

INSURANCE

CHAPTER 225

H. B. No. 842

(Bunker)

INSURANCE COMMISSIONER FEES

AN ACT

To amend and reenact section 26-01-04 of the North Dakota Century Code, relating to fees chargeable by the commissioner of insurance.

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

§ 1. **Amendment.)** Section 26-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-04. Fees Chargeable by Commissioner of Insurance.) The commissioner of insurance shall charge and collect the following fees except that county mutual insurance companies and benevolent societies shall be liable only for the fees mentioned in subsections 3, 6, 9, 12, and 16:

1. For filing articles of incorporation, or copies, or amendments thereof, twenty-five dollars;
2. For filing an annual statement, twenty-five dollars;
3. For each original certificate of authority issued upon admittance, fifty dollars and for renewal of certificate of authority, amendment to certificate of authority, or certified copy thereof, twenty-five dollars;
4. For a copy of any paper filed in his office, twenty cents per folio;
5. For affixing his official seal on a copy of any paper filed in his office and certifying such copy, one dollar;
6. For an official examination, the actual expense and per diem incurred; such per diem charge not to exceed twenty-five dollars;
7. For issuing a certificate to a domestic insurance company showing a compliance with the compulsory reserve provisions of this title and the maintenance of proper security deposits, and for any renewal of such certificate, five dollars;

8. For filing an annual report of a fraternal benefit society, and issuing a license or permit to such society, and for each renewal thereof, fifteen dollars;
9. For issuing a license for an agent of a domestic insurance company, county mutual insurance company, fraternal benefit society, or any other society, or a certificate or a copy thereof, three dollars;
10. For issuing a license for a resident agent of a foreign insurance company, or a certificate or copy thereof, three dollars;
11. For issuing a nonresident insurance agent's license, ten dollars;
12. For each abstract of the annual statement of an insurance company for publication, two dollars;
13. For issuing an annual reciprocal exchange license, the same fees as those applicable to the issuance of a certificate of authority in subsection 3;
14. For issuing a license to a resident agent for the attorney for a reciprocal exchange, three dollars;
15. For receiving the service of process as attorney, whether he is served with such process or admits service thereon, two dollars;
16. For written agents' examination administered by the office of the insurance commissioner, ten dollars;
17. For filing of any miscellaneous documents or papers, including documents of admission and those filed annually upon license renewal, (each) one dollar;
18. For filing of articles of merger, or copies thereof, thirty dollars;
19. For filing bylaws or amendments thereof, five dollars;
20. For filing of power of attorney by non-admitted insurer for conduct of business in compliance with surplus lines laws of this state, ten dollars;

Approved March 6, 1967.

CHAPTER 226

H. B. No. 914
(Lang, Metzger)

CANCELLATION OR NONRENEWAL OF AUTOMOBILE
LIABILITY INSURANCE

AN ACT

To provide that automobile liability insurance shall not be canceled without proper notice, with reason for cancellation to be provided, and for nonliability of parties.

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

§ 1. Automobile Insurance — Cancellation — Notice and Reasons Therefor.) No contract of automobile liability insurance delivered or issued for delivery in this state and insuring a private passenger automobile which has been in effect for sixty days or more shall be terminated by cancellation except for nonpayment of premium, unless the insurer mails or delivers to the named insured at the address shown in the policy, a notice in writing at least thirty days prior to the effective date of cancellation of the intent of the insurer to cancel the insured's policy. Said notice shall contain or be accompanied by a statement that upon written request of the named insured mailed or delivered to the insurer not less than ten days prior to the effective date of cancellation or nonrenewal, the insurer will specify the reason or reasons for such cancellation (or nonrenewal).

§ 2. Notice of Nonrenewal.) No insurer shall fail to renew an automobile liability insurance policy delivered or issued for delivery in this state and insuring a private passenger automobile unless it shall mail or deliver to the named insured, at the address shown in the policy, at least twenty days' advance notice of its intention not to renew. Said notice shall contain or be accompanied by a statement that upon written request of the named insured mailed or delivered to the insurer prior to the date of nonrenewal, the insurer will specify the reason or reasons for such nonrenewal. This section shall not apply:

1. Where the named insured has failed to discharge when due any of his obligations in connection with the payment of premiums for the policy, or the renewal thereof, or any installment payments therefor, whether payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit;

provided that, notwithstanding the failure of an insurer to comply with this section, the policy shall terminate on the effective date of any other automobile liability insurance policy procured by the insured, with respect to any automobile designated in both policies.

Renewal or continuation of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal or continuance.

§ 3. Nonliability of Parties.) The specific reason for cancellation, which is furnished to the insured, shall not constitute grounds for any cause of action against the insurer or his authorized representative, or its agents or employees, or any firm, person or corporation who in good faith furnishes to the insurer the information upon which the reasons for cancellation are based.

§ 4. Exception.) The provisions of this article shall not apply to policies of liability insurance issued under the North Dakota assigned risk plan.

Approved March 15, 1967.

CHAPTER 227

H. B. No. 613

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

PERIOD OF EXISTENCE OF DOMESTIC INSURANCE COMPANY

AN ACT

To amend and reenact subsection 4 of section 26-08-05 of the North Dakota Century Code, relating to the period of corporate existence permitted of a domestic insurance company.

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

§ 1. Amendment.) Subsection 4 of section 26-08-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. The period of its existence which may be perpetual;

Approved February 27, 1967.

CHAPTER 228

H. B. No. 612

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

INVESTMENT OF FUNDS OF INSURANCE COMPANIES

AN ACT

To amend and reenact subsection 3 of section 26-08-11 of the 1965 Supplement to the North Dakota Century Code, relating to the authorized investment of funds of insurance companies.

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

§ 1. Amendment.) Subsection 3 of section 26-08-11 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

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, 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 seventy-five percent 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. In no event shall a loan be made in excess of the amount of insurance carried on the buildings plus the value of the land. No insurance company shall hold less than the entire loan represented by such bonds or notes described in this subsection except that a company may own part of an aggregate obligation if all other participants in the investment are insurance companies authorized to do business in North Dakota and/or banks whose depositors are insured by the federal deposit insurance corporation and/or savings and loan associations whose members are insured by the federal savings and loan insurance corporation or unless the security of said bonds or notes, as well as all collateral papers, including insurance policies, executed in connection therewith,

are made to and held by a trustee, which trustee shall be a solvent bank or trust company having a paid-in capital of not less than two hundred and fifty thousand dollars, except in case of banks or trust companies incorporated under the laws of the state of North Dakota, wherein a paid-in capital of not less than one hundred thousand dollars shall be required, and that in case of proper notification of default such trustee, upon request of at least twenty-five percent of the holders of the bonds outstanding, and proper indemnification, shall proceed to protect the rights of such bondholders under the provisions of the trust indentures.

Approved February 27, 1967.

CHAPTER 229

H. B. No. 611

(Bunker, Dahl, Hoghaug, Aafedt, Dornacker)

TRANSACTION OF BUSINESS OF FOREIGN INSURANCE COMPANIES

AN ACT

To create and enact subsection 11 of section 26-09-01 of the North Dakota Century Code, providing conditions to be complied with by foreign insurance companies before transacting business in state.

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

§ 1. Amendment.) Subsection 11 of section 26-09-01 of the North Dakota Century Code is hereby created and enacted to read as follows:

11. Adopted a name which is not so similar to a name already in use by an existing company organized or licensed in this state as to be confusing or misleading.

Approved February 27, 1967.

CHAPTER 230

H. B. No. 794

(Bunker, Haugland, Boustead, Hilleboe, Williamson, Fossum,)
(Sanstead)

LICENSING OF INSURANCE AGENTS

AN ACT

To provide for the qualification and licensing of insurance agents; and providing a penalty; and to repeal sections 26-10-13, 26-17-01, 26-17-03, 26-17-04, and 26-17-05 of the North Dakota Century Code, relating to licensing, liability, suspension and revocation of licenses, and review of the commissioner's orders.

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

§ 1. Insurance Agent, Subagent, and Insurer Defined.)

1. The term "insurance agent" means any authorized or acknowledged agent of an insurer and any subagent of such agent who acts as such in the solicitation of, negotiation for, or procurement or making of insurance, annuity, or surety contracts; except that the term "insurance agent" shall not include any regular salaried officer or employee of a licensed insurer or of a licensed insurance agent who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employee of an insurer authorized to do business in this state shall not be deemed to be an "insurance agent" by reason of rendering assistance to or on behalf of a licensed insurance agent, provided that such salaried officer or employee devotes substantially all of his time to activities other than the solicitation of applications for insurance, annuity, or surety contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

2. The term "subagent" means any person, except as provided in paragraph 1, who acts for or on behalf of a licensed insurance agent in the solicitation of, negotiation for, or procurement or making of insurance, annuity, or surety contracts, whether or not he is designated by such agent as a subagent or a solicitor or by any other title. Each subagent shall be deemed to be an insurance agent, as defined above, and wherever in succeeding sections of this Act the term "insurance agent" is used, it shall include subagents, whether or not they are specifically mentioned. Each such person shall individually file an application for license and submit to a written examination as hereafter provided for applicants for an insurance agent's license.

3. The term "insurer" means any company, society, or other insurance organization or association, however constituted or entitled, including surety companies, fraternal benefit societies, reciprocal or interinsurance exchanges, nonprofit hospital service corporations, nonprofit medical service corporations, and nonprofit dental service corporations.

4. Any person may be licensed as an insurance agent upon compliance with the provisions of this law.

§ 2. Acting for Unauthorized Companies Prohibited.) 1. No person shall, within this state, solicit, procure, receive, or forward applications for insurance, annuity, or surety contracts or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any insurance, annuity, or surety contracts for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

2. Any person shall be personally liable for the full amount of any loss sustained on any insurance, annuity, or surety contracts made by or through him or it, directly or indirectly, with any insurer not authorized to do business in this state and, in addition, for any premium taxes which may become due under any law of this state by reason of such contract.

§ 3. Acting as Agent Without License Prohibited: No Commissions To Be Paid to Unlicensed Persons.) 1. No person shall act as an insurance agent within this state until he shall have procured a license as required by the laws of this state.

2. No insurer or licensed insurance agent doing business in this state shall pay, directly or indirectly, any commission or other valuable consideration to any person for services as an insurance agent within this state, unless such person shall hold a currently valid license to act as an insurance agent as required by the laws of this state; nor shall any person, other than a duly licensed insurance agent, accept any such commission or other valuable consideration; provided, however, that the provisions of this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as an insurance agent.

§ 4. Application for License.) 1. Each applicant for a license to act as an insurance agent within this state shall file with the commissioner of insurance his written application on forms furnished by the commissioner. The application shall be signed and duly sworn to by the applicant. The prescribed form shall require the applicant to state his full name; residence; age; occupation and place of business for five years preceding date of the application; whether applicant has ever

held a license to solicit any insurance in any state; whether he has been refused, or has had suspended or revoked, a license to solicit any insurance in any state; what insurance experience, if any, he has had; what instruction in insurance and in the insurance laws of this state he has had or expects to have; whether any insurer or general agent claims applicant is indebted under an agency contract or otherwise, and, if so, the name of the claimant, the nature of the claim, and the applicant's defense thereto; whether applicant has had an agency contract canceled, and, if so, when, by what insurer or general agent, and the reasons therefor; whether applicant will devote all or part of his efforts to acting as an insurance agent, and, if part only, how much time he will devote to such work and in what other business or businesses he is engaged or employed; whether, if applicant is a married woman, her husband has ever applied for or held a license to solicit any insurance in any state and whether such license has been refused, suspended, or revoked; such other information as the commissioner of insurance in his discretion may require.

2. The application shall be accompanied by a certificate on forms furnished by the commissioner of insurance and signed by an officer or properly authorized representative of the insurer stating that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and to hold himself out in good faith to the general public as an insurance agent and that the insurer desires that the applicant be licensed as an insurance agent to represent it in this state.

3. The application, when filed, shall be accompanied by an annual fee in the amount specified in section 26-01-04, and in the case of applicants required to take an examination as hereafter prescribed, by an examination fee in the amount of \$10.00. In the event an applicant fails to qualify for or is refused a license, the annual fee shall be returned; the examination fee shall not be returned for any reason.

§ 5. Examination of Applicant for License.) 1. Each applicant for a license to act as an insurance agent within this state shall submit to a personal written examination to determine his competence with respect to the kind or kinds of insurance, annuity, and surety contracts he intends to solicit, negotiate, or effect and his familiarity with the pertinent laws of this state and shall pass the same to the satisfaction of the commissioner of insurance; except that no such written examination shall be required of:

- a. An applicant for a renewal license, provided that he shall pay an initial registration fee of five dollars with his

application, unless the commissioner of insurance determines that such examination is necessary to establish the competency or trustworthiness of such individual; or unless a license had not been issued to such applicant within two years preceding the date of filing his application;

- b. An applicant for a license to represent a fraternal benefit society or a county mutual insurance company, provided that such applicant had acted in the capacity of an agent for a fraternal benefit society or a county mutual insurance company for one year next preceding the effective date of this Act, and provided further that he shall pay an initial registration fee of five dollars with his application, unless the commissioner of insurance determines that such examination is necessary to establish the competency or trustworthiness of such applicant;
- c. An applicant who is a ticket selling agent or other representative of a public carrier and who shall act under a restricted license only as an agent with respect to health and accident insurance tickets covering risks of travel or baggage insurance on personal effects;
- d. In the discretion of the commissioner of insurance, an applicant whose license to do business or act as an insurance agent in this state was suspended less than one year prior to the date of application;
- e. Attorneys licensed for the issuance of surety bonds;
- f. Persons engaged in the business of fur storage who deliver to their customers certificates or policies providing insurance on specified furs, garments trimmed with fur, or other garments accepted for storage and who collect the premiums therefor, if they receive no compensation for such services;
- g. Jewelers who provide for specific insurance on merchandise sold, provided they receive no compensation for such service.

2. The commissioner of insurance may establish rules and regulations with respect to the scope, type, and conduct of such written examinations and the times and places within this state where they shall be held; provided, that applicants shall be permitted to take such examinations at least once in each week at the principal office of the commissioner of insurance.

3. No person who shall have taken and failed to pass two examinations given pursuant to this section shall be entitled

to take any further examination until after the expiration of six months from the date of the last examination which he failed. If such person shall thereafter fail to pass two more such examinations, he shall not be eligible to take any further examination until after the expiration of one year from the date of his last unsuccessful examination. An examination fee shall be paid for each and every examination.

4. The commissioner of insurance is authorized in his discretion to appoint an advisory board to make recommendations to him with respect to the scope, type, and conduct of written examinations and the times and places within the state where they shall be held. The members of the board shall serve without pay but, upon the authorization of the commissioner of insurance, shall be reimbursed for their reasonable expenses in attending meetings of the advisory board.

§ 6. Issuance or Refusal of License.) If the commissioner of insurance is satisfied that the applicant is trustworthy and competent and the applicant, if required, has passed his written examination, a license shall be issued forthwith, limited to the insurer and kind or kinds of insurance for which the agent is to be appointed. If the applicant has not passed his written examination, the commissioner of insurance shall notify the applicant and the insurer in writing that a license will not be issued to him.

§ 7. Nonresident May Be Licensed.) 1. A person not resident in this state may be licensed as a nonresident insurance agent upon compliance with the provisions of this Act, provided that the state in which such person resides will accord the same privilege to a citizen of this state, and provided further that he shall pay an initial registration fee of five dollars with his application.

2. The commissioner of insurance is further authorized to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in such other state, provided:

- a. That a written examination is required of applicants for an insurance agent's license in such other state;
- b. That the appropriate official of such other state certifies that the applicant holds a currently valid license as an insurance agent in such other state and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required;
- c. That the applicant has no place of business within this state in the transaction of business as an insurance agent;

- d. That in such other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

§ 8. Agent May Be Licensed to Represent Additional Insurers.) 1. Any insurance agent licensed in this state may apply to the commissioner at any time while his license is in force for an additional license or licenses authorizing him to act as an insurance agent for the same kind or kinds of insurance for an additional insurer or insurers. Such application shall set forth each insurer which the applicant is then licensed to represent; a certificate from the insurer to be named in each additional license applied for that it desires to appoint the applicant as its agent; and such other information as the commissioner of insurance may require. Upon receipt of each such application and the license fee required by section 26-01-04, the commissioner of insurance may issue such additional license without examination of or further investigation concerning the applicant.

2. Any insurance agent licensed in this state may place excess or rejected risks with any insurer lawfully doing business in this state other than an insurer such agent is licensed to represent; provided, however, that such insurance agent shall procure an additional license to represent such other insurer before receiving commissions or other compensation for his services.

§ 9. Expiration and Renewal of Agent's License.) 1. Each license issued to an insurance agent shall expire on the thirtieth day of April following the date of issue, unless prior thereto it is revoked or suspended by the commissioner of insurance or the authority of the agent to act for the insurer is terminated.

2. In the absence of a contrary ruling by the commissioner, license renewals may be issued from year to year upon request of the insurer without further action on the part of the agent.

§ 10. Temporary License.) The commissioner of insurance, if he is satisfied with the honesty and trustworthiness of the applicant, may issue a temporary insurance agent's license without requiring the applicant to pass a written examination, as follows:

1. To the executor or administrator of the estate of a deceased person who at the time of his death was a licensed insurance agent;

2. To a surviving next of kin of such a deceased person, if no administrator or executor has been appointed and qualified, but any license issued under this subparagraph shall be revoked upon issuance of a license to an executor or administrator under subparagraph 1 above;
3. A license issued pursuant to this section shall permit the executor, administrator, or next of kin, as the case may be, to maintain such business as the deceased licensee had in force at the time of his death, but shall not entitle the executor, administrator, or next of kin to solicit, negotiate, procure, or effect new contracts of insurance.
4. No license issued under this section shall be effective for more than ninety (90) days. The commissioner, in his discretion, may renew once a license granted upon proper application and for good cause.

§ 11. Insurer to Notify Commissioner of Termination of Contract — Communications Privileged — Return of License.)

1. Every insurer shall, upon termination of the appointment of any insurance agent, immediately file with the commissioner of insurance a statement of the facts relative to the termination of the appointment and the date and cause thereof. The commissioner shall thereupon terminate the license of such agent to represent such insurer in this state.

2. Any information, document, record, or statement required to be made or disclosed to the commissioner of insurance pursuant to this section shall be deemed a privileged communication and shall not be used as evidence in any court action or proceeding.

3. All licenses shall be the property of the state of North Dakota. Upon termination, suspension, revocation, or expiration without immediate renewal of a license, the licensee or other person having possession or custody of the license shall forthwith deliver it to the commissioner of insurance. In the event a license is lost, stolen, or destroyed, the commissioner may accept in lieu thereof the affidavit of the licensee or other person having possession or custody of the license concerning the facts of such loss, theft, or destruction.

§ 12. Refusal, Suspension, or Revocation of Licenses.) 1. A license may be refused or a license duly issued may be suspended or revoked or the renewal thereof refused by the commissioner of insurance, if he finds that the applicant for or holder of such license:

- a. Has willfully violated any provision of the insurance laws of this state or any lawful rule, regulation, or order of the commissioner; or

- b. Has intentionally made a material misstatement in the application for such license; or
- c. Has obtained or attempted to obtain such license by fraud or misrepresentation; or
- d. Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or
- e. Has otherwise demonstrated lack of trustworthiness or competence to act as an insurance agent; or
- f. Has been convicted, by final judgment, of a crime involving moral turpitude; or
- g. Has been refused a license or had his license suspended or revoked in another state; or
- h. Has been guilty of fraudulent or dishonest practices; or
- i. Has materially misrepresented the terms and conditions of insurance policies or contracts; or
- j. Has made or issued, or caused to be made or issued, any statement misrepresenting or making incomplete or misleading comparisons regarding the terms or conditions of any insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or
- k. Has obtained or attempted to obtain such license, not for the purpose of holding himself out to the general public as an insurance agent, but primarily for the purpose of soliciting, negotiating, or procuring insurance or annuity contracts covering himself or members of his family.

2. Before any license shall be refused (except for failure to pass a required written examination) or suspended or revoked or the renewal thereof refused hereunder, the commissioner of insurance shall give, either personally or by registered or certified mail, notice of opportunity for hearing to the applicant for or holder of such license and the insurer whom he represents or who desires that he be licensed. Such notice shall state the order which the commissioner proposes to issue, the grounds for issuing such order, and that the person to whom such notice is given will be afforded a hearing upon written request to the commissioner if such request is made within ten days after receipt of the notice.

3. Whenever a person requests a hearing in accordance with the provisions of this section, the commissioner of insurance shall set a date, time, and place for such hearing and shall

notify the person requesting such hearing thereof. The date set for such hearing shall be within fifteen days but not earlier than five days, after the request for the hearing has been received, unless otherwise agreed to by both the commissioner and the person requesting such hearing. In the conduct of such hearing, the commissioner of insurance or his designee shall have the powers specified in chapter 28 -32, and the proceedings shall conform to chapter 28-32 insofar as that chapter is applicable and not in conflict with this section.

4. If the commissioner of insurance does not receive a request for a hearing within the prescribed time, he may enter the proposed order. If a hearing is requested and conducted with respect to a proposed order, the commissioner shall make and state his findings of fact and separate conclusions of law and his decision based upon such findings and conclusions. The commissioner shall give notice of his decision by delivering a copy thereof to all the parties to the proceeding either personally or by registered or certified mail, and if such notice is given by registered or certified mail, the notice shall be deemed given as of the date of the registry or certification.

5. No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as an insurance agent within two years from the effective date of such revocation or, if judicial review of such revocation is sought, within two years from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner of insurance unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

§ 13. Judicial Review of Acts of Commissioner.) Within thirty days after any order of refusal, suspension, or revocation of an agent's license is made by the commissioner of insurance, the person aggrieved thereby may petition the district court of Burleigh county for a review of the proceedings in connection therewith. Upon such petition, the court shall issue an order to the commissioner to show cause why such license should not be issued or reinstated, as the case may be, and upon a hearing thereon shall make such decision as the facts and the law shall warrant.

§ 14. Penalty.) Any person, partnership, association, or corporation violating any of the provisions of this Act shall, in addition to any other penalty specifically provided, be guilty of a misdemeanor and, upon conviction, shall be fined not more than five hundred dollars or imprisoned for not more than six months, or both, each such violation being a separate offense

hereunder. In addition, if such offender holds a license as an insurance agent, such license may be suspended or revoked as hereinbefore provided.

§ 15. Commissioner May Establish Rules and Regulations.)

The commissioner of insurance is authorized to establish, amend, and repeal rules and regulations for the administration of this Act.

§ 16. Appropriation.) There is hereby appropriated out of any moneys in the state treasury, not otherwise appropriated, the sum of thirty thousand dollars or so much thereof as may be necessary, to the insurance department for the purpose of administering this Act for the biennium beginning July 1, 1967, and ending June 30, 1969.

§ 17. Revocation or Suspension of Agent's License for Misrepresentation or Discrimination—Appeal.) Upon satisfactory evidence of the violation of any of the provisions of this chapter relating to misrepresentation or discrimination by any agent or solicitor of any insurance or surety company, reciprocal, benevolent society, or any fraternal benefit society, or any other insurance organization, or association, however constituted or entitled, the commissioner may suspend or revoke the license of such offending solicitor or agent. When a license shall be suspended or revoked, the party aggrieved may appeal to the district court of Burleigh county.

§ 18. Repeal.) Sections 26-10-13, 26-17-01, 26-17-03, 26-17-04, and 26-17-05 of the North Dakota Century Code are hereby repealed.

Approved March 15, 1967.

CHAPTER 231

H. B. No. 913

(Lang)

EXCEPTIONS FOR FOREIGN INSURANCE AND SURETY
COMPANIES HAVING LOCAL AGENTS

AN ACT

To amend and reenact section 26-17-10 of the 1965 Supplement to the North Dakota Century Code, relating to exceptions for foreign insurance and surety companies having local agents.

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

§ 1. **Amendment.**) Section 26-17-10 of the 1965 Supplement to 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 appointed by the insurer 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. Bid bonds issued by any surety company in connection with any public or private contract.

Approved March 14, 1967.

CHAPTER 232

H. B. No. 615

(Davis, Connolly, Jenkins, Lee, Goodman)

REPEAL OF HAIL INSURANCE DEPARTMENT

AN ACT

To repeal chapter 26-22 of the North Dakota Century Code, relating to the hail insurance department and providing an effective date.

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

§ 1. Repeal.) Chapter 26-22 of the North Dakota Century Code is hereby repealed effective January 1, 1968.

§ 2. Effective Date.) The repeal of chapter 26-22 of the North Dakota Century Code shall become effective on January 1, 1968, and all subsequent provisions of this section shall supersede any existing provisions in chapter 26-22 as may be in conflict therewith effective July 1, 1967. No further insurance coverage shall be issued by the state hail insurance department on or after July 1, 1967. On or after July 1, 1967, the commissioner of insurance shall begin releasing employees of the state hail insurance department as the workload of such department decreases and all remaining employees of such department shall be released from employment by January 1, 1968. The balance of the state hail insurance fund as of January 1, 1968, as determined by the state treasurer shall be transferred to the state general fund less the sum as computed by the commissioner of insurance, necessary to pay all outstanding claims, loans, and liabilities. This sum shall be maintained as a special fund by the state treasurer until all claims, loans, and liabilities as determined by the commissioner of insurance have been paid, at which time any remaining balance shall also be transferred to the state general fund. All money including hail taxes and interest and penalties accruing thereon due and owing to the state hail insurance department as of January 1, 1968, shall remain an obligation to the state and shall be collected pursuant to the provisions of chapter 26-22 as it existed heretofore and when paid shall be deposited in the state general fund unless such money shall be determined by the state treasurer to be necessary for the payment of outstanding claims, loans, and liabilities, in which case the moneys shall be deposited in the special fund for the payment of such obligations and such funds are hereby appropriated for such purpose. The payment of any money due any party on or after January 1, 1968, shall be by a voucher signed

by the commissioner of insurance and approved by the state auditing board upon warrant checks issued by the department of accounts and purchases. All vested rights or causes of action of all parties under chapter 26-22 are hereby secured and shall be disposed of and adjudicated in accordance with the provisions of such chapter as it existed prior to its repeal.

Filed March 13, 1967.

Note: Chapter 232, designated as House Bill No. 615, was vetoed by the governor on February 28, 1967. The house of representatives passed House Bill No. 615 over the governor's veto on March 1, 1967, and the senate passed House Bill No. 615 over the governor's veto on March 3, 1967.

CHAPTER 233

S. B. No. 53

(Christensen, Lips)

(Committee on Legislative Audit and Fiscal Review)

STATE BONDING OF EMPLOYEES

AN ACT

To create and enact section 26-23-02.1, and to amend and reenact sections 26-23-01, 26-23-02, 26-23-05, 26-23-06 and 26-23-07 of the North Dakota Century Code, relating to the definition of "fund", provision for blanket bond coverage, state bonding fund under management of commissioner of insurance, report of election or appointment of public employee, and premiums.

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

§ 1. Amendment.) Section 26-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-01. Definitions.) In this chapter, unless the context or subject matter otherwise requires:

1. "Commissioner" shall mean the commissioner of insurance;
2. "Public employee" shall mean and include any officer, deputy, or employee of the state or any of its subdivisions who is required to be bonded by any law of this state;
3. "Blanket bond" shall mean a bond which covers collectively the entire personnel without the necessity of scheduling the employees' names or positions as a part

of the bond, and a bond whereby new employees entering employment during the period of the bond are automatically included without notice to the fund;

4. "Fund" shall mean the state bonding fund.

§ 2. **Amendment.**) Section 26-23-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-02. State Bonding Fund Under Management of Commissioner of Insurance.) The fund shall be under the management of the commissioner, and shall be maintained as a fund for the bonding of public employees including those who are not specifically required by law to be bonded. All moneys collected under the provisions of this chapter shall be paid into such fund.

§ 3.) Section 26-23-02.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-23-02.1. Blanket Bond Coverage Available to State Departments, Agencies, Industries, and Institutions.) The state bonding fund shall provide coverage as set forth in section 26-23-09 in the form of a blanket bond to state departments, agencies, industries, and institutions, and to political subdivisions, subject to the approval of the commissioner who may exclude certain employees or groups of employees. The commissioner shall prescribe the kind or kinds of blanket bond coverage, with or without deductible provisions, available through the fund, the procedure to be followed in obtaining such blanket bond coverage, and the forms upon which blanket bond coverage shall be requested. Public employees required to be bonded by law may be included in such blanket bond coverage, and such blanket bond coverage may be greater but not less than the maximum bond as provided in the law for such positions. Such blanket bond shall fulfill statutory bonding requirements for any position.

§ 4. **Amendment.**) Section 26-23-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

***26-23-05. Report of Election or Appointment of Public Employee—Payment of Premiums.**) Before any public employee, excluding one whose position is covered by a blanket bond, shall assume his duties, the state auditor, county auditor, city auditor, township clerk, or school district clerk, as the case may be, shall report to the commissioner in such manner

***Note:** Section 82 of chapter 323, 1967 S.L., also amended section 26-23-05.

and form as the commissioner shall prescribe, the election or appointment of such public employee and the amount of the bond required of him, and shall remit with such report by check, draft, or express or postal money order the premium required under the provisions of this chapter.

§ 5. Amendment.) Section 26-23-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-06. Premiums—Amount to Whom Paid—Minimum.)

The premium for insurance furnished under this chapter, not including the premium for a blanket bond which shall be determined by the commissioner, shall be twenty-five cents per year per one hundred dollars of the amount of the required bond. Premiums shall be paid in advance by the proper authority of the state, or of the subdivision of the state, which the public employee for whom a bond is required was elected or appointed to serve, from its treasury, to the state treasurer who shall keep the same in the fund. The state treasurer shall issue quadruple receipts therefor. He shall file one of such receipts in his office, and shall mail one to the official making such payment, one to the commissioner, and one to the state auditor. The minimum premium for each bond shall be two dollars and fifty cents per year. Unless the term of office or employment shall be for a shorter period, payments shall be made for one year or for such longer terms as the commissioner may prescribe. The bonds of all retiring public employees shall be transferred to their successors for unexpired terms without any additional premium, when written application is made to the director of the state bonding fund. No notice or application shall be required when a public employee is covered under a blanket bond. From and after July 1, 1953, the premiums referred to in this section shall be waived until the reserve fund of the state bonding fund shall have been depleted below the sum of two and one-half million dollars. The collection of premiums shall be resumed on the bonds of all public employees of the state of North Dakota and each political subdivision thereof, at the rates herein set forth, whenever the said reserve fund shall have been depleted below the sum of two and one-half million dollars. Such premium shall be collected again until the said reserve fund shall reach a total of three million dollars, at which time all such premiums shall again be waived until such reserve fund has been depleted below the sum of two and one-half million dollars. This section with respect to the collection of bond premiums shall constitute a continuing plan of maintaining the reserve fund so that it shall never remain below the sum of two and one-half million dollars nor be allowed to exceed the sum of three million dollars.

§ 6. Amendment.) Section 26-23-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-23-07. Effect of Failure to Report Election or Appointment of Public Employee or Follow Procedure Prescribed by Commissioner and to Pay Bond Premium.) Unless the report required by section 26-23-05 shall be made in the case of an individual bond or the procedure prescribed by the commissioner is followed in the case of a blanket bond and the premium required by section 26-23-06 shall be paid within ten days after the service of a public employee has begun, the officer whose duty it is to make such report or follow such procedure and pay such premium, during the term of such default, shall be liable by force of this chapter as a surety on the bond of such public employee with the same effect and to the same extent as if such bond had been signed, approved, and filed as otherwise required by law. In addition thereto, any officer guilty of such default shall be liable to punishment as for a misdemeanor. No compensation shall be paid to any public employee unless his appointment or election has been reported or the procedure prescribed by the commissioner is followed, as the case may be, and the premium payment for such employee or blanket bond shall have been made to the commissioner or a bond shall have been filed in lieu thereof as provided in this chapter.

Approved March 6, 1967.

CHAPTER 234

S. B. No. 363
(Rait, Hernett)

STATE FIRE AND TORNADO FUND COVERAGES

AN ACT

To amend and reenact sections 26-24-02, 26-24-04, and 26-24-10 of the North Dakota Century Code and to amend and reenact sections 26-24-08, 26-24-09, and 26-24-13 of the Supplement of the North Dakota Century Code, relating to the coverages afforded by the state fire and tornado fund and the percentage of assessment to bureau rates.

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

§ 1. Amendment.) Section 26-24-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-02. 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 subdivisions 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, vehicles, and at the option of the insured the fund shall have the authority to insure against any other risks of direct physical loss. All moneys collected under the provisions of this chapter shall be paid into such fund and shall be used only for the purposes provided for in this chapter.

§ 2. Amendment.) Section 26-24-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-04. 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 subdivisions of the state, shall be insured under the provisions of this chapter. No officer or agent of the state or of any political subdivision thereof, and no person having charge of any public buildings belonging to the state, any state industry, or any political subdivision of the state, shall pay out any public moneys 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, vehicles, or any other risks of direct physical loss, or contract in any manner for, or incur any indebtedness against, the state or any political subdivision thereof on account of any such insurance upon any of the buildings or fixtures and permanent contents therein belonging to the state or any political subdivision thereof, except in the manner provided in this chapter.

§ 3. Amendment.) Section 26-24-08 of the 1965 Supplement to 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 state board of higher education, and each officer, department, 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, clerk, and school district clerk,

***Note:** Section 26-24-08 was also amended by section 1 of chapter 235, and by section 87 of chapter 323, 1967 S.L.

as the case may be, shall report to the commissioner the insurable 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.

§ 4. **Amendment.)** Section 26-24-09 of the 1965 Supplement to 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, explosions, riot attending a strike, aircraft, smoke, vehicles, or any other risks of direct physical loss, all in the manner and subject to the restrictions of the standard fire insurance policy and standard endorsements, 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 the 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.

All public libraries owned by the state or the political subdivisions of the state may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If such coverage cannot be extended to the public libraries situated within this state, such libraries may contract for such coverage with private insurance companies, provided that such coverage meets the recommendations of the insurance code of the American library association.

§ 5. **Amendment.)** Section 26-24-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-10. 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 subdivision 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:

***Note:** Section 26-24-09 was also amended by section 2 of chapter 235, 1967 S.L.

1. The commissioner and the board or officer in charge of the property each shall 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 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 officials concerned and shall be binding upon both parties. Each party to 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 to the dispute. The decision by such board of arbitration must be made within thirty days from the time the matter is submitted to it. 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.

§ 6. Amendment.) Section 26-24-13 of the 1965 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-13. Assessments.) If the reserve balance 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 balance 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

balance to the sum of twelve million dollars shall then be computed and collected on each policy, provided that until the reserve balance 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 sixty percent of the rates set by the fire underwriters inspection bureau unless the reserve balance shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

Approved March 14, 1967.

CHAPTER 235

H. B. No. 714

(Bunker, Bier, Allen, Davis, Mueller, Aamoth, Unruh,
(Strinden, Metzger, Lee)

INSURANCE ON PUBLIC BUILDINGS

AN ACT

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

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

§ 1. **Amendment.)** Section 26-24-08 of the 1965 Supplement to 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 state board of higher education, and each officer, department, 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, and school district clerk, as the case may be, shall report to the commissioner the sound depreciated value of each public building, with the exception of buildings insured by private insurance companies, and of the fixtures and permanent contents therein, with the exception of fixtures and permanent contents insured by private insurance companies, 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.

***Note:** Section 26-24-08 was also amended by section 3 of chapter 234, and by section 87 of chapter 323, 1967 S.L.

§ 2. Amendment.) Section 26-24-09 of the 1965 Supplement to 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, explosions, 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.

All public buildings owned by the political subdivisions of the state, in lieu of coverage provided for in this section, may at the option of the governing body of the political subdivision be insured on the basis of competitive sealed bids, through the fire and tornado fund which shall be invited to submit a sealed bid or private insurance companies licensed to do business in this state, against damage resulting from hazards, which hazards shall include but shall not be limited to those types of hazards that may be insured against by the fund. The governing body may reject any or all such bids.

All public libraries owned by the state or the political subdivisions of the state may, in addition to the coverage provided for in this section, be covered against damage through vandalism. If such coverage cannot be extended to the public libraries situated within this state, such libraries may contract for such coverage with private insurance companies, provided that such coverage meets the recommendations of the insurance code of the American library association.

Filed March 13, 1967.

***Note:** Section 26-24-09 was also amended by section 4 of chapter 234, 1967 S.L.

Note: Chapter 235, designated as House Bill No. 714, was vetoed by the governor on March 2, 1967. The house of representatives passed House Bill No. 714 over the governor's veto on March 2, 1967, and the senate passed House Bill No. 714 over the governor's veto on March 3, 1967.

CHAPTER 236

S. B. No. 160
(Lips)

WAIVER OF SUBROGATION RIGHTS

AN ACT

Authorizing the commissioner of insurance to waive subrogation rights of the state fire and tornado fund arising out of damage by fire or explosion caused by a contractor during construction of an alteration or addition to a public building insured in said fund.

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

§ 1. Commissioner May Waive Subrogation Rights During Construction.) The commissioner may, in his discretion, waive any right of the fund to recover for damage sustained by any public structure as a result of fire or explosion caused by a contractor, its employees or agents, in the performance of a contract for the alteration of, or the construction of an addition to, a public building insured in the fund.

Approved February 28, 1967.

CHAPTER 237

H. B. No. 845
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF
HOSPITAL SERVICE CONTRACTS

AN ACT

To amend and reenact section 26-26-14 of the North Dakota Century Code, relating to licensing of sales representatives.

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

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

26-26-14. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter, who may also act as sales representatives in the sale of nonprofit medical service contracts as defined in chap-

ter 26-27, shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17. 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 three dollars.

Approved March 6, 1967.

CHAPTER 238

H. B. No. 843
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF NONPROFIT MEDICAL SERVICE CORPORATIONS

AN ACT

To amend and reenact section 26-27-14 of the North Dakota Century Code, relating to licensing of sales representatives.

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

§ 1. **Amendment.)** Section 26-27-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27-14. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17. 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 three dollars.

Approved March 6, 1967.

CHAPTER 239

H. B. No. 844
(Bunker)

LICENSING OF SALES REPRESENTATIVES OF
NONPROFIT DENTAL SERVICE CORPORATIONS

AN ACT

To amend and reenact section 26-27.1-18 of the North Dakota Century Code, relating to licensing of sales representatives.

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

§ 1. **Amendment.)** Section 26-27.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-27.1-18. Licensing of Sales Representatives.) The sales representatives of any corporation subject to the provisions of this chapter shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Century Code. 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 three dollars.

Approved March 6, 1967.

CHAPTER 240

H. B. No. 652
(Dahlen, Opedahl, Lillehaugen, Sandness)

CASUALTY INSURANCE RATE FILINGS

AN ACT

To amend and reenact subsection 4 of section 26-28-04 of the North Dakota Century Code, relating to rate filings.

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

§ 1. **Amendment.)** Subsection 4 of section 26-28-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Subject to the exceptions specified in subsection 3 of this section, each filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Approved February 27, 1967.

CHAPTER 241

H. B. No. 650

(Dahlen, Opedahl, Lillehaugen, Sandness)

CASUALTY INSURANCE DEVIATIONS

AN ACT

To amend and reenact section 26-28-07 of the North Dakota Century Code, relating to deviations.

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

§ 1. Amendment.) Section 26-28-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-28-07. Deviations.) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a uniform percentage decrease or increase to be applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance:

1. Comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or

2. For which separate expense provisions are included in the filings of the rating organization.

Such application shall specify the basis for the modification and shall be accompanied by the data upon which the applicant relies. A copy of the application and data shall be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. The commissioner shall issue an order permitting the modification for such insurer to be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the modification is not justified, or that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each approved deviation shall remain in force until such approval is withdrawn by the commissioner after notice to the insurer or withdrawn by the insurer with the approval of the commissioner.

Approved February 27, 1967.

CHAPTER 242

H. B. No. 651

(Dahlen, Opedahl, Lillehaugen, Sandness)

FIRE AND PROPERTY INSURANCE RATE FILINGS

AN ACT

To amend and reenact subsection 4 of section 26-29-04 of the North Dakota Century Code, relating to rate filings.

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

§ 1. Amendment.) Subsection 4 of section 26-29-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

4. Subject to the exception specified in subsection 5 of this section, each filing shall be on file for a waiting period of thirty days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed fifteen days if he gives written notice within such waiting period to the insurer or rating organization which

made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

Approved February 28, 1967.

CHAPTER 243

H. B. No. 653

(Dahlen, Opedahl, Lillehaugen, Sandness)

FIRE AND PROPERTY INSURANCE DEVIATIONS

AN ACT

To amend and reenact section 26-29-07 of the North Dakota Century Code, relating to deviations.

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

§ 1. Amendment.) Section 26-29-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-29-07. Deviations.) Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any such insurer may make written application to the commissioner for permission to file a deviation from the class rates, schedules, rating plans or rules respecting any kind of insurance, or class of risk within a kind of insurance, or combination thereof. Such application shall specify the basis for the modification and a copy thereof shall also be sent simultaneously to such rating organization. The commissioner shall set a time and place for a hearing at which the insurer and such rating organization may be heard and shall give them not less than ten days' written notice thereof. In the event the commissioner is advised by the rating organization that it does not desire a hearing he may, upon the consent of the applicant, waive such hearing. In considering the application for permission to file such deviation the commissioner shall give consideration to the available statistics and the principles for rate making as provided in section 26-29-03. The commissioner shall issue an order permitting the deviation for such insurer to

be filed if he finds it to be justified and it shall thereupon become effective. He shall issue an order denying such application if he finds that the resulting premiums would be excessive, inadequate or unfairly discriminatory. Each approved deviation shall remain in force until such approval is withdrawn by the commissioner after notice to the insurer or withdrawn by the insurer with the approval of the commissioner.

Approved February 27, 1967.

CHAPTER 244

S. B. No. 384
(Longmire)

GOVERNMENTAL SUBDIVISION PERMISSIVE INSURANCE

AN ACT

To amend and reenact sections 39-01-08 and 40-43-07 of the North Dakota Century Code, relating to the permissive purchase of liability insurance by governmental subdivisions and units, providing procedures for insurance coverages to be utilized and providing for waiver of governmental immunity only to the extent of insurance coverage if insurance is purchased.

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

§ 1. **Amendment.)** Section 39-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

39-01-08. State and Political Subdivisions Authorized to Carry Insurance on Vehicles—Waiver of Immunity to Extent Only of Insurance Purchased.)

- (a) The state of North Dakota or any department, agency, bureau, or the employees thereof as well as any county, city, village, or other political subdivision including townships, school and park districts using or operating motor vehicles, are hereby authorized to carry insurance for their own protection of any employee from claims for loss or damage arising out of or by reason of the use or operation of such motor vehicle, whether such vehicle at the time the loss or damage in question occurred was being operated in a governmental undertaking or otherwise. If a premium savings will result therefrom, such policies of insurance may be taken out for more than one year, but in no event beyond a period of five years.

- (b) If insurance is purchased pursuant to subsection (a) above, then the purchaser waives its immunity to suit only to the extent of allowing a determination of liability to the extent of the waiver of the immunity against liability described in subsection (c) below.
- (c) If insurance is purchased pursuant to subsection (a) above, then the purchaser waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of such coverage.
- (d) If any dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant.
- (e) This statute confers no right for a claimant to sue the insurer directly.

§ 2. **Amendment.)** Section 40-43-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

40-43-07. Political Subdivisions Authorized to Carry Liability Insurance—Waiver of Immunity to Extent Only of Insurance Purchased.)

- (a) Any political subdivision of the state may insure against claims of loss, damage, or injury against such political subdivision or any department, agency, or function, or officer, agent, or employee, of such subdivision.
- (b) If a political subdivision insures against a claim, then the political subdivision waives its immunity to suit only to the extent of allowing a determination of liability to the extent of the waiver of the immunity against liability described in subsection (c) below.
- (c) If a political subdivision insures against a claim, then the political subdivision waives its immunity against liability only to the types of its insurance coverage and only to the extent of the policy limits of such coverage.
- (d) If a dispute exists concerning the amount or nature of the insurance coverage, the dispute shall be tried separately before the main trial determining the claims and damages of the claimant.
- (e) This statute confers no right for a claimant to sue the insurer directly.

Approved February 22, 1967.