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## INSURANCE

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### CHAPTER 188.

[S. B. No. 27—Ellingson.]

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#### COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT to Amend Section 4493 of the Revised Codes of North Dakota for 1905, Relating to County Mutual Insurance Companies.

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

§ 1. Section 4493 of the Revised Codes of North Dakota for 1905 is hereby amended to read as follows:

§ 4493. No company formed under the provisions of this article shall insure any property beyond the limits of the district comprised in the formation of the company, nor shall it insure any property other than detached dwellings and their contents, farm buildings and contents, school houses and school furniture therein, church buildings and furniture therein, live stock only on the premises or running at large, and hay or grain in stack or bin, or growing grain against damage by hail, nor shall they insure any property within the limits of any incorporated city or village in this state unless such property is detached and situated on land not surveyed or platted into lots.

Approved February 19, 1913.

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### CHAPTER 189.

[H. B. No. 424—Hanson.]

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#### PROHIBITING NON-PARTICIPATING POLICIES.

AN ACT to Repeal Chapter 145 of the Laws of 1907.

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

§ 1. That Chapter 145 of the Laws of 1907, entitled, "An Act to Prohibit the Issuance of Non-Participating Policies by Certain Life Insurance Companies" be and the same is hereby repealed.

Approved March 11, 1913.

## CHAPTER 190.

[S. B. No. 349—Garden.]

## MUTUAL INSURANCE.

AN ACT to Amend Section 1 of Chapter 162 of the Session Laws of 1911,  
Relating to County Mutual Companies.

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

§ 1. That Section 1 of Chapter 162 of the Session Laws of 1911 be amended to read as follows:

§ 4494. The directors of each company so formed shall be chosen by a vote at the annual election thereof, which shall be held on the last Friday in June of each year, and every member shall have one vote, but no person shall vote by proxy at such election. *Provided*, that to constitute a quorum for the transaction of business there must be at least twenty members present, including officers and directors; *provided*, that in any company organized under this Article, whose policies of insurance shall not run for a longer period than one year, all persons holding policies of insurance therein during the year immediately preceding the annual election, shall be considered as members of said company and shall be entitled to vote at such election.

§ 2. EMERGENCY.] An emergency is hereby declared to exist in this that there is now no provisions regarding a quorum, this act shall take effect immediately after its passage and approval.

Approved March 11, 1913.

## CHAPTER 191.

[S. B. No. 267—McDowell.]

## FRATERNAL BENEFIT SOCIETIES.

AN ACT for the Regulation and Control of Fraternal Benefit Societies.

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

§ 1. FRATERNAL BENEFIT SOCIETIES DEFINED.] Any corporation, society, order or voluntary association, without capital stock, organized and carried on solely for the mutual benefit of its members and their beneficiaries, and not for profit, and having a lodge system with ritualistic form of work and representative form of government, and which shall make provisions for the payment of death benefits in accordance with Section 5 hereof, is hereby declared to be a fraternal benefit society.

§ 2. LODGE SYSTEM DEFINED.] Any society having a supreme governing or legislative body, and subordinate lodges or branches by whatever name known, into which members shall be elected, initiated and admitted in accordance with its constitution laws, rules, regulations and prescribed ritualistic ceremonies, which subordinate lodges or branches shall be required by the laws of such society to hold regular or stated meetings at least once in each month, shall be deemed to be operating on the lodge system.

§ 3. REPRESENTATIVE FORM OF GOVERNMENT DEFINED.] Any such society shall be deemed to have a representative form of government when it shall provide in its constitution and laws for a supreme legislative or governing body, composed of representatives elected either by the members or by delegates elected directly or indirectly by the members, together with such other members as may be prescribed by its constitution and laws; *provided*, that the elective members shall constitute a majority in number and have not less than two-thirds of the votes, nor less than the votes required to amend its constitution and laws and *provided* further, that the meetings of the supreme or governing body, and the election of officers, representatives or delegates shall be held as often as once in four years. The members, officers, representatives or delegates of a fraternal benefit society shall not vote by proxy.

§ 4. EXEMPTIONS.] Except as herein provided, such societies shall be governed by this act, and shall be exempt from all provisions of the insurance laws of this state, not only in governmental relations with the state, but for every other purpose, and no law hereafter shall apply to them unless they be expressly designated therein.

§ 5. BENEFITS.] Sub-section 1. Every society transacting business under this act shall provide for the payment of death benefits, and may provide for the payment of benefits in case of temporary or permanent physical disability, either as the result of disease, accident, or old age; *provided*, the period of life at which the payment of benefits or disability on account of old age shall commence, shall not be under seventy years, and may provide for monuments or tombstones to the memory of its deceased members, and for the payment of funeral benefits. Such society shall have the power to give a member, when permanently disabled or on attaining the age of seventy, all, or such portion of the face value of his certificate as the laws of the society may provide; *provided*, that nothing in this act contained shall be so construed as to prevent the issuing of benefit for a term of years less than the whole of life, which are payable upon the death or disability of the mem-

ber occurring within the term for which the benefit certificate may be issued. Such society shall, upon written application of the member, have the power to accept a part of the periodical contributions in cash, and charge the remainder, not exceeding one-half of the periodical contribution, against the certificate with interest payable or compounded annually at a rate not lower than four per cent per annum; *provided* that this privilege shall not be granted except to societies which have readjusted or may hereafter readjust their rates of contributions, and to contracts affected by such readjustment.

Sub-section 2. Any society which shall show by the annual valuation hereinafter provided for that it is accumulating and maintaining the reserve not lower than the usual reserve computed by the American Experience Table and four per cent interest, may grant to its members extended and paid up protection, or such withdrawal equities as its constitution and laws may provide; *provided*, that such grants shall in no case exceed in value the portion of the reserve to the credit of such members to whom they are made.

§ 6. BENEFICIARIES.] The payment of death benefits shall be confirmed (confined) to wife, husband, relative by blood to the fourth degree, father-in-law, mother-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepchildren, children by legal adoption, or to a person or persons dependent upon the member; *provided*, that if after the issuance of the original certificate the member shall become dependent upon an incorporated charitable institution, he shall have the privilege with the consent of the society to make such institution his beneficiary. Within the above restrictions, each member shall have the right to designate his beneficiary, and from time to time have the same changed in accordance with the laws, rules and regulations of the society, and no beneficiary shall have or obtain any vested interest in the said benefit until the same has become due and payable upon the death of the said member; *provided*, that any society may, by its laws, limit the scope or beneficiaries within the above classes.

§ 7. QUALIFICATIONS OF MEMBERSHIP.] Any society may admit to beneficial membership any person not less than sixteen and not more than sixty years of age, who has been examined by a legally qualified physician, and whose examination has been supervised and approved in accordance with the laws of the society; *provided*, that any beneficiary member of such society who shall apply for a certificate providing for disability benefits, need not be re-

quired to pass an additional medical examination therefor. Nothing herein contained shall prevent such society from accepting general or social members.

§ 8. CERTIFICATE.] Every certificate issued by any such society shall specify the amount of benefit provided thereby, and shall provide that the certificate, the charter or articles of incorporation, or, if a voluntary association, the articles of association, the constitution and laws of the society and the applications for membership and medical examination, signed by the applicant, and all amendments to each thereof, shall constitute the agreement between the society and the member, and copies of the same certified by the secretary of the society, or corresponding officer, shall be received in evidence of the terms and conditions thereof, and any changes, additions or amendments to said charter or articles of incorporation, or articles of association, if a voluntary association, constitution or laws duly made or enacted subsequent to the issuance of the benefit certificate shall bind the member and his beneficiaries and shall govern and control the agreement in all respects the same as though such changes, additions or amendments had been made prior to and were in force at the time of the application for membership.

§ 9. FUNDS.] Sub-section 1. Any society may create, maintain, invest disburse and apply an emergency, surplus or other similar fund in accordance with its laws. Unless otherwise provided in the contract, such funds shall be held, invested and disbursed for the use and benefit of the society, and no member or beneficiary shall have or acquire individual rights therein or become entitled to any apportionment or the surrender of any part thereof, except as provided in Sub-section 2 of Section 5 of this act. The funds from which benefits shall be paid and the funds from which the expenses of the society shall be defrayed, shall be derived from periodical or other payments by the members of the society and accretions of said funds; *provided*, that no society domestic or foreign, shall hereafter be incorporated or admitted to transact business in this state which does not provide for stated periodical contributions sufficient to provide for meeting the mortuary obligations contracted, when valued upon the basis of the National Fraternal Congress Table of Mortality as adopted by the National Fraternity Congress, August 23, 1899, or any higher standard with interest assumption not more than four per cent per annum, nor write or accept members for temporary or permanent disability benefits except upon tables based upon reliable experience, with an interest assumption not higher than four per cent per annum.

Sub-section 2. Deferred payments or installments of claims shall be considered as fixed liabilities on the happening of the contingency upon which such payments or installments are thereafter to be paid. Such liability shall be the present value of such future payments of installments upon the rate of interest and mortality assumed by the society for valuation, and every society shall maintain a fund sufficient to meet such liabilities regardless of proposed future collections to meet any such liabilities.

§ 10. INVESTMENTS.] Every society shall invest its funds only in securities permitted by the laws of this state for the investment of the assets of life insurance companies; *provided*, that any foreign society permitted or seeking to do business in this state, which invests its funds in accordance with the laws of the state in which it is incorporated shall be held to meet the requirements of this Act for the investment of funds.

§ 11. DISTRIBUTION OF FUNDS.] Every provision of the laws of the society for the payment by members of such society, in whatever form made, shall distinctly state the purpose of the same and the proportion thereof which may be used for expenses, and no part of the money collected for mortuary or disability purposes, or the net accretions of either or any of said funds shall be used for expenses.

§ 12. ORGANIZATION.] Seven or more persons, citizens of the United States, and a majority of whom are citizens of this state, who desire to form a Fraternal Benefit Society, as defined by this Act, may make and sign (giving their addresses) and acknowledge before some officer competent to take acknowledgement of deeds, articles of incorporation, in which shall be stated:

1st. The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company already transacting business in this state as to mislead the public or to lead to confusion;

2nd. The purpose for which it is formed—which shall not include more liberal powers than are granted by this Act, provided that any lawful, social, intellectual, education, charitable, benevolent, moral or religious advantages may be set forth among the purposes of the society—and the mode in which its corporate powers are to be exercised;

3rd. The names, residences, and official titles of all the officers, trustees, directors or other persons who are to have and exercise the general control and management of the affairs and funds of the society for the first year, or until the ensuing election, at which all such officers shall be elected by the supreme legislative or governing body, which election shall be held not later than one year from the date of the issuance of the permanent certificate.

Such articles of incorporation and duly certified copies of the constitution and laws, rules and regulations, and copies of all proposed form of benefit certificates, applications therefor and circulars to be issued by such society, and a bond in the sum of five thousand dollars, with sureties approved by the commissioner of insurance, conditioned upon the return of the advance payments, as provided in this Section, to applicants, if the organization is not completed within one year, shall be filed with the commissioner of insurance, who may require such further information as he deems necessary, and if the purposes of the society conform to the requirements of this Act, and all provisions of law have been complied with the commissioners of insurance shall so certify and retain and record (or file) the articles of incorporation, and furnish the incorporators a preliminary certificate authorizing said society to solicit members as hereinafter provided.

Upon receipt of said certificate from the commissioner of insurance said society may solicit members for the purpose of completing its organization and shall collect from each applicant the amount of not less than one regular monthly payment, in accordance with its table of rates as provided by its constitution and laws, and shall issue to each such applicant a receipt for the amount so collected. But no such society shall incur any liability other than for such advanced payments, nor issue any benefit certificate nor pay or allow, or offer or promise to pay or allow to any person any death or disability benefit until actual bona fide applications for death benefit certificates have been secured upon at least five hundred lives for at least one thousand dollars each, and all such applicants for death benefits shall have been regularly examined by legally qualified practicing physicians, and certificates of such examinations have been duly filed and approved by the chief medical examiner of such society; nor until there shall be established ten subordinate lodges or branches, into which said five hundred applicants have been initiated; nor until there has been submitted to the commissioner of insurance, under oath of the president and secretary, or corresponding officers of such society, a list of such applicants, giving their names, addresses, date examined, date approved, date initiated, name and number of the subordinate branch of which each applicant is a member, amount of benefits to be granted, rate of stated periodical contributions, which shall be sufficient to provide for meeting the mortuary obligation, contracted, when valued for death benefits upon the basis of the National Fraternal Congress Table of Mortality, as adopted by the National Fraternal Congress August 23, 1899,

or any higher standard at the option of the society, and for disability benefits by tables based upon reliable experience and for combined death and permanent total disability benefits by tables based upon reliable experience, with an interest assumption not higher than four per cent per annum; nor until it shall be shown to the commissioner of insurance by the sworn statement of the treasurer, or corresponding officer of such society that at least five hundred applicants have each paid in cash at least one regular monthly payment, as herein provided per one thousand dollars of indemnity to be affected, which payments in the aggregate shall amount to at least twenty-five hundred dollars; all of which shall be credited to the mortuary or disability fund on account of such applicants, and no part of which may be used for expenses.

Said advanced payments shall, during the period of organization, be held in trust, and, if the organization is not completed within one year, as hereinafter provided, returned to said applicants.

The commissioner of insurance may make such examination and require such further information as he deems advisable, and, upon presentation of satisfactory evidence that the society has complied with all the provisions of law, he shall issue to such society a certificate to that effect. Such certificate shall be prima facie evidence of the existence of such society at the date of such certificate. The commissioner of insurance shall cause a record of such certificate to be made and certified copy of such record may be given in evidence with like effect as the original certificate.

No preliminary certificate granted under the provisions of this Section shall be valid after one year from its date, or after such further period, not exceeding one year, as may be authorized by the commissioner of insurance upon cause shown; unless the five hundred applicants herein required have been secured, and the organization has been completed, as herein provided, and the articles of incorporation and all proceedings thereunder shall become null and void in one year from the date of said preliminary certificate, or at the expiration of said extended period, unless such society shall have completed its organization and commenced business as herein provided. When any domestic society shall have discontinued business for the period of one year, or has less than four hundred members, its charter shall become null and void.

Every such society shall have the power to make a constitution and by-laws for the government of the society, the admission of its members, the management of its affairs, and the fixing and readjusting of the rates of contribution



of its members from time to time; and it shall have the power to change, alter, add to, or amend such constitution and by-laws, and shall have such other powers as are necessary and incidental to carrying into effect the objects and purposes of the society.

§ 13. POWERS RETAINED. RE-INCORPORATION. AMENDMENTS.] Any society now engaged in transacting business in this state may exercise, after the passage of this act, all of the rights conferred thereby, and all of the rights, powers and privileges not exercised or possessed by it under its charter or articles of incorporation not inconsistent with this Act, if incorporated; or if it be a voluntary association it may incorporate hereunder. But no society already organized shall be required to re-incorporate hereunder, and any such society may amend its articles of incorporation from time to time in the manner provided therein, or in its constitution and laws, and all such amendments shall be filed with the commissioner of insurance and shall become operative upon such filing unless a later time be provided in such amendments, or in its articles of incorporation, constitution or laws.

§ 14. MERGERS AND TRANSFERS.] No domestic societies shall merge with or accept the transfer of the membership or funds of any other society unless such merger or transfer is evidenced by a contract in writing, setting out in full the terms and conditions of such merger or transfer, and filed with the commissioner of insurance of this state together with a sworn statement of the financial condition of each of said society by its president and secretary, or corresponding officers, and a certificate of such officers, duly verified under oath of said officers of each of the contracting societies that such merger or transfer has been approved by a vote two-thirds of the members of the supreme legislative or governing body of each of said societies. Upon the submission of said contract, financial statements and certificates, the commissioner of insurance shall examine the same, and if he shall find such financial statements to be correct and the said contract to be in conformity with the provisions of this Section, and that such merger or transfer is just and equitable to the members of each of said societies he shall approve said merger or transfer, issue his certificate to that effect, and thereupon the said contract of merger or transfer shall be of full force and effect.

In case such contract is not approved the facts of its submission and its contents shall not be disclosed by the commissioner of insurance.

§ 15. ANNUAL LICENSE.] Societies which are now authorized to transact business in this state may continue such

business until the first day of April next succeeding the passage of this Act, and the authority of such societies may thereafter be renewed annually, but in all cases to terminate on the first day of the succeeding April; *provided*, however, the license shall continue in full force and effect until the new license be issued or specifically refused. For each such license or renewal the society shall pay the commissioner of insurance.....dollars. A duly certified copy or duplicate of such license shall be prima facie evidence that the license is a fraternal benefit society within the meaning of this Act.

§ 16. ADMISSION OF FOREIGN SOCIETY.] No foreign society now transacting business, organized prior to the passage of this Act, which is not now authorized to transact business in this state, shall transact any business herein without a license from the commissioner of insurance. Any such society shall be entitled to a license to transact business within this state upon filing with the commissioner a duly certified copy of its charter or articles of association, a copy of its constitution and laws, certified by its secretary or corresponding officer; a power of attorney to the commissioner of insurance as hereinafter provided; a statement of its business under oath of its president and secretary, or corresponding officers, in the form required by the commissioner, duly verified by an examination made by the supervising insurance official of its home state or other state satisfactory to the commissioner of insurance of this state; a certificate from the proper official in its home state, province, or country, that the society is legally organized; a copy of its contract, which must show that benefits are provided for by periodical, or other payments by persons holding similar contracts; and upon furnishing the commissioner such other information as he may deem necessary to a proper exhibit of its business and plan of working, and upon showing that its assets are invested in accordance with the laws of the state, territory, district, province or country where it is organized, he shall issue a license to such society to do business in this state until the first day of the succeeding April, and such license shall, upon compliance with the provisions of this Act, be renewed annually but in all cases to terminate on the first day of the succeeding April; *provided*, however, that license shall continue in full force and effect until the new license be issued or specifically refused. Any foreign society desiring admission to this state shall have the qualifications required of domestic societies organized under this Act and have its assets invested as required by the laws of the state, territory, district, country, or province where it is

organized. For each such license or renewal the society shall pay the commissioner.....dollars When the commissioner refused to license any society, or revokes its authority to do business in this state he shall reduce his ruling, order or decision to writing and file the same in his office, and shall furnish a copy thereof, together with a statement of his reasons, to the officers of the society, upon request, and the action of the commissioner shall be reviewable by proper proceedings in any court of competent jurisdiction within the state; *provided*, however that nothing contained in this or the preceding Section shall be taken or construed as preventing any such society from continuing in good faith all contracts made in this state during the time such society was legally authorized to transact business herein.

§ 17. POWER OF ATTORNEY AND SERVICE OF PROCESS.] Every society, whether domestic or foreign, now transacting business in this state, shall, within thirty days after the passage of this Act, and every said society hereafter applying for admission shall, before being licensed, appoint in writing the commissioner of insurance and his successors in office to be its true and lawful attorney, upon whom all legal process in any action or proceeding against it shall be served, and in such writing shall agree that any lawful process against it which is served upon such attorney shall be of the same legal force and validity as if served upon the society, and that the authority shall continue in force so long as any liability remains outstanding in this state.

Copies of such appointment, certified by said commissioner of insurance, shall be deemed sufficient evidence thereof and shall be admitted in evidence with the same force and effect as the original thereof might be admitted. Service shall only be made upon such attorney, must be made in duplicate upon the commissioner of insurance, or, in his absence, upon the person in charge of his office, and shall be deemed sufficient service upon such society; *provided*, however, that no such service shall be valid or binding against any such society when it is required thereunder to file its answer, pleading or defense, in less than thirty days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon said commissioner of insurance he shall forthwith forward by registered mail one of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

§ 18. PLACE OF MEETING, LOCATION OF OFFICE.] Any domestic society may provide that the meetings of its legislat-

ive or governing body may be held in any state, district, province or territory wherein such society has subordinate branches, and all business transacted at such meetings shall be as valid in all respects as if such meetings were held in this state; but its principal office shall be located in this state.

§ 19. NO PERSONAL LIABILITY.] Officers and members of the supreme, grand, or any subordinate body of any such incorporated society shall not be individually liable for the payment of any disability or death benefit provided for in the laws and agreements of such society, but the same shall be payable only out of the funds of such society and in the manner provided by its laws.

§ 20. WAIVER OF THE PROVISIONS OF THE LAWS.] The constitution and laws of the society may provide that no subordinate body, nor any of its subordinate officers or members shall have the power or authority to waive any of the provisions of the laws and constitution of the society, and the same shall be binding on the society and each and every member thereof and on all beneficiaries of members.

§ 21. BENEFIT NOT ATTACHABLE.] No money or other benefit, charity, or relief or aid to be paid, provided or rendered by any such society shall be liable to attachment, garnishment, or other process, or be seized, taken, appropriated or applied by any legal or equitable process or operation of law to pay any debt or liability of a member or beneficiary, or any other person who may have a right thereunder, either before or after payment.

§ 22. CONSTITUTION AND LAWS. AMENDMENT.] Every society transacting business under this Act shall file with the commissioner of insurance a duly certified copy of all amendments of or additions to its constitution and laws within ninety days after the enactment of the same. Printed copies of the constitution and laws as amended, changed or added to, certified by the secretary or corresponding officer of the society shall be prima facie evidence of the legal adoption thereof.

§ 23. ANNUAL REPORTS.] Every society transacting business in this state shall annually, on or before the first day of March, file with the commissioner of insurance, in such form as he may require, a statement under oath of its president and secretary, or corresponding officers, of its condition and standing on the thirty-first day of December next preceding, and of its transactions for the year ending on that date, and also shall furnish such other information as the commissioner of insurance may deem necessary to a proper exhibit of its business and plan of working. The commissioner may at other times require any further state-

ment he may deem necessary to be made relating to such society.

In addition to the annual report herein required each society shall annually report to the commissioner a valuation of its certificates in force on December 31st, last preceding; including those issued within the year for which the report is filed, in cases where the contributions for the first year in whole or in part are used for current mortality and expenses; *provided*, the first report of valuation shall be made as of December 31st, 1912. Such report of valuation shall show, as contingent liabilities, the present midyear value of the promised benefits provided in the constitution and laws of such society under certificates then subject to valuation; and, as contingent assets, the present midyear value of the future net contributions provided in the constitution and laws as the same are in practice actually collected. At the option of any society, in lieu of the above, the valuation may show the net value of the certificates subject to valuation hereinbefore provided, and said net value, when computed in case of monthly contributions, may be the means of the terminal values for the end of the preceding and of the current insurance years.

Such valuation shall be certified by a competent accountant or actuary, or, at the request and expense of the society, verified by the actuary of the department of insurance of the home state of the society, and shall be filed with the commissioner of insurance within ninety days after the submission of the last preceding annual report. The legal minimum standard of valuation for all certificates, except for disability benefits, shall be the National Fraternal Congress Table of Mortality as adopted by the National Fraternal Congress August 23, 1899, or, at the option of the society, any higher table; or at its option it may use a table based upon the society's own experience of at least twenty years and covering not less than one hundred thousand lives with interest assumption not more than four per cent per annum. Each such valuation report shall set forth clearly and fully the mortality and interest bases and the method of valuation. Any society providing for disability benefits shall keep the net contributions for such benefits in a fund separate and apart from all other benefit and expense funds and the valuation of all other business of the society; *provided*, that where a combined contribution table is used by a society for both death and permanent total disability benefits the valuation shall be according to tables of reliable experience, and in such case a separation of the funds shall not be required.

The valuation herein provided for shall not be considered or regarded as a test of the financial solvency of the society,

but each society shall be held to be legally solvent so long as the funds in its possession are equal to or in excess of its matured liabilities.

Beginning with the year 1914 a report of such valuation and an explanation of the facts concerning the condition of the society thereby disclosed shall be printed and mailed to each beneficiary member of the society not later than June 1st of each year; or, in lieu thereof, such report of valuation and showing of the society's condition as thereby disclosed may be published in the society's official paper and the issue containing the same mailed to each beneficiary member of the society. The laws of such society shall provide that if the stated periodical contributions of the members are insufficient to pay all matured death and disability claims in full, and to provide for the creation and maintenance of the funds required by its laws, additional, increased, or extra rates of contribution shall be collected from the members to meet such deficiency; and such laws may provide that, upon the written application or consent of the member, his certificate may be charged with its proportion of any deficiency disclosed by valuation, with interest not exceeding five per centum per annum.

§ 23a. PROVISIONS TO INSURE FUTURE SECURITY.] If the valuation of the certificates, as hereinbefore provided, on December 31, 1917, shall show that the present value of future net contributions, together with the admitted assets, is less than the present value of the promised benefits and accrued liabilities such society shall thereafter maintain said financial condition at each succeeding triennial valuation in respect of the degree of deficiency, as shown in the valuation as of December 31, 1917. If at any succeeding triennial valuation such society does not show at least the same condition the commissioner shall direct that it thereafter comply with the requirements herein specified. If the next succeeding triennial valuation after the receipt of such notice shall show that the society has failed to maintain the condition required herein the commissioner may, in the absence of good cause shown for such failure, institute proceedings for the dissolution of such society, in accordance with the provisions of Section 24 of this act, or in the case of a foreign society, its license may be cancelled in the manner provided in this Act.

Any such society, shown by any triennial valuation, subsequent to December 31, 1917, not to have maintained the condition herein required, shall within two years thereafter make such improvement as to show a per centage of deficiency not greater than as of December 31, 1917, or

thereafter, as to all new members admitted, be subject, so far as stated rates of contributions are concerned, to the provisions of Section 12 of this Act, applicable in the organization of new societies; provided, that the net mortuary or beneficial contributions and funds of such new members shall be kept separate and apart from the other funds of the society. If such required improvement is not shown by the succeeding triennial valuation then the said new members may be placed in a separate class, and their certificates valued as an independent society in respect of contributions and funds.

§ 23b. In lieu of the requirements of Section 23 and 23a any society accepting in its laws the provisions of this Section may value its certificates on a basis herein designated "accumulation basis" by crediting each member with the net amount contributed for each year with interest at approximately the net rate earned and by charging him with his share of the losses for each year, herein designated "cost of insurance," and carrying the balance, if any, to his credit. The charge for the cost of insurance may be according to the actual experience of the society applied to a table of mortality recognized by the law of this state, and shall take into consideration the amount at risk during each year, which shall be the amount payable at death less the credit to the member. Except as specifically provided in its articles or laws or contracts no charge shall be carried forward from the first valuation hereunder against any member for any past share of losses exceeding the contributions and credit. If, after the first valuation, any member's share of losses for any year exceeds his credit including the contribution for the year the contribution shall be increased to cover his share of the losses. Any such excess share of losses chargeable to any member may be paid out of a fund or contributions especially created or required for such purpose.

Any member may transfer to any place adopted by the society with net rates on which tabular reserves are maintained and on such transfer shall be entitled to make such application of his credit as provided in the laws of the society.

Certificate issued, rerated or readjusted on a basis providing for adequate rate with adequate reserves to mature such certificates upon assumption for mortality and interest recognized by the law of this state shall be valued on such basis, herein designated the "Tabular Basis"; *provided*, that if on the first valuation under this Section a deficiency in reserve shall be shown for any such certificate the same shall be valued on the accumulation basis.

Whenever in any society having members upon the tabular basis and upon the accumulation basis the total of all costs of insurance provided for any year shall be insufficient to meet the actual death and disability losses for the year the deficiency shall be met for the year from the available funds after setting aside all credits in the reserve; or from increased contributions, or by an increase in the number of assessments applied to the society as a whole, or to classes of members as may be specified in its laws. Savings from a lower amount of death losses may be returned in like manner as may be specified in its laws.

If the laws of the society so provide the assets representing the reserves of any separate class of members may be carried separately for such class as if an independent society, and the required reserve accumulation of such class so set apart shall not thereafter be mingled with the assets of other classes of the society.

A table showing the credits to individual members for each age and year of entry and showing opposite each credit the tabular reserve required on the whole life or other plan of insurance specified in the contract, according to assumptions for mortality and interest recognized by the law of this state and adopted by the society, shall be filed by the society with each annual report, and also be furnished to each member before July 1st of each year.

In lieu of the aforesaid statement there may be furnished to each member within the same time a statement giving the credit for such member, and giving the tabular reserve and level rate required for a transfer carrying out the plan of insurance specified in the contract. No table or statement need be made or furnished where the reserves are maintained on the tabular basis.

For this purpose individual bookkeeping accounts for each member shall not be required, and all calculations may be made by actuarial methods.

Nothing herein contained shall prevent the maintenance of such surplus over and above the credits on the accumulation basis and the reserves on the tabular basis pursuant to its law; nor be construed as giving to the individual member any right or claim to any such reserve or credit other than in manner as expressed in the contract and its laws; nor as making any such reserve or credits a liability in determining the legal solvency of the society.

§ 24. EXAMINATION OF DOMESTIC SOCIETIES.] The commissioner of insurance, or any person he may appoint, shall have the power of visitation and examination into the affairs of any domestic society. He may employ assistants for the purpose of such examination, and, he, or



any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the society, and may summon and qualify as witness under oath and examine its officers, agents and employees, or other persons in relation to the affairs, transactions and condition of the society. The expense of such examination shall be paid by the society examined upon statement furnished by the commissioner of insurance, and the examination shall be made at least once in three years.

Whenever, after examination, the commissioner of insurance is satisfied that any domestic society has failed to comply with any provisions of this Act, or is exceeding its powers, or is not carrying out its contracts in good faith, or is transacting business fraudulently; or whenever any domestic society, after the existence of one year or more, shall have a membership of less than 400 (or shall determine to discontinue business) the commissioner of insurance may present the facts relating thereto to the attorney general, who shall, if he deem the circumstances warrant, commence an action in quo warranto in a court of competent jurisdiction, and such court shall thereupon notify the officers of such society of a hearing, and if it shall then appear that such society should be closed, said society shall be enjoined from carrying on any further business and some person shall be appointed receiver of such society, and shall proceed at once to take possession of the books, papers, moneys, and other assets of the society, and shall forthwith, under the direction of the court, proceed to close the affairs of the society and to distribute its funds to those entitled thereto.

No such proceedings shall be commenced by the attorney general against any such society until after notice has been duly served on the chief executive officers of the society and a reasonable opportunity given to it on a date to be named in said notice to show cause why such proceedings should not be commenced.

§ 25. APPLICATION FOR RECEIVER, ETC.] No application for injunction against or proceedings for the dissolution of or the appointment of a receiver for any such domestic society or branch thereof shall be entertained by any court in this state unless the same is made by the attorney general.

§ 26. EXAMINATION OF FOREIGN SOCIETIES.] The commissioner of insurance, or any person whom he may appoint, may examine any foreign society transacting or applying for admission to transact business in this state. The said commissioner may employ assistants, and he, or any person he may appoint, shall have free access to all the books, papers and documents that relate to the business of the

society, and may summon and qualify as witness under oath and examine its officers, agents and employees and other persons in relation to the affairs, transactions and conditions of the society. He may, in his discretion, accept in lieu of such examination the examination of the insurance department of the state, territory, district, province or country where such society is organized. The actual expenses of examiners making any such examination shall be paid by the society upon statement furnished by the commissioner of insurance.

If any such society, or its officers, refuse to submit to such examination, or to comply with the provisions of the Section relative thereto, the authority of such society to write new business in this state shall be suspended or license refused until satisfactory evidence is furnished the commissioner relating to the condition and affairs of the society, and during such suspension the society shall not write new business in this state.

§ 27. NO ADVERSE PUBLICATIONS.] Pending, during or after an examination or investigation of any such society, either domestic or foreign, the commissioner of insurance shall make public no financial statement, report, or finding, nor shall he permit to become public any financial statement, report or finding affecting the status standing or rights of any such society until a copy thereof shall have been served upon such society at its home office, nor until such society shall have been afforded a reasonable opportunity to answer any such financial statement, report or finding, and to make such showing in connection therewith as it may desire.

§ 28. REVOCATION OF LICENSE.] When the commissioner of insurance, on investigation, is satisfied that any foreign society transacting business under this Act has exceeded its powers, or has failed to comply with any provisions of this Act, or is conducting business fraudulently, or is not carrying out its contracts in good faith, he shall notify the society of his findings, and state in writing the grounds of his dissatisfaction, and after reasonable notice require said society, on a date named, to show cause why its license should not be revoked. If on the date named in said notice such objections have not been removed to the satisfaction of the said commissioner of insurance, or the society does not present good and sufficient reasons why its authority to transact business in this state should not at that time be revoked, he may revoke the authority of the society to continue business in this state. All decisions and findings of the commissioner made under the provisions of this Section may be reviewed by the proper proceedings in any

court of competent jurisdiction, as provided in Section 16 of this Act.

§ 29. EXEMPTION OF CERTAIN SOCIETIES.] Nothing contained in this Act shall be construed to effect or apply to grand or subordinate lodges of Masons, Odd Fellows or Knights of Pythias (Exclusive of the Insurance Department of the Supreme Lodge Knights of Pythias), and the Junior Order of the United American Mechanics (exclusive of the Beneficiary Degree of Insurance branch of the National Council Junior Order United American Mechanics), or societies which limit their membership to any one hazardous occupation, nor to similar societies which do not issue insurance certificates, nor to an association of local lodges of a society now doing business in this state, which provides death benefits not exceeding five hundred dollars to any one person, or disability benefits not exceeding three hundred dollars in any one year to any one person, or both, nor to any contracts of reinsurance business on such plan in this state, nor to domestic societies which limit their membership to the employees of a particular city or town, designated firm, business house, or corporation, nor to domestic lodges, orders, or association of a purely religious, charitable and benevolent description, which do not provide for a death benefit of more than one hundred dollars, or for disability benefits of more than one hundred and fifty dollars to any one person in any one year. The commissioner of insurance may require from any such society such information as will enable him to determine whether such society is exempt from the provisions of this Act.

Any fraternal benefit society, heretofore organized and incorporated and operating within the definition set forth in Sections 1, 2 and 3 of this Act, providing for benefits in case of death or disability resulting solely from accidents, but which does not obligate itself to pay death or sick benefits, may be licensed under the provisions of this Act, and shall have all the privileges and shall be subject to all the provisions and regulations of this act, except that the provisions of this Act requiring medical examinations, valuations of benefit certificates, and that the certificate shall specify the amount of benefits, shall not apply to such society.

§ 30. TAXATION.] Every fraternal benefit society organized or licensed under this Act is hereby declared to be a charitable and benevolent institution, and all of its funds shall be exempt from all and every state, county, district, municipal, and school tax, other than taxes on real estate and office equipment.

§ 31. PENALTIES.] Any person, officer, member or examining physician of any society authorized to do business

under this Act shall knowingly or willfully make any false or fraudulent statement or representation in or with reference to any application for membership, or for the purpose of obtaining money from or benefit in any society transacting business under this Act, shall be guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine of not less than one hundred dollars nor more than five hundred dollars, or imprisonment in the county jail for not less than thirty days nor more than one year, or both, in the discretion of the court; and any person who shall wilfully make a false statement of any material fact or thing in a sworn statement as to the death or disability of a certificate holder in any such society for the purpose of procuring payment of a benefit named in the certificate of such holder, and any person who shall wilfully make any false statement in any verified report or declaration under oath required or authorized by this state, shall be guilty of perjury, and shall be proceeded against and punished as provided by the statutes of this state in relation to the crime of perjury.

Any person who shall solicit membership for, or in any manner assist in procuring membership in any fraternal benefit society not licensed to do business in this state, or who shall solicit membership for, or in any manner assist in procuring membership in any such society not authorized, as herein provided, to do business, as herein defined in this state, shall be guilty of a misdemeanor; and upon conviction thereof shall be punished by a fine of not less than fifty or more than two hundred dollars.

Any society, or any officer, agent or employee thereof neglecting or refusing to comply with, or violating any of the provisions of this Act, the penalty for which neglect, refusal or violation is not specified in this Section, shall be fined not exceeding two hundred dollars upon conviction thereof.

§ 32. All Acts and parts of Acts inconsistent with this Act are hereby repealed.

Approved March 12, 1913.

## CHAPTER 192.

[S. B. No. 214—Plain.]

## HAIL INSURANCE.

AN ACT to Amend Sections 1, 2, 3, 4, 5, 6, 7, 8, 9, 10, 11, 12 and 13, of Chapter 23 of the Session Laws of 1911, and to Repeal Sections 14, 15 and 16 of said Chapter, Establishing a Hail Insurance Department and Making the Commissioner of Insurance Ex-Officio Commissioner of Hail Insurance; Prescribing Rules, Regulations and Duties of Officers and Persons Connected Therewith; Prescribing How Premiums, Expense and Indemnity for Losses by Hail Shall Be Paid, and Providing a Penalty.

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

§ 1. AMENDMENT.] That Section 1 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 1. HAIL INSURANCE DEPARTMENT. DUTIES.] A hail insurance department of the State of North Dakota is hereby established and the Commissioner of Insurance shall also be the Commissioner of Hail Insurance, and the management of said hail insurance department shall be under his supervision. He shall have the authority to appoint and engage one deputy by the month for steady service and one clerk from March 15 to November 15th of each year, and such additional deputies and clerks as he may find necessary to properly conduct the business, and a salary of such deputies and clerks shall be allowed, not to exceed one hundred dollars per month for each deputy and eighty dollars per month for each clerk, to be paid out of the hail insurance fund. He shall also prepare and provide the necessary blanks, books, stationery and postage, and cause the same to be delivered to the proper officers and persons. The hail insurance department shall insure growing grain in any county in the state against loss by hail upon the terms and in the maner hereinafter set forth, and shall draw up and furnish form of hail insurance policy; *provided*, that the appointment and employment of all additional deputies and clerks shall have the approval of the state auditing board, and all expenses and salaries audited and allowed by it.

§ 2. AMENDMENT.] That Section 2 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 2. ASSESSOR'S DUTIES.] It shall be and is hereby made the duty of each and every county, township, city and village assessor in the state, each within his respective district, at the time of listing the property for assessment, or thereafter, to inquire of the party assessed how many acres

of crop, if any, such party desires to have insured in said state hail insurance department for the year in which said assessment is made, and at the same time inform said party that as a premium for said hail insurance a payment of thirty (30) cents per acre for each and every acre so insured must be made; and if the party assessed is willing and consents to have all or part of his crops insured, it shall be the duty of said assessor to take said application for such hail insurance on blanks furnished him for that purpose by the county auditor, the form of which must have been approved by the Commissioner of Hail Insurance, and carefully describe each piece of land that he so insures, describing particularly the section or quarter section or any subdivision thereof, and the township and county wherein the same is situated; also stating separately the number of acres of wheat, oats, barley, flax, corn, rye or other grain that said party so insures, and collect thirty (30) cents for each acre so insured, or in such proportion as said party's interest may appear, and in addition the assessor may collect as an application fee a sum equivalent to one-half ( $\frac{1}{2}$ ) cent per acre for each and every acre insured. And the assessor shall forward the application promptly, together with the premiums so collected, to the county auditor.

§ 3. AMENDMENT.] That Section 3 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 3. COUNTY AUDITOR'S DUTIES.] Each county auditor in the state shall file and keep the insurance applications returned to him by the several assessors, and turn all moneys collected for each month for the insurance over to the county treasurer the first of each succeeding month, taking his receipt therefor, and any party who fails to insure his crop with the assessor, as above described, may at any time up to and including the twenty-first day of August, apply to the county auditor of the county where the land is situated to have his crop insured, as provided in this act, by filling out and filing with the county auditor an application, as prescribed in Section 2 hereof, and upon the payment of the premium prescribed herein to said county auditor for such insurance, which premium shall be turned over to the county treasurer as above provided.

It is further provided that said insurance shall be in force and effect from the time of filing the application in the office of the county auditor, and until the grain is cut but in no case later than September 15th of each year. He shall also keep a record of the time of filing such application. The county auditor shall immediately issue and mail to each applicant his policy upon the filing of said application

§ 4. AMENDMENT.] That Section 4 of Chapter 23 of the Session Laws of 1911, be amended to read as follows:

§ 4. DUPLICATES AND ABSTRACTS.] On the first day of June, July and August, each and every county auditor within the state shall make out a list of all hail insurance applications filed in his office and forward the same at once to the department of hail insurance at Bismarck, and on or before the first day of September in each year, each and every auditor within the state shall make out in duplicate a list of all the hail insurance applications filed in his office, keeping one copy for his records, and forwarding the other copy to the department of hail insurance at Bismarck, North Dakota.

§ 5. AMENDMENT. That Section 5 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 5. DUTY OF THE COUNTY TREASURER.] The county treasurer of each and every county in the state shall issue his receipt to the auditor for such premiums turned over to him and shall keep a separate account of all moneys collected from such hail insurance premiums, and he shall pay the same over to the State Treasurer, taking his receipt therefor, not less than ten per cent at the end of each month, and the balance not later than September 1st of each year.

§ 6. AMENDMENT.] That Section 6 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 6. ADJUSTORS.] The county commissioners of each county shall at the April meeting of the Board appoint one competent person who shall be a resident of the county to act as official adjustor of losses or damages caused by hail to any crop that has been insured under the provisions of this chapter. If the county commissioners fail or neglect to appoint an official adjustor as herein required, the commissioner of hail insurance shall appoint an official adjustor for such county and such official adjustor shall have all the powers and perform all the duties imposed upon official adjustors appointed by the county commissioners, according to the provisions of this chapter. The county auditor shall immediately, after such appointment, notify the commissioner of hail insurance of the same, and no such appointment shall be effective unless confirmed and approved by the said commissioner of hail insurance. The commissioner of hail insurance shall have power and authority to remove or discharge any such official adjustor for misconduct, incompetency or neglect of duty, and such commissioner may in his discretion direct such official adjustor to adjust losses or damages caused by hail to any crop insured under the provisions of this act in any county or

counties in this state, adjacent to the county in which he was appointed. The official adjuster shall receive as compensation for his services, the sum of five dollars per day and his actual and necessary expenses while engaged in the actual and necessary performance of his duty. The official adjuster shall adjust losses or damages caused by hail to any crop that has been insured under the provisions of this act. And it is hereby made his duty to adjust all losses and damages within his county, or within any other county in the state when so directed by the commissioner of hail insurance. When any party that is insured as herein provided has sustained a loss by hail, he shall promptly thereafter notify the commissioner of insurance of such loss. The commissioner of insurance shall, as soon as possible after receiving the notice of loss direct an official adjuster to visit the place of loss and proceed to estimate and adjust such loss. In so doing, it shall be his duty to carefully inquire into the condition of the crop before the loss occurred, as to whether it was poor, medium or good, and if he deems it necessary, he shall have the power to call witnesses to testify as to the conditions of the crop before the same was damaged or destroyed, and he shall make his estimate and adjustment after ascertaining the condition of the crop before and after the loss occurred. In estimating the loss the official adjuster shall allow as damages the proportion which the crop as damaged bears to the crop if no loss had occurred. If the total value of the crop insured be less than eighty dollars per acre, then in case of total loss the insured shall receive the total value thereof; and if the loss be partial then the insured shall receive that percentage of value which the loss bears to the total value of the crop insured. If the value of the crop be more than eight dollars per acre, the insured shall receive that percentage of the maximum of eight dollars which the loss bears to the total value of the crop. *Provided* however, that in no case shall more than eight dollars per acre be allowed as the maximum for wheat, flax, oats, barley, corn, rye and other grains.

§ 7. AMENDMENT.] That Section 7 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 7. IN CASE NO AGREEMENT.] In case the party that has sustained the loss is dissatisfied with and refuses to accept the adjustment made by the official adjuster then he shall have the right to appoint one disinterested person as adjuster and the official adjuster shall appoint another person as adjuster, and the two shall elect a third disinterested person, and the three shall then proceed to adjust the loss in the same manner as specified in Section 6, and the judg-



ment of the majority shall be the judgment of said adjusters and shall be binding upon both parties as the final determination of said loss; provided, however, that if the insured does not recover a greater sum than allowed by the official in the first instance, he shall pay the expenses of the said three adjusters and their witnesses in making said adjustment, but if he receives a larger sum, then the same shall be paid by the commissioner of hail insurance out of the hail insurance fund.

§ 8. AMENDMENT.] That Section 8 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 8. REPORT OF ADJUSTERS.] At the final adjustment of each loss the adjuster shall then and there carefully fill out and make a report in triplicate on an adjustment blank prepared for him for that purpose stating the county, township and range, the number of the section and the quarter of the section or subdivision thereof, on which the crop was damaged or destroyed, also the number of acres and different kinds of grains estimated damaged or destroyed, and the amount allowed for each separately, and that such estimate is true and not in excess of the actual loss sustained, which said adjustment papers must be signed and sworn to by the official adjuster or all the adjusters when arbitration is resorted to, acting as adjuster, and the party whose loss has been adjusted, with the residence and post office address of both. The official adjuster shall, within a reasonable time, not to exceed five days, forward by registered mail said adjustment papers, the original to the commissioner of hail insurance at Bismarck, North Dakota, one copy to the county auditor and one copy to the insured.

§ 9. AMENDMENT.] That Section 9 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 9. COMPENSATION OF ADJUSTERS, ITEMIZED STATEMENT.] The official adjuster shall receive as compensation for his services the amount specified in Section 6 of this chapter. All persons called on to assist in adjusting a hail loss, whether acting as adjusters or as witnesses shall receive the sum of two dollars per day for all services so rendered. The official adjuster shall itemize said expense account for each loss or adjustment made, which account must be sworn to and forwarded to the commissioner of hail insurance, and the same shall upon being approved by the hail insurance commissioner be paid out of the state hail insurance fund, on warrants drawn by the state auditor. *Provided*, however, that such adjuster or adjusters shall not be entitled to receive or be paid any compensation or expenses, as herein provided, unless all adjustments by him made shall be reported to the commissioner of hail insurance, as re-

quired in this act, within ten days from the time such adjustment or adjustments were made.

§ 10. AMENDMENT.] That Section 10 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 10. DUTIES OF STATE TREASURER.] The state treasurer shall keep all moneys paid by the several county treasurers from the collections of hail insurance in a separate fund to be designated and known as the hail insurance fund, and the treasurer shall pay out of said fund only upon warrants of the state auditor.

§ 11. AMENDMENT. That Section 11 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 11. DUTIES OF COMMISSIONER OF HAIL INSURANCE.] When the several county auditors of this state shall have made complete returns showing the number of acres insured for that year the commissioner of hail insurance shall sum up the total hail insurance fund for that year when he shall have received a complete return from all of the hail losses in the state as adjusted and allowed, he shall sum up the total of such amounts for that year. He shall sum up the expenses of his office as follows:

First: The total amount allowed for adjusting losses.

Second: The total amount estimated necessary for deputies and clerk hire in the hail insurance department for said year.

Third: The amount estimated necessary for books, blanks, stationery, postage and other expenses incident to the running and operating of the said hail insurance department, for one year, the total sum of such expense account shall first be deducted from the total amount of the hail insurance receipts for that year and paid, and if the balance remaining is sufficient, all hail losses shall be paid in full as allowed by the adjusters, but if the expenses and hail losses shall exceed the amount of hail insurance receipts for that year, the expenses shall be paid first and the losses shall be paid pro rata. However, should there in any one year after all expenses and losses have been paid, still be a surplus, then such surplus remain in the state treasury in the hail insurance fund to be drawn upon in such future years as there might be a deficiency.

§ 12. PENALTY.] Any county auditor in this state who shall fail or neglect to make complete returns, statements and reports as required in this act to the commissioner of hail insurance at the times specified in any section of this chapter, shall forfeit the sum of ten dollars per day for each day during which he neglects to make such statements, returns or reports to the commissioner of hail insurance, and upon complaint or notice by the said commis-

sioner to the attorney general of the state, it shall be the duty of the attorney general to proceed to collect the amount of such penalty from any delinquent auditor.

§ 13. AMENDMENT.] That Section 12 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 12. PAYMENT OF LOSSES.] When the commissioner of hail insurance has figured up the whole year's business, as indicated in section eleven hereof, he shall prepare and furnish to the state auditor a certified list of the losses arranged by counties, showing the names and addresses of persons who have suffered loss by hail and are entitled to compensation for such losses under the provisions of this act, the appraised losses and the amount to be paid each such person; upon receipt of this list from the commissioner of hail insurance it shall be the duty of the state auditor immediately to draw warrants for said amounts upon the state treasurer, the amounts of which shall be charged to the state hail insurance fund, in favor of each person entitled thereto and to mail such warrants forthwith to each person entitled thereto, as shown by the certified list of the state hail insurance commissioner aforesaid. It shall also be the duty of the state hail insurance commissioner to mail a copy of each such list of losses and amounts allowed to each and every person named in such list and who has suffered loss by hail during the year for which such list is made.

§ 14. AMENDMENT.] That Section 13 of Chapter 23 of the Session Laws of 1911 be amended to read as follows:

§ 13. REPORT PUBLISHED IN NEWSPAPERS.] The commissioner of hail insurance shall on or about the first day of December in each year issue and publish in four newspapers of general circulation within the state a concise statement of the work and condition of the hail insurance department during the preceding year. He shall also make a biennial report to the legislature.

§ 15. TRANSFER OF RECORDS.] It shall be the duty of the commissioner of agriculture and labor, acting as commissioner of hail insurance under the provisions of Chapter 23 of the Session Laws of 1911 immediately upon the passage and approval of this act to deliver to the commissioner of hail insurance, as constituted by the provisions of this act, all papers, reports, documents, records, funds and accounts of every description which are in his possession or under his control as such commissioner of hail insurance by reason of the duties imposed upon him by Chapter 23 of the Session Laws of 1911; and the commissioner of hail insurance, as constituted by the provisions of this act, shall receive and have custody of all such records, papers, reports, documents, funds and accounts.

§ 16. REPEAL.] Sections 14, 15 and 16 of Chapter 23 of the Session Laws of 1911 is hereby repealed.

§ 17. EMERGENCY.] Whereas, it is deemed advisable that this act take effect in time for insurance on crop of 1913, therefore an emergency is hereby declared to exist and this act shall take effect and be in force from and after its passage and approval.

Approved March 11, 1913.

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### CHAPTER 193.

[S. B. No. 105—McBride.]

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#### RESPONSIBILITY OF FIDELITY INSURANCE COMPANIES.

AN ACT Relating to the Responsibility of Fidelity Insurance Companies.  
*Be it Enacted by the Legislative Assembly of the State of North Dakota:*

§ 1. Any corporation organized under the laws of this state, or of any state or country, to transact the business of fidelity insurance and corporate suretyship, and authorized to do business in this state, which makes contracts of insurance guaranteeing the fidelity of persons holding positions of trust in public office, shall be held responsible to any person for any loss or damage which he may suffer by reason of any fraud or misrepresentation practiced upon him by such public official under the guise of or by virtue of his office.

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

Approved March 1, 1913.

## CHAPTER 194.

[S. B. No. 156—Ellingson.]

## ESTABLISHING STATE BONDING DEPARTMENT.

AN ACT Establishing a State Bonding Department in the Office of the Commissioner of Insurance, Providing for the Maintenance Thereof, and Creating a Reserve Therefor; Prescribing the Duties of Officers Connected Therewith; providing for the payment of Premiums and of Indemnities for Losses, and Providing for the Disposal of the Surplus after said Reserve Has Been Created.

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

§ 1. ESTABLISHING A STATE BONDING DEPARTMENT.] A bonding department of the state of North Dakota is hereby established under the management and supervision of the Commissioner of Insurance.

§ 2. DEPUTY AND CLERKS. DUTIES.] The Commissioner of Insurance shall have the authority to appoint a deputy and engage such clerks as he may find necessary to properly conduct the business of the state bonding department of his office, at a salary of not to exceed two hundred dollars per month for such deputy and seventy-five dollars per month for each clerk, to be paid out of the bonding department fund hereinafter provided for. The appointment of such deputy and clerks shall have the approval of the state auditing board. The Commissioner of Insurance shall prepare and provide the necessary blanks, books, stationery and postage, and cause the same to be delivered to the proper officers and persons. All expenses and salaries shall be audited and allowed by the state auditing board.

§ 3. Said bonding department shall bond counties, cities, towns, townships and school districts in any county in the state against loss by default of any officer, upon the terms and in the manner hereinafter set forth, and the Commissioner of Insurance shall draw up, with the assistance of the Attorney General, a standard form of surety bond, and only such form shall be used.

§ 4. WHAT OFFICERS TO FURNISH STATE BONDS.] [Each county official (except justice of the peace and constable), every assessor required by law to furnish a bond, every city treasurer, every town treasurer, every school district treasurer and every township treasurer hereafter elected or appointed to an office required to furnish a bond by law, shall be bonded in and with the state bonding department; *provided*, however, that the state shall not bond any official for a greater amount than fifty thousand dol-

lars, and any official required to be bonded in a greater sum than fifty thousand dollars shall bond in the amount in excess of fifty thousand dollars with a responsible surety company, or in any manner satisfactory to the proper authorities. *Provided*, further, that it shall be optional with any township or school district treasurer to be bonded in and with the state bonding department. The premiums for such bonds shall be paid out of the county, city, town, school district or township treasury, as the case may be, by the proper authorities.

§ 5. PREMIUMS, TO WHOM PAID.] The premiums on such bonds shall be twenty-five cents per hundred dollars of bond per year on all bonds issued. Such premiums shall be paid in advance by the proper authorities of each county, city, town, school district and township from its respective treasury, as provided by law, to the State Treasurer, who shall issue receipts therefor, as hereinafter provided. The minimum premium on small and short term officers' bonds shall not be less than two dollars and fifty cents.

§ 6. BONDING FUND.] Whenever there is paid into the state treasury any money for premiums for bonding officials as prescribed in Section five of this act, it shall be known as the state bonding department fund, and shall be used as provided in this act.

§ 7. STATE TREASURER, DUTIES OF.] It shall be the duty of the State Treasurer whenever there is any money paid into the state treasury for premiums on bonds, to at once issue quadruple receipts therefor; one he shall send to the county, city, town, school district or township paying the same; one he shall file with the State Auditor; one he shall retain in his office, and one he shall file with the Commissioner of Insurance. Such receipts must state the amount and date of bond, name of the official bonded, his official duty, postoffice address, and the county he resides in.

§ 8. PERIOD OF BONDS.] All bonds executed and furnished by the state bonding department shall be made to run until the expiration of the officer's term of office, and where such term is less than one year, a full year's premium shall be charged.

§ 9. GENERAL DUTIES.] It shall be the duty of the Commissioner of Insurance to estimate at the beginning of each year the amount required for salaries and expenses of the bonding department for the current year, which estimated amount shall be reserved from the premiums paid in, and the amount of premium receipts remaining shall be available for payment of losses. Losses shall be

paid promptly and as soon as the amount shall be determined by the Commissioner of Insurance, and a report thereof made as provided for in this act. Any sum which remains unexpended at the end of any year shall remain in the state bonding fund, which fund shall be permitted to accumulate until it equals in amount \$100,000, after which the surplus in excess of \$100,000 shall be distributed to the various counties, municipalities and townships, in proportion to the amount of premiums paid into the state bonding fund by the same; *provided*, that in case there should not be sufficient funds to meet the losses sustained after the reservation of expenses for the conduct of the department for the year, such losses shall be paid as funds are accumulated in the state bonding fund by the collection of premiums.

§ 10. REPORT, TO MAKE.] The Commissioner of Insurance shall, on or about the first day of January in each year, issue and publish in four newspapers of general circulation within the state, a concise statement of the work and condition of the bonding department during the preceding year, and said Commissioner of Insurance shall also make a biennial report to the Governor and legislative assembly, containing a detailed statement of the work and condition of said bonding department for the biennial period.

§ 11. OTHER DUTIES.] The Commissioner of Insurance shall require and obtain from the various officials bonded statements annually, and as often as deemed necessary, of their receipts, bank accounts and disbursements, verified by the city auditor or county auditor, or clerk of the town, township or school district; and to verify such statements he shall communicate with each bank having such deposits, and he may also require such public official to furnish him with any information concerning the office with which such official is entrusted, and he shall file all such information in his office in a proper manner, and such records shall at all times be open for inspection to the proper authorities. The Commissioner of Insurance shall supply each county and city auditor, township and school district clerk, with a sufficient number of application blanks, and it shall be the duty of such auditors and clerks to furnish the officials required to be bonded with said application blanks. On the reverse of each blank there shall be printed Sections 4, 5 and 7 of this act. All applications for bonds under the provisions of this act shall be made on said blanks. If in the opinion of the Commissioner of Insurance it is advisable for the safety of the state to reject an application for a bond, or cancel the bond

of any official bonded, he shall submit such application, also the person's name whose bond he proposes to cancel, to the state auditing board, together with his reasons for rejecting or cancelling the same, and if the auditing board rejects such application or cancels any bond, such official may bond in any manner satisfactory to the proper authorities of the city, village, school district, township or county, as the case may be. *Provided*, however, that when an application is rejected by the board, he shall notify such person by registered mail, and before a bond is cancelled he shall also notify such person by registered mail, demanding from him a receipt thereof, and upon the return of such receipt the board shall cancel such bond six days thereafter. When any default is reported, it shall be the duty of the Commissioner of Insurance to carefully-inquire into and investigate the same before the indemnity is paid thereon. Should any official default, then it shall be the duty of the State Examiner to examine and check the accounts of such defaulting official and file his report with the Commissioner of Insurance, stating amount due upon said defaulting officer's bond, and for such services he shall be paid out of the state bonding fund.

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

§ 13. SHALL BE IN EFFECT JANUARY 1, 1914.] This act shall go into effect on January 1st, 1914.

Approved March 1, 1913.