industry or any political sub-division of the State, shall pay out any public monies or funds on account of any insurance against loss by fire, lightning, inherent explosion, windstorm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke and vehicle, or contract in any manner for or incur any indebtedness against the State or any political sub-division thereof on account of any such insurance upon any of the buildings or fixtures and permanent contents there-

in belonging to the State or any political sub-division thereof, except in the manner provided in this Act.

§ 5. CERTAIN PROPERTY OF STATE AND OF BANK OF NORTH DAKOTA EXCEPTED.] The provisions of this Act shall not apply to farm buildings situated on land owned by the State, nor to the property of the Bank of North Dakota, other than its banking house, furniture and fixtures located in the City of Bismarck.

§ 6. TOWNSHIPS AND SCHOOL DISTRICTS HAVE OPTION AS TO INSURANCE OF CERTAIN PROPERTY.] The provisions of this Act shall not apply to the property of any township or school district located outside of the incorporated limits of a city or village, unless the clerk of the township or school district, at the direction of a Board of township supervisors or school board, as the case may be, shall file with the Commissioner a written application for such insurance and request that such township or school district come under the provisions of this Act. To be effective, such applications must be approved in writing by the Commissioner.

§ 7. DEPOSIT OF FUND AT INTEREST; INVESTMENTS AUTHORIZED; CONTINUING APPROPRIATION.] The State Treasurer shall deposit the fund in the Bank of North Dakota, subject to check, at the usual rate of interest paid on other funds of the State. Whenever there is more than fifty thousand dollars in such checking account, the State Treasurer shall deposit the excess over such amount upon time certificates of deposits drawing the same rate of interest as is drawn on other State funds deposited upon time certificates. The Commissioner, when authorized to do so by a resolution duly adopted by the Industrial Commission of the State of North Dakota, may invest excess monies in the fund in bonds of the United States of America, bonds of the State of North Dakota or of any other State, or in certificates of indebtedness of the State of North Dakota or in bonds or certificates of indebtedness of any political sub-division of the State of North Dakota which constitute the general obligations of the issuing tax authority. Investment in bonds or certificates of indebtedness of political sub-divisions at no time shall exceed twenty-five percent of the amount of the fund and shall be made only in such securities issued by political sub-divisions having an assessed valuation in excess of two million dollars. In addition to the investments herein provided for, such monies may be invested in legally issued and registered warrants of any school district in this State issued in payment of salaries, and such warrants shall be bought at par value and only from the payee named in such warrant. Before any investment except registered school district warrants of any school district in this State is made in any securities, however, the investment shall be duly authorized by the Commissioner, and such securities shall be approved by the Attorney General as to the form and legality thereof. The State

Treasurer shall be the custodian of all such bonds, certificates, and warrants, and the Commissioner shall deliver any such securities so purchased to the State Treasurer as such custodian. This section shall constitute a continuing appropriation out of the fund of all monies that may be required for the making of the investments authorized by this section. The Commissioner or any other officer who shall invest any monies in the fund without first having obtained the authorization of the Industrial Commission as provided in this section, shall be guilty of a misdemeanor.

§ 8. PUBLIC BUILDINGS TO BE REPORTED TO COMMISSIONER OF INSURANCE.] On or between July first and August first, 1943, and each odd numbered year thereafter, the Board of Administration, the State Board of Higher Education and each officer or agent of the State and of any industry thereof having in charge any public buildings of any kind whatsoever belonging to the State, and each County Auditor, City Auditor, Township Clerk, Village Clerk and School District Clerk, as the case may be, shall report to the Commissioner the sound depreciated value of each public building and of the fixtures and permanent contents therein belonging to the State or political sub-division, and shall supply such other information as may be required by the Commissioner on forms provided by him.

§ 9. COMMISSIONER TO PROVIDE INSURANCE ON ALL PUBLIC BUILDINGS.] Between July first and August first, 1943, and each odd numbered year thereafter, the Commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, wind-storm, cyclone, tornado and hail, explosion, riot attending a strike, aircraft, smoke and vehicles, all in the manner and subject to the restrictions of the Standard Fire Insurance policy and Standard Extended Coverage Endorsement, and no other hazards, in the Fund, on all buildings owned by the State, State Industries, and political sub-divisions of the State, and the fixtures and permanent contents in such buildings, to the extent of not to exceed ninety (90%) per cent of the full insurable value of such property, as such value is determined by the Commissioner and approved by the officer or board having control of such property, or, in case of disagreement, by approval of arbitration as hereinafter provided.

§ 10. ARBITRATION.] In case the Commissioner and the Board or officer having charge of any property are unable to agree upon the insurable value of such property, such value shall be determined by a recognized appraisal company at the expense of the State industry or political sub-division owning such property, if such appraisal company arbitrator meets with the approval of both the Commissioner and the Board or officer concerned, and in case they are unable to agree on such arbitrator, then the matter shall

be submitted to arbitration by a Board of Arbitration selected as follows:

The Commissioner and the Board or officer in charge of the property shall each select one competent, disinterested contractor, architect, (\*experienced) appraiser, appraisal company or one of the Members of such Board and the two so chosen shall select a third person of similar qualification. The three arbitrators shall proceed to determine the sound depreciated insurable value of such property and the decision of said arbitrators, or a majority of them, shall be given in writing to the Commissioner and the Board or official concerned and shall be binding upon both parties. Each party of the dispute shall pay the expense and charges of the arbitrator chosen by him and the expense and the charges of the third arbitrator shall be borne equally by both parties in the dispute. The decision by such Board of arbitration must be made within thirty days from the time the matter is submitted to them. Until the Commissioner and Board or officer in charge shall have agreed, or in case of dispute, until the decision of the appraisal company or arbitrators, the property shall continue to be valued in the same amount as previously or in case of new buildings or property, in the amount fixed by the Commissioner. The same procedure shall be followed in case of new construction or in any increase or decrease in values.

§ 11. POLICY FEE.] For each insurance policy issued, the Commissioner shall collect a fee of ten cents (10¢) per thousand dollars but in no case shall such fee be less than Two (\$2.00) Dollars.

§ 12. RESERVE FUND—PAYMENT OF LOSS.] All monies in the Fund at the time of the taking effect of this act, shall be set aside as a reserve fund on the first day of August 1943, and thereafter all assessments, interest, and profits on investments and all other income of said Fire and Tornado Fund, and from such reserve fund shall be paid all losses, loss expense and loss adjustment expenses which may be incurred thereafter, together with such losses and expense as may theretofore accrue against the Fund and remaining unpaid on that date, and operating expenses appropriated by the Legislature.

§ 13. ASSESSMENTS.] Between the first day of July and the first day of August, 1945 and each odd numbered year thereafter, if the reserve fund shall have been depleted below the sum of Three Million Dollars, the Commissioner shall determine the amount of money which may be necessary as of the first day of July in such year, to bring the said reserve fund up to the sum of Three Million Dollars and he, thereupon, shall levy (\*an) assessment against each and every policy on all public property except as hereinafter provided, in proportion to the length of time such policy shall have been in force during the preceding two year period. Said assessment shall be computed as follows:

The 80% or 90% co-insurance rate established by the Fire Underwriters Inspection Bureau for each insured property to which said 80% or 90% co-insurance rate may be applicable, and the full rate established for properties to which the said co-insurance rate is not applicable under the rules of the said Fire Underwriters Inspection Bureau, shall be applied to the amount of insurance provided in each policy and the result of the application of said rate to the amount of insurance shall set the tentative assessment to be made against such policy. The total of all of such tentative assessments shall then be ascertained. The percentage of such tentative assessments necessary to restore the reserve fund to the sum of Three Million Dollars shall then be computed and collected on each policy, but in no case shall any assessment be greater than 50% of the rate established by the Fire Underwriters Inspection Bureau for such risk. In case of a fractional percentage the next higher whole percent shall be used in such computation.

§ 14. NEW CONSTRUCTION INSURANCE RATE.] Any property which shall not have been insured in the Fund for a period of at least five years, shall be charged a premium equal to fifty percent of the rate established by the Fire Underwriters Inspection Bureau. After any such property shall have been insured in the Fund for a period of five years, it shall not thereafter be chargeable with any insurance premium but shall be subject to assessment as provided in this Act. During the period that any such property shall be subject to the payment of insurance premiums, it shall not be subject to any assessment to restore the reserve fund.

§ 15. COLLECTION OF PREMIUMS AND ASSESSMENTS.] The Commissioner, as soon as possible after he has provided for the insurance of any property belonging to the State or political subdivision, shall certify to the Board or officer in charge of such property the amount of premium or assessment due from the State, State industry or political sub-division. The certificate shall give the name, location and description of such property insured, the amount of insurance written thereon, and the amount of the premium or assessment. The amount of the premium or assessment so certified shall be remitted within sixty days after date of such certification to the Commissioner by the proper officer and the Commissioner shall deposit such premiums and assessments with the State Treasurer to the credit of the Fund. If such premiums or assessments are not paid within sixty days after the date they are certified by the Commissioner, they shall thereafter bear interest at the rate of six percent per annum and collection thereof may be enforced by appropriate action. The Attorney General and the States Attorney of the several counties shall bring appropriate actions to enforce the collection of such premium and assessment upon request of the Commissioner. Payment of such premiums or assessments certified pursuant to the provisions of this section may be made by any State



department, officer, board, institution or agency and by any political sub-division out of any available funds notwithstanding that no specific appropriation or tax levy has been made therefor.

§ 16. REJECTION OF CERTAIN RISKS.] In the event the Commissioner shall find that any risk is unreasonably hazardous, he may require the Board or officer having control of such risk to make such improvements or changes as may be necessary to remove such extra hazard. If the Board or agency shall fail to make such improvements or changes within a reasonable time, and at all events within six months after demand therefor by the Commissioner, he may cancel the insurance on such renewal upon thirty days' notice, but no cancellation may be made by the Commissioner without the approval of the Industrial Commission of the State of North Dakota. If a dispute shall arise between the Commissioner and the Board or official having control of the risk, either as to the insurability thereof or as to the compliance of such Board or officer with the requirements of the Commissioner, such dispute shall be submitted to a Board of Arbitration as provided in Section 10 of this act and the decision of such Board of Arbitration shall be binding on both parties. If the insurance on any risk shall be cancelled as provided in this section, the Board or officer in charge of such risk may procure insurance thereon from any authorized insurance company and the premiums therefor shall be a proper charge against the State, State industry or political sub-division owning such property.

§ 17. LOSS—HOW PAID.] All losses occasioned by the hazards hereinbefore provided for shall be paid out of the Fund in an amount not exceeding the amount of the insurance upon any particular risk. The loss upon any building or property insured in the Fund whether totally destroyed or partially damaged by reason of said hazards or any of them, shall be adjusted by the Commissioner or a duly authorized adjuster or adjusting company. Immediately upon the happening or occasion of any such loss or damage the officer, board, agent or agency having charge or control of the property destroyed or damaged shall notify the Commissioner by telegram or in writing, 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. The officer, board or agency having control of such damaged property shall not disturb the same except as provided in the policy until the Commissioner or his agent shall have adjusted the loss or shall have notified them that the information on which adjustment is to be made has been secured. Adjustment and allowance for loss and damage to insured property shall be paid out of the Fund upon warrants drawn by the Commissioner upon the State Treasurer against the Fund.

However, if at any time sufficient funds are not available in the State Fire and Tornado Fund to cover any loss or damage sus-

tained by fire, lightning, inherent explosion, wind storm, cyclone and tornado, hail explosion, riot attending a strike, aircraft, smoke and vehicles 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 remaining unpaid on such loss or damage 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 3 per cent per annum and the State Auditor shall on the nineteenth 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.

§ 18. ARBITRATION OF LOSS.] In case an agreement as to the amount of loss sustained by any building or property insured under the provisions of this act cannot be arrived at between the Commissioner or his representative and the person or board representing the State or political sub-division owning such building or property, such loss may be arbitrated as provided by law.

§ 19. REPAIR OR REPLACEMENT OF DESTROYED BUILDINGS.] In the event that the Commissioner and the insured shall agree that the Fund shall repair or replace the building destroyed or damaged, no such repairs, rebuilding or replacement shall be undertaken by the Commissioner or any employees of his department but if they are deemed necessary or proper in any case, they shall be performed by independent contractors and any such work shall be let on competitive bids whenever practical and upon such a notice as the Commissioner may prescribe, and all such contracts shall not be effective until approved by the Governing Board of the municipality owning such building. In no event shall the cost of such repairs, rebuilding or replacements exceed the amount of the insurance carried upon the particular risk.

§ 20. PAYMENT OF ADJUSTMENT EXPENSE.] The Commissioner may charge the actual expense of adjusting losses to the loss account but the payment of such adjustment expense shall be subject to appropriations made therefor by the legislative assembly, and the amount thereof shall be stated in the Commissioner's reports.

§ 21. REPLACEMENT OF POLICIES.] No policies of insurance in force on the first day of August, 1943, on property not heretofore required by law to be insured by the Fund, shall not be cancelled by the Commissioner, but all such risks as and when the policies covering the same shall lapse, expire or otherwise be cancelled, shall be insured in accordance with the provisions of this act. The amount of

the insurance carried by the Fund shall be increased or decreased from time to time so as to maintain at all times on the property insured thereby the amount of insurance required by the provisions of this act. All reinsurance policies taken or held by the Fund shall be cancelled as of the first day of August, 1943, and all returned premiums thereon shall be added to the reserve fund.

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

Approved March 20, 1943.

\*Correction made by Governor.

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## LICENSE

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### CHAPTER 160

H. B. No. 144—(Fleck, Sailer, Bureau)

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#### ANTI-FREEZE, REGULATION & LICENSE TO SELL

An Act to Regulate the Sale of Anti-freeze; to Provide for the Inspection Thereof; to Prevent Fraud and Deception in the Sale of Anti-freeze; to Prevent Adulteration and Misbranding Thereof; to Provide for the Enforcement of the Provisions of the Act; to Provide Licensing, Payment and Disposition of License Fees; and Provide Penalties for Violation Thereof.

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

§ 1. This Act may be known and cited as the North Dakota Anti-freeze Act.

§ 2. (a) The term "anti-freeze" as used herein shall include all substances and preparations intended for use as the cooling medium or to be added to the cooling liquid in the cooling system of internal combustion engines to prevent freezing of the cooling liquid or lower its freezing point.

(b) The term "person" as used in this Act shall be construed to import both the singular and plural as the case demands, and shall include individuals, partnerships, corporations, companies and associations.

§ 3. ADULTERATION. WHAT CONSTITUTES.] An anti-freeze shall be deemed to be adulterated: