

INSURANCE

CHAPTER 225

H. B. No. 633

(Vinje)

COUNTY MUTUAL REINSURANCE

AN ACT

To amend and reenact section 26-15-24 of the North Dakota Century Code, relating to county mutual fire and lightning insurance companies.

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

§ 1. **Amendment.)** Section 26-15-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-24. County Mutual Fire and Lightning Insurance Companies May Form Reinsurance Company.) Any number, not less than five, of county mutual fire and lightning insurance companies which are organized under the provisions of this chapter may form a corporation for the purpose of reinsuring the fire, lightning, and extended coverage and other risks of its members permitted to be written under the provisions of this chapter on the mutual plan.

Approved March 4, 1963.

CHAPTER 226

H. B. No. 575
(Lindberg, Fitch)

LICENSING FOREIGN INSURANCE COMPANIES

AN ACT

To amend and reenact section 26-17-10 of the North Dakota Century Code, relating to foreign insurance and surety companies.

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

§ 1. **Amendment.)** Section 26-17-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-17-10. Foreign Insurance and Surety Companies Required to Have Licensed Local Agent—Exceptions.) No foreign surety or insurance company other than a life insurance company, shall issue any surety bond or policy of insurance of any kind on any person, firm, or corporation, or on property within this state except through a local agent who is commissioned and licensed regularly to transact insurance business therein. The provisions of this chapter relating to local agents, however, shall not apply to:

1. Direct insurance covering the rolling stock of railroad corporations;
2. Direct insurance covering property in transit while the same is in the possession and custody of a railroad corporation or other common carrier;
3. Direct insurance covering movable property of railroads or other common carriers used or employed by them in their business as common carriers;
4. Insurance written or carried by the state of North Dakota;
5. Any policy or bond written or issued by a mutual company upon which no commission shall be paid to any local agent; or
6. Bid bonds issued by any surety company in connection with any public or private contract.

Approved March 6, 1963.

CHAPTER 227

H. B. No. 625

(Leet, Currie, Bratcher, Brown, Dick, Skaar, Ettestad, Poling,
(Opedahl, Berg, Overbo, Goebel, Mosal, Wilkie)

STATE HAIL INSURANCE

AN ACT

To amend and reenact sections 26-22-11, 26-22-18, 26-22-21, 26-22-23, 26-22-24, 26-22-30, 26-22-32, 26-22-44, and 26-22-52 of the North Dakota Century Code, relating to crops insurable for hail insurance, applications for hail insurance, amount of indemnity and when losses allowed, additional insurance, zones and districts in which hail indemnity tax to be levied and the rates thereof, duties of commissioner of insurance, county auditors, and county treasurers; and notice and payment of loss, and declaring an emergency.

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

§ 1. **Amendment.)** Section 26-22-11 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

26-22-11. Crops Insurable — Dates When Coverage on Insured Crops Commences and Terminates.) Crops of rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet, sweet clover, alfalfa and cane grown on cultivated land which is listed as actually cropped are insurable in the state hail insurance department in the manner specified in this chapter. Insurance obtained under the provisions of this chapter shall become effective at midnight in the time zone in which the application is carried of the postmark date shown on the envelope in which the application was mailed to the department, or if delivered in person, midnight of the date of delivery. Expiration dates for all crops in townships 129 through 150 inclusive are as follows: winter rye or winter wheat, August fifteenth; oats, speltz, barley, September first; corn and wheat and all other insurable crops except flax, September tenth; flax, September twentieth. Expiration dates for all crops in townships 151 through 164 inclusive are as follows: winter rye or winter wheat, September first; oats, speltz, barley, September tenth; corn and wheat and all other insurable crops except flax, September fifteenth; flax, September twentieth. All expirations shall become effective at twelve o'clock midnight of the dates above specified. Any crops which have been damaged materially by hail before an application is filed with the state hail insurance department shall not be insured until the percent of damage has been determined. This damage is

to be taken into consideration in case additional hail loss is sustained.

§ 2. Amendment.) Section 26-22-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-18. Owner or Tenant of Land Which Has Been Leased May Insure His Interest in Crop.) When land has been leased and the crop thereon put in by a tenant who has agreed to deliver a portion of the crop to the owner as rental for the land the owner or the tenant of the land may make application for hail insurance upon any part of his proportionate share of the crop. If the owner or the tenant does not insure his interest, he can relinquish his interest in favor of the other, by written consent filed with the application.

§ 3. Amendment.) Section 26-22-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-21. Applications Effective When Approved by Commissioner — Duty of Commissioner When Application Approved.) Hail insurance coverage furnished under the provisions of this chapter shall not be effective until midnight as provided pursuant to section 26-22-11 of the date shown on the postmark, according to the department's receiving records if mailed, and until midnight of the date an application is stamped received, if it is personally delivered to the office of the state hail insurance department, subject, however, to the approval of the commissioner of insurance as to insurability. The commissioner of insurance may, for a good cause, refuse approval of any application for hail insurance. Immediately upon the receipt and checking of the original and duplicate copies of an application for state hail insurance coverage in the office of the hail insurance department, the commissioner of insurance, if he approves the application, shall cause to be endorsed thereon his approval of the application and the date when the insurance is effective. The duplicate copy of the application, when it is so endorsed, shall be returned to the applicant and shall constitute the policy of insurance and shall entitle the applicant to the coverage permitted under the provisions of this chapter.

§ 4. Amendment.) Section 26-22-23 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-23. Amount of Indemnity — When Losses Allowed.) The maximum amount of indemnity for total loss shall be twenty dollars per acre insurance. No indemnity shall be

allowed to any claimant for a loss of less than five percent, and a loss of ninety percent or over shall be deemed a total loss. A loss of one hundred percent of actual determined hail damage may be allowed to insured wheat, oats, barley, rye, and flax crops laying in windrows, bound or shocked. Only loss or damage to crops directly traceable to hail shall be allowed and no indemnity shall be allowed or paid for damage to any crop after it is abandoned.

If the claims paid have exceeded the tax levied in any county in Zone No. 1, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 14 percent but not more than 15 percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 15 percent but not more than 16 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is 16 percent but not more than 17 percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 17 percent but not more than 18 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 18 percent but not more than 19 percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 19 percent but not more than 20 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 20 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 2, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 16 percent but not more than 17½ percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 17½ percent but not more than 19 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 19 percent but not more than 20½ percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 20½ percent but not more than 22 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 22 percent but not more than 23½ percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 23½ percent but not more than 25 percent then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 25 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 3, not including administrative expense, for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 18 percent but not more than 20 percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over 20 percent but not more than 22 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 22 percent but not more than 24 percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over 24 percent but not more than 26 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is more than 26 percent but not more than 28 percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over 28 percent but not more than 30 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed.

If the current loss ratio is over 30 percent, then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

If the claims paid have exceeded the tax levied in any county in Zone No. 4, not including administrative expense,

for the last fifteen years including the current year, then the following proportions shall be used in paying the current losses:

If the current loss ratio is over 20 percent but not more than $22\frac{1}{2}$ percent, then the hail loss payment shall be paid on the basis of 80 percent of the total amount allowed.

If the current loss ratio is over $22\frac{1}{2}$ percent but not more than 25 percent, then the hail loss payment shall be paid on the basis of 75 percent of the total amount allowed.

If the current loss ratio is over 25 percent but not more than $27\frac{1}{2}$ percent, then the hail loss payment shall be paid on the basis of 70 percent of the total amount allowed.

If the current loss ratio is over $27\frac{1}{2}$ percent but not more than 30 percent, then the hail loss payment shall be paid on the basis of 65 percent of the total amount allowed.

If the current loss ratio is over 30 percent but not more than $32\frac{1}{2}$ percent, then the hail loss payment shall be paid on the basis of 60 percent of the total amount allowed.

If the current loss ratio is over $32\frac{1}{2}$ percent but not more than 35 percent, then the hail loss payment shall be paid on the basis of 55 percent of the total amount allowed, and

If the current loss ratio is over 35 percent then the hail loss payment shall be paid on the basis of 50 percent of the total amount allowed.

§ 5. Amendment.) Section 26-22-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-24. Additional Insurance—Application—When Effective—Contents of Application.) If the original application for hail insurance is a partial of twenty dollars per acre insurance, the insured, before loss and before July fifteenth, may make an application to the state hail insurance department for the balance of the partial. The original and additional applications, together, shall not exceed twenty dollars per acre. Such application shall be made in duplicate upon forms prepared and furnished by the commissioner of insurance, and shall be mailed directly to the department at Bismarck, and shall contain the legal description of the land, the kind of crops, the acreage thereof on which additional insurance is desired, and a statement to the effect that such crops have not been damaged or destroyed by hail. The location of the crops on which additional insurance is desired shall be shown on a diagram on the application blank. The application shall be signed by the applicant and shall be acknowledged before an assessor or sworn to before someone authorized to administer

oaths. If the applicant is a tenant, the signed consent of the person liable for the hail indemnity tax must appear upon such application, and if the owner makes such application the written consent of the tenant must appear thereon. If an owner or a tenant acts as agent one for the other in filing such application, a written authorization so to act shall be attached to the application. An application for additional insurance is subject to the approval of the commissioner of insurance, and if approved, the duplicate thereof shall be returned to the applicant and shall be his policy of insurance. In no event shall such additional insurance become effective until midnight of the date shown on the postmark, according to the department's receiving records, if mailed, and until midnight of the date an application is stamped "received" if it is personally delivered to the office of the state hail insurance department, subject however to the approval of the commissioner of insurance as to insurability.

§ 6. **Amendment.**) Section 26-22-30 of the North Dakota Century Code Supplement is hereby amended and reenacted to read as follows:

26-22-30. Zones and Districts in State for Purposes of Levying Hail Indemnity Tax — Rates Between Zone and District Levies.) For the purpose of levying the acreage indemnity tax required under the provisions of this chapter, the state shall be divided into four zones as follows:

Zone No. 1 shall include the counties of Pembina, Ramsey, Walsh, Nelson, Grand Forks, Steele, Traill, Cass, Ransom, Sargent and Richland;

Zone No. 2 shall include the counties of Bottineau, Rolette, Towner, Cavalier, McHenry, Pierce, Benson, Wells, Eddy, Foster, Griggs, Kidder, Stutsman, Barnes, LaMoure and Dickey;

Zone No. 3 shall include the counties of Burke, Renville, Mountrail, Ward, McLean, Sheridan, Mercer, Oliver, Morton, Burleigh, Grant, Sioux, Emmons, Logan, and McIntosh;

Zone No. 4 shall include the counties of Divide, Williams, McKenzie, Dunn, Golden Valley, Billings, Stark, Slope, Hettinger, Bowman and Adams.

The following proportions or loss ratios shall be used in Zone No. 1 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than one percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over one percent but not more than two percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over two percent but not more than three percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over three percent but not more than four percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over five percent of the risk carried and such counties with an average loss ratio of five percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 2 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than two percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over two percent but not more than four percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over four percent but not more than five percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over seven percent of the risk carried and such counties with an average loss ratio of seven percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 3 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than three percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over three percent but not more than five percent of the risk carried;

3. District No. 3 shall consist of all counties showing an actual cost of over five percent but not more than six percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over six percent but not more than seven percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over seven percent but not more than eight percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over eight percent of the risk carried and such counties with an average loss ratio of nine percent or over for the current year and the next two preceding years when insurance is carried.

The following proportions or loss ratios shall be used in Zone No. 4 as follows:

1. District No. 1 shall consist of all counties showing an actual cost of not more than four percent of the risk carried;
2. District No. 2 shall consist of all counties showing an actual cost of over four percent but not more than six percent of the risk carried;
3. District No. 3 shall consist of all counties showing an actual cost of over six percent but not more than eight percent of the risk carried;
4. District No. 4 shall consist of all counties showing an actual cost of over eight percent but not more than ten percent of the risk carried;
5. District No. 5 shall consist of all counties showing an actual cost of over ten percent but not more than twelve percent of the risk carried;
6. District No. 6 shall consist of all counties showing an actual cost of over twelve percent of the risk carried and such counties with an average loss ratio of twelve percent or over for the current year and the next two preceding years when insurance is carried.

In Zone No. 1 the following rates shall be used:

1. District No. 1, not more than $2\frac{1}{2}\%$
2. District No. 2, not more than 3%
3. District No. 3, not more than 4%
4. District No. 4, not more than $4\frac{1}{2}\%$
5. District No. 5, not more than 5%
6. District No. 6, not more than 6%

In Zone No. 2 the following rates shall be used:

1. District No. 1, not more than 4%
2. District No. 2, not more than 5%

3. District No. 3, not more than 6%
4. District No. 4, not more than 7%
5. District No. 5, not more than 8%
6. District No. 6, not more than 9%

In Zone No. 3 the following rates shall be used:

1. District No. 1, not more than 5%
2. District No. 2, not more than 6%
3. District No. 3, not more than 7%
4. District No. 4, not more than 8%
5. District No. 5, not more than 9%
6. District No. 6, not more than 11%

In Zone 4 the following rates shall be used:

1. District No. 1, not more than 8%
2. District No. 2, not more than 10%
3. District No. 3, not more than 12%
4. District No. 4, not more than 14%
5. District No. 5, not more than 16%
6. District No. 6, not more than 18%

In all four Zones a surcharge of thirty percent of the rate in each county shall be charged on all barley and rye crops.

§ 7. **Amendment.**) Section 26-22-32 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-32. Commissioner Determines Rate of Hail Indemnity Tax Levy—Collection of Hail Indemnity Tax by Commissioner with Discount—Certificate to County Auditors—Duties of County Auditors and Treasurers.) The commissioner of insurance shall determine the rate of levy for the hail indemnity tax in each of the districts described in section 26-22-30. When twenty dollars per acre insurance is carried, or any part thereof, the indemnity tax for a partial shall be based on the twenty dollars per acre insurance.

As soon as possible after the hail indemnity tax rates have been determined, the commissioner shall send a statement by mail to each owner of real property against which the hail indemnity tax has been levied, setting forth the amount of said hail indemnity tax. The commissioner shall allow a five percent discount to all persons who shall pay all of the hail indemnity tax levied on any tract or parcel of real property in any one year in full on or before the fifteenth day of November of the year in which such hail indemnity tax has been levied. As soon as possible after the fifteenth day of November of each year, the commissioner through the state hail insurance department, shall file with the county auditor of each county a complete list of descriptions of lands within such county upon which the state hail insurance department

has carried the protection for the then current season based on the regular applications for hail insurance on file in his office after cancellation thereof and changes therein have been considered and cash payments have been credited. Each county auditor shall enter the unpaid hail indemnity tax in the tax list for his county and spread the same upon the tax rolls thereof in separate columns showing the amount of indemnity tax charged against each description of each tract, parcel, or subdivision of land insured with the department using the list described in this section as the basis therefor. The several county auditors and county treasurers shall make proper corrections on their records and shall cause deductions of hail indemnity taxes to be made from time to time upon receipt of certification from state hail insurance department.

§ 8. Amendment.) Section 26-22-44 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-44. Notice of Loss—When and Where Filed—Contents—Adjustment Ordered—Costs When Notice Filed Late.) Any person claiming a loss by hail upon crops which are insured under this chapter shall notify the commissioner of insurance by registered or certified mail within three days after the loss has been sustained. Such notice shall show:

1. The legal description of the land upon which the loss is claimed;
2. The interest in the damaged crop which is claimed by the person giving notice of loss;
3. The name and post office address of the person who is liable for the tax upon the land upon which the loss is sustained;
4. The name and post office address of any other person claiming any interest in the damaged crop or in the hail indemnity thereon;
5. The date of the loss;
6. The estimated percentage of damage claimed; and
7. Claimant must authorize someone, in his stead, to show the adjuster the damaged crops, and to make settlement if he can not be present when the adjuster calls. If no one has been authorized, any additional adjuster's expense shall then be charged to the claimant.

The commissioner, as soon as possible after receiving such notice of loss, shall direct an official adjuster to visit the place of loss for the purpose of estimating and adjusting the same. The commissioner may extend for a reasonable period of time for reporting a hail loss to the department, upon the showing of an excuse for the failure to file within the time herein

specified which is satisfactory to the commissioner. If the notice of loss is not given within three days after the loss has been sustained, the commissioner may grant an adjustment, and if such adjustment is granted, the cost of the adjustment, in the discretion of the commissioner, may be charged against the claimant or deducted from any indemnity allowed for the loss. If such costs are so charged or deducted, the amount thereof shall accrue to the hail insurance fund.

§ 9. Amendment.) Section 26-22-52 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-52. Payment of Hail Losses—Deduction of Unpaid Hail Taxes—Certification of Deductions.) Warrants in payment of hail losses shall be drawn after the adjustments thereof are approved. The commissioner of insurance, through the manager of the state hail insurance department, shall draw such warrants on the state treasurer payable out of the state hail insurance fund, and the warrants shall be mailed by the department to the persons entitled thereto, or if the warrant is a joint warrant, to one of such persons. The warrants shall become due and payable immediately upon issue and shall draw no interest unless they are registered for lack of funds, in which event they shall draw interest at the rate of five percent per annum from the date of registration. Before writing such warrants, the commissioner shall deduct the current hail indemnity taxes if ascertained at the time, all unpaid hail indemnity taxes for prior years upon the lands covered by the policy as certified by the county auditor, and any other unpaid indemnity tax for which the insured is liable. If the hail indemnity taxes for the then current year are not determined when the payment of the indemnity is made, the commissioner shall deduct from the indemnity a sum which he considers sufficient to cover such tax. The commissioner shall certify all deductions made under the provisions of this section to the various county auditors, and the county auditors and county treasurers shall use such certification as authority for striking from the tax rolls the current or delinquent taxes which have been paid by deduction from the indemnity. Any amount deducted by the department in excess of the actual premium and other legal deductions shall be repaid to the claimant within a reasonable time after the hail indemnity tax rate has been determined. Any net indemnity of less than one dollar shall be paid to the claimant direct by postage stamps and a record of such payments shall be kept.

§ 10. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 7, 1963.

CHAPTER 228

S. B. No. 160
(Longmire, Lips)

AUTOMATIC BONDING FUND COVERAGE

AN ACT

To amend and reenact section 26-23-08 of the North Dakota Century Code, relating to automatic insurance of state and political subdivisions.

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

§ 1. **Amendment.)** Section 26-23-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-08. Automatic Insurance of State and Political Subdivisions.) The public employees of the state and each political subdivision thereof, as the case may be, shall be insured in the fund according to the provisions of this chapter upon application to the state bonding fund and upon approval by the commissioner of insurance. Unless an application is denied within sixty days from the date it is received by the state bonding fund, the application will be deemed approved and bond coverage in force. The provisions of this chapter and of any statute requiring a bond shall constitute the bond of each and every public employee for the purpose of any law of this state requiring such bond and shall constitute the entire contract between the fund and the state or its political subdivisions, respectively, as the obligee in any such bond.

Approved March 7, 1963.

CHAPTER 229

S. B. No. 144
(Longmire)

FIRE AND TORNADO INSURANCE COVERAGE

AN ACT

To amend and reenact sections 26-24-08 and 26-24-09 of the North Dakota Century Code, relating to reporting of public buildings to the commissioner of insurance, and providing for insurance on all public buildings.

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

§ 1. **Amendment.)** Section 26-24-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-08. Public Buildings To Be Reported to Commissioner of Insurance.) In each odd numbered year, or upon application for insurance, 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 subdivision, and shall supply such other information as may be required by the commissioner on forms provided by him.

§ 2. **Amendment.)** Section 26-24-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-09. Commissioner to Provide Insurance on All Public Buildings.) Upon application the commissioner shall provide for insurance against loss by fire, lightning, inherent explosion, windstorm, 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 subdivisions of the state, and the fixtures and permanent contents in such buildings, to the extent of not to exceed ninety percent 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 through arbitration as hereinafter provided.

Approved March 4, 1963.

CHAPTER 230

S. B. No. 165
(Longmire, Lips)

FIRE AND TORNADO RATES AND ASSESSMENTS

AN ACT

To amend and reenact sections 26-24-13 and 26-24-14 of the North Dakota Century Code, relating to insurance assessments and construction insurance rate.

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

§ 1. Amendment.) Section 26-24-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-13. Assessments.) If the reserve fund shall have been depleted below the sum of twelve million dollars, the commissioner shall determine the amount of money which may be necessary to bring the said reserve fund up to the sum of twelve million dollars and he, thereupon shall levy an assessment against each and every policy in force with the fund on all public property. Said assessment shall be computed as follows:

The eighty percent or ninety percent co-insurance rate established by the Fire Underwriters Inspection Bureau for each insured property to which said eighty percent or ninety percent 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 such tentative assessments shall then be ascertained. The percentage of such assessment necessary to restore the reserve fund to the sum of twelve million dollars shall then be computed and collected on each policy, provided that until the reserve fund shall reach twelve million dollars, the assessment shall be in such amount as may be determined by the commissioner but in no

event in excess of fifty percent of the rates set by the Fire Underwriters Inspection Bureau unless the reserve fund shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

§ 2. **Amendment.)** Section 26-24-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-14. 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. Any additional insurance shall be regarded as a new risk upon which premiums must be paid until such additional insurance has been in force for a period of five years. After any such property shall have been insured in the fund for a period of five years and the reserve fund is not up to twelve million dollars on August 1, 1947, it shall thereafter be charged a premium equal to twenty-five percent of such bureau rate. However, after the reserve fund is up to twelve million dollars and any property shall have been insured in the fund for a period of five years it shall thereafter be subject only to the assessment as provided in this chapter.

Approved March 9, 1963.

CHAPTER 231

S. B. No. 58
(Meidinger)

NONPROFIT DENTAL SERVICE CORPORATIONS

AN ACT

To create and enact chapter 26-27.1 of the North Dakota Century Code, to provide for the incorporation and regulation of voluntary nonprofit dental service corporations and to prescribe penalties for the violation of the provisions of this Act.

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

§ 1. **Purpose.)** It is the purpose and intent of the legislative assembly to make possible and facilitate a wider and more timely availability of dental care, thereby advancing the public health and the art and science of dentistry in this state.

§ 2. **Nonprofit Dental Service Corporations Authorized.)** Corporations may be organized under the laws of this state

on a strictly nonprofit basis for the purpose of establishing and putting into effect nonprofit dental service plans whereby dental services may be provided by a group of participating licensed dentists, with whom such corporation has contracted for such purpose, to such members of the public as become subscribers to said corporation under contracts which entitle such subscribers to certain specified dental care. Such corporation shall be subject to, and governed by the provisions of this Act and shall not be subject to the laws of the state relating to insurance and insurance companies, except as hereinafter specifically provided.

§ 3. Dental Services of Dentists Other Than Those Participating Under Dental Service Plan Authorized.) The dental service plan put into effect by any corporation organized under the provisions of this Act may also provide for dental services to such subscribers by dentists other than those participating under the plan, subject to the approval of the governing body of such dental service corporation.

§ 4. Articles of Incorporation To Be Filed with Secretary of State—Copy of Articles To Be Filed with Insurance Commissioner.) Articles of incorporation of all nonprofit dental service corporations organized under the provisions of this Act, and all amendments thereto, shall be filed with the secretary of state, and a certified copy thereof shall be filed with the commissioner of insurance. Any dental service corporation that has heretofore incorporated under the laws of the state of North Dakota, and which is now operating such nonprofit dental service plan in this state, may file a copy of its articles of incorporation, with amendments thereto, with the commissioner of insurance and thereupon be subject to the provisions of this Act.

§ 5. Board of Directors.) The board of directors of such dental service corporation shall consist of not less than nine members, a majority of whom shall be licensed dentists who have contracted with such corporation to provide dental services to its subscribers. The original board of directors shall be appointed by the board of trustees of the North Dakota State Dental Association.

§ 6. Amount of Fund—Repayment.) No nonprofit dental service corporation shall enter into any contracts with any subscribers for dental care, appliances or supplies, nor secure any application therefor, unless there is actually available in the corporation, for working capital, the sum of not less than twenty-five thousand dollars; the sum contributed as the working capital of such corporation shall be repayable only out of the surplus earnings of such corporation after reserves

for incurred claims, unearned subscribers' payments and a reasonable amount for contingencies have been provided, and approved by the insurance commissioner.

§ 7. Annual Statement.) Every corporation organized under the provisions of this Act shall annually on or before the first day of March, file in the office of the commissioner of insurance, a verified statement signed by two or more of its principal officers, showing the condition of its affairs on the thirty-first day of December last past, which statement shall be in such form and shall contain such information as the commissioner of insurance shall prescribe.

§ 8. Investigation and Examination.) The commissioner of insurance or any deputy examiner, or other person designated by him for such purpose, shall have the authority to inspect and examine into the affairs of such corporation and shall have the authority and power to examine all books, papers, records, letters, and documents of any kind that relate to the business of such corporation, and may subpoena and qualify witnesses under oath to examine its officers, agents, employees or any other persons having knowledge of the affairs, transactions and conditions of such corporation. In the event that any person shall fail or refuse to appear at the time and place designated in such subpoena, the insurance commissioner shall have the authority to apply to a judge of the district court in and for the county in which such corporation has its principal place of business for an order citing said witness to appear before such court at such time and place as the court may direct, and said district court is hereby given the authority and jurisdiction to cause such witness to be examined as the said court now has in the examination of witnesses in any manner pending before the said court.

§ 9. Contracts with Dentists—Contract Limitation—Benefits May Be Limited.) Every dentist duly licensed and registered in the state of North Dakota shall have the right to contract with any corporation organized and doing business under the provisions of this Act for furnishing general or special dental care as the case may be. A nonprofit dental service corporation shall impose no restrictions as to the methods of diagnosis or treatment on the dentists who treat subscribers. The private relationship of dentist and patient shall be maintained at all times and the subscriber shall have the right of free choice in selecting any dentist with whom the corporation has a contract.

No dental service contract by or on behalf of any such nonprofit dental service corporation shall provide the payment of any cash indemnification by the corporation to the subscriber or his estate on account of death, illness or other injury.

Such dental service corporation may, in its discretion, by its articles of incorporation or its bylaws, and in its contract with its subscribers, limit the benefits that such corporation will furnish, and may provide for a division of such benefits as it shall agree to furnish into classes or kinds. In the absence of any such limitations or division of services, a nonprofit dental service corporation shall be authorized to provide both general and special dental care benefits, including such service as may necessarily be incident to such dental care. A dental service corporation organized and doing business under the provisions of this Act may, in its discretion, limit the issuance of contracts as specified in its bylaws.

§ 10. Dissolution or Merger.) The dissolution, liquidation or merger of any dental service corporation organized and doing business under the provisions of this Act shall be conducted under the supervision of the commissioner of insurance, who shall have all the authority and power with respect thereto which is granted to him under the insurance laws of this state.

§ 11. Effects of Contracts.) The issuance of a contract by any corporation organized and doing business under the provisions of this Act to a subscriber shall not be deemed to create the relationship of dentist and patient between the corporation and such subscriber. The subscriber shall at all times have the right to select any participating dentist, subject to the terms and conditions of such contract. No employee, agent, officer or member of the board of directors of any such corporation shall influence or attempt to influence any subscriber in the choosing and selecting of the dentist who is to treat him. No action at law or in equity arising out of the relationship of dentist and patient shall be maintained against any nonprofit dental service corporation governed by this Act.

§ 12. Limitations on Contract.) Every subscriber under such nonprofit dental service plan shall receive a copy of the contract, and such contract shall clearly state the dental care, appliances and supplies to be provided under such contract and the rate charged such subscriber. Every subscriber shall have, at all times, free choice of the dentist who is to treat him, and such right shall be prominently printed in such contract. No nonprofit dental service corporation shall enter into any contract, agreement or understanding, directly or indirectly, with any dentist whereby such dentist shall render any services to any subscriber, but all such matters shall be a matter of agreement directly between the patient and the dentist selected by the patient to treat him.

§ 13. Filing of Contracts—Approval of Contracts.) No nonprofit dental service corporation shall enter into any contracts

with any subscribers for dental care, appliances and supplies, nor secure any applications therefor, unless it has filed not less than three copies of each type of contract proposed to be issued by said corporation with the commissioner of insurance, and the commissioner of insurance shall have approved of the same in writing directed to the corporation filing the same, with a copy of such approval in writing attached to each copy filed with said commissioner of insurance.

§ 14. Service in Accordance with Prevailing Practice—Emergency Service.) All dental care rendered to a subscriber under his contract shall be in accordance with the accepted standards of dental practice prevailing in the community in which such service is rendered.

All such dental service shall be rendered by dentists duly licensed and registered to practice their profession in the state of North Dakota, except that in case of emergency, and subject to the approval of the governing body of such non-profit dental service corporation, the benefits to which a subscriber is entitled under his contract may be rendered in another state, provided such services are rendered by a duly licensed dentist in such other state.

§ 15. Corporation Forbidden to Practice.) Nothing in this Act shall authorize any person, association or corporation to engage, in any manner, directly or indirectly, in the practice of dentistry as defined by law.

§ 16. Investment of Funds.) The funds of any corporation subject to the provisions of this Act shall be invested only in such securities as are provided by law for the investment of funds of domestic insurance companies of this state.

§ 17. Dental Aid for Needy Persons—Payments.) Every nonprofit dental service corporation organized and doing business under the provisions of this Act may, in its discretion, receive and accept from various governmental agencies payments covering all or any part of the costs of subscriptions to provide dental care for needy persons. Every such corporation may, in its discretion, receive from private agencies, corporations, associations, groups or individuals payments covering all or any part of the cost of subscriptions to provide dental care for needy and other persons.

§ 18. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this Act shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Century Code, where applicable. The license or certificate for such sales representatives shall be issued on a form as prescribed by

the commissioner of insurance, and the fee therefor shall be two dollars.

§ 19. Applicability.) Except as otherwise specifically provided in this Act, the provisions of chapters 10-24, 10-25, 10-26 and 10-28 of the North Dakota Century Code shall apply to the incorporation, operation and control of any nonprofit dental service corporation organized under the provisions of this Act, including penalties for violations of this Act or violations of said chapters 10-24, 10-25, 10-26, and 10-28 of the North Dakota Century Code.

Approved March 8, 1963.

CHAPTER 232

H. B. No. 874

(Goebel, Lindberg, Loder)

INSURANCE VENDING MACHINES

AN ACT

Relating to insurance and providing for licensing of sale of insurance by vending machines and other media, and for certain penalties.

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

§ 1. Sale of Insurance from Vending Machines Regulated.)

No insurance shall be offered for sale, issued, or sold by or from any vending machine or appliance or any other medium, device, or object designed or used for vending purposes, herein called a device, except as provided in this Act.

§ 2. Resident Insurance Agents Licensed by Insurance Commissioner May Issue or Sell Insurance Through Vending Machines Under Certain Conditions.) Resident insurance agents licensed by the insurance commissioner under title 26 of the North Dakota Century Code to solicit applications for and to sell policies of personal travel accident insurance providing benefits for accidental bodily injury or accidental death may also solicit applications for and issue or sell such insurance by means of devices supervised by them and placed in locations for the convenience of the traveling public, upon the following conditions only:

1. That each policy to be sold by or from a device is reasonably suited for sale and issuance through a device, and that use of such device therefor in a particular proposed location would be of material convenience to the traveling public;
2. That the type of device proposed to be used is reasonably suitable and practical for the purpose;

3. That reasonable means, as determined by the commissioner, are provided for informing the prospective purchaser of any such policy of the benefits, limitations, and exclusions of the policy, the premium rates therefor, the name and address of the agent, and the name and home office address of the insuring company;
4. That such device shall be so constructed and operated that it shall retain, or shall be provided with a suitable place for deposit and safekeeping of, a copy of the application, which shall show the date of the application, name and address of the applicant and the beneficiary, and the amount of insurance;
5. That no policy of insurance sold by or from a device shall be for a period of time longer than the duration of a specified one-way or round trip of not to exceed one hundred and eighty days;
6. That such device shall have provided on it or immediately adjacent thereto, in a prominent location, adequate envelopes for use of purchasers in mailing policies vended through such device, or that the policy itself, if designed to permit such procedure, may be mailed without an envelope; provided, however, the commissioner may in writing delivered to the agent modify or waive these requirements;
7. That each such device shall be supervised, inspected, and tested by the agent with such frequency as may reasonably be required by the commissioner, and should any device not be in good working condition the agent shall promptly cause a notice to be displayed thereon that the same is out of order, and cause said device to be promptly removed from service until it is in proper working order;
8. That prompt refund by the agent is provided to each applicant or prospective applicant of money deposited in any defective device and for which no insurance, or a less amount than paid for, is actually received; and
9. In addition to, and without limiting the general powers of the commissioner to regulate and supervise insurance business in this state, the commissioner may establish such other and additional rules and regulations for types and locations of devices authorized hereunder, their maintenance and operation, and the methods to be used by the agent in the solicitation and sale of insurance by means of such devices as shall be reasonable and necessary.

§ 3. Licensing of Vending Machine Devices — Expiration Date.) The application for a license for each device to be

used shall be made by the agent in such form and with such information as shall be prescribed by the commissioner. A fee of two dollars for each device shall be paid at the time of making application. Upon approval of the application the commissioner shall issue to the agent a special vending machine license. The license shall apply to a specific device or to any device of identical type which, after written notice by the agent to the commissioner, is substituted for it. The license shall specify the name and address of the agent, the name and home office address of the insuring company, the name or other identifying information of the policy or policies to be sold, the serial number or other identification of the device and the address, including the location on the premises, where the device is to be in operation; provided, however, that a device for which a license has been issued for operation at a specific address may be transferred to a different address during the license year upon written notice to the commissioner at the time of such transfer. The license for each device shall expire April thirtieth of each year, but may be renewed from year to year by the commissioner upon approval of the application of the agent and the furnishing of such information as shall be requested by the commissioner, and the payment of two dollars for each license year or part thereof for each device. Proof of the existence of a subsisting license shall be displayed on or about each device in use in such manner as the commissioner may reasonably require.

§ 4. Refusal to Issue License and Revocation of License—Notice and Opportunity To Be Heard.) The license for each device shall be subject to expiration, suspension, or revocation coincidentally with that of the agent or the insuring company. The commissioner also may suspend, revoke, or refuse to renew the license as to any device concerning which he finds any conditions upon which the device was licensed or referred to in section 2 have been violated, or no longer exist, or that the device is being used or operated by the agent in violation of the laws of this state; provided, that before suspending, revoking, or refusing to renew a license for a device, the commissioner shall conduct a hearing in the manner prescribed in section 26-17-04 and shall make his determination upon the basis of the standards, conditions, and requirements of this section. An order of the commissioner may be reviewed by an aggrieved person as provided in section 26-17-05.

§ 5. Penalty.) Any person or insurance or surety company which shall violate any of the provisions of this Act shall be guilty of a misdemeanor and shall be punished by a fine of not less than fifty dollars nor more than five hundred dollars.

Approved March 15, 1963.