

INSURANCE

CHAPTER 189

S. B. No. 119
(Klefstad, Baeverstad, Schrock)

UNIFORM ACCIDENT AND SICKNESS INSURANCE POLICY

AN ACT

Relating to insurance and making the law uniform on accident and sickness policy provisions, and repealing sections 26-0338 and 26-0339 of the North Dakota Revised Code of 1943.

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

§ 1. DEFINITION OF ACCIDENT AND SICKNESS INSURANCE POLICY.) The term "policy of accident and sickness insurance" as used herein includes any policy or contract insuring against loss resulting from sickness or from bodily injury, or death by accident or both.

§ 2. FORM OF POLICY.)

1. No policy of accident and sickness insurance shall be delivered or issued for delivery to any person in this state unless;
 - a. the entire money and other considerations therefore are expressed therein; and
 - b. the time at which the insurance takes effect and terminates is expressed therein; and
 - c. it purports to insure only one person, except that a policy may insure, originally or by subsequent amendment, upon the application of an adult member of a family who shall be deemed the policyholder, any two or more eligible members of that family, including husband, wife, dependent children or any children under a specified age which shall not exceed nineteen years and any other person dependent upon the policyholder; and
 - d. the style, arrangement and over-all appearance of the policy give no undue prominence to any portion of the text, and unless every printed portion of the text of the policy and of any endorsements or attached papers is plainly printed in light-faced type of a style in general use, the size of which shall be uniform and not less than ten-point with a lower-case unspaced alphabet length not less than one hundred and twenty-point (The "text" shall

include all printed matter except the name and address of the insurer, name or title of the policy, the brief description, if any, and captions and subcaptions); and

- e. the exceptions and reductions of indemnity are set forth in the policy and, except those which are set forth in Section 3 of this Act, are printed at the insurer's option, either included with the benefit provisions to which they apply, or under an appropriate caption such as "EXCEPTIONS" or "EXCEPTIONS AND REDUCTIONS," provided that if an exception or reduction specifically applies only to a particular benefit of the policy, a statement of such exception or reduction shall be included with the benefit provision to which it applies; and
- f. each such form, including riders and endorsements, shall be identified by a form number in the lower left-hand corner of the first page thereof; and
- g. it contains no provision purporting to make any portion of the charter, rules, constitution, or by-laws of the insurer a part of the policy unless such portion is set forth in full in the policy, except in the case of the incorporation of, or reference to, a statement of rates or classification of risks, or short rate table filed with the commissioner.

2. If any policy is issued by an insurer domiciled in this state for delivery to a person residing in another state, and if the official having responsibility for the administration of the insurance laws of such other state shall have advised the commissioner that any such policy is not subject to approval or disapproval by such official, the commissioner may by ruling require that such policy meet the standards set forth in subsection 1 of this section and in section 3.

§ 3. ACCIDENT AND SICKNESS POLICY PROVISIONS.) 1. Required Provisions. Except as provided in subsection 3 of this section, each such policy delivered or issued for delivery to any person in this state shall contain the provisions specified in this subsection in the words in which the same appear in this section; provided, however, that the insurer may, at its option, substitute for one or more of such provisions corresponding provisions of different wording approved by the commissioner which are in each instance not less favorable in any respect to the insured or the beneficiary. Such provisions shall be preceded individually by the caption appearing in this section or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

a. A provision as follows:

ENTIRE CONTRACT; CHANGES: This policy, including the endorsements and the attached papers, if any, constitutes the entire contract of insurance. No change in this policy shall be valid until approved by an executive officer of the insurer and unless such approval be endorsed hereon or attached hereto. No agent has authority to change this policy or to waive any of its provisions;

b. A provision as follows:

TIME LIMIT ON CERTAIN DEFENSES: (1) After three years from the date of issue of this policy no misstatements, except fraudulent misstatements made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such three year period. (The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial three year period, nor to limit the application of subdivisions a, b, c, d, and e of section 3, subsection 2 in the event of misstatement with respect to age or occupation or other insurance.) (A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (a) until at least age 50 or (b) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parenthesis may be omitted at the insurer's option) under the caption "INCONTESTABLE":

After this policy has been in force for a period of three years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.

(2) No claim for loss incurred or disability (as defined in the policy) commencing after three years from the date of issue of this policy shall be reduced or denied on the ground that a disease or a physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy.

c. A provision as follows:

GRACE PERIOD: A grace period of . . . (insert a number not less than "7" for weekly premium policies, "10" for

monthly premium policies, and "31" for all other policies) days will be granted for the payment of each premium falling due after the first premium, during which grace period the policy shall continue in force. (A policy which contains a cancellation provision may add, at the end of the above provision subject to the right of the insurer to cancel in accordance with the cancellation provision hereof.

A policy in which the insurer reserves the right to refuse any renewal shall have, at the beginning of the above provision,

Unless not less than five days prior to the premium due date the insurer has delivered to the insured or has mailed to his last address as shown by the records of the insurer written notice of its intention not to renew this policy beyond the period for which the premium has been accepted).

d. A provision as follows:

REINSTATEMENT: If any renewal premium be not paid within the time granted the insured for payment, a subsequent acceptance of premium by the insurer or by any agent duly authorized by the insurer to accept such premium, without requiring in connection therewith an application for reinstatement, shall reinstate the policy; provided, however, that if the insurer or such agent requires an application for reinstatement and issues a conditional receipt for the premium tendered, the policy will be reinstated upon approval of such application by the insurer or, lacking such approval, upon the forty-fifth day following the date of such conditional receipt unless the insurer has previously notified the insured in writing of its disapproval of such application. The reinstated policy shall cover only loss resulting from such accidental injury as may be sustained after the date of reinstatement and loss due to such sickness as may begin more than ten days after such date. In all other respects the insured and insurer shall have the same rights thereunder as they had under the policy immediately before the due date of the defaulted premium, subject to any provisions endorsed hereon or attached hereto in connection with the reinstatement. Any premium accepted in connection with a reinstatement shall be applied to a period for which premium has not been previously paid, but not to any period more than sixty days prior to the date of reinstatement. (The last sentence of the above provision may be omitted from any policy which the

insured has the right to continue in force subject to its terms by the timely payment of premiums (a) until at least age 50, or, (b) in the case of a policy issued after age 44, for at least five years from its date of issue.)

e. A provision as follows:

NOTICE OF CLAIM: Written notice of claim must be given to the insurer within twenty days after the occurrence or commencement of any loss covered by the policy, or as soon thereafter as is reasonably possible. Notice given by or on behalf of the insured or the beneficiary to the insurer at (insert the location of such office as the insurer may designate for the purpose), or to any authorized agent of the insurer, with information sufficient to identify the insured, shall be deemed notice to the insurer. (In a policy providing a loss-of-time benefit which may be payable for at least two years, an insurer may at its option insert the following between the first and second sentences of the above provision:

Subject to the qualifications set forth below, if the insured suffers loss of time on account of disability for which indemnity may be payable for at least two years, he shall, at least once in every six months after having given notice of claim, give to the insurer notice of continuance of said disability, except in the event of legal incapacity. The period of six months following any filing of proof by the insured or any payment by the insurer on account of such claim or any denial of liability in whole or in part by the insurer shall be excluded in applying this provision. Delay in the giving of such notice shall not impair the insured's right to any indemnity which would otherwise have accrued during the period of six months preceding the date on which such notice is actually given.)

f. A provision as follows:

CLAIM FORMS: The insurer, upon receipt of a notice of claim, will furnish to the claimant such forms as are usually furnished by it for filing proofs of loss. If such forms are not furnished within fifteen days after the giving of such notice the claimant shall be deemed to have complied with the requirements of this policy as to proof of loss upon submitting, within the time fixed in the policy for filing proofs of loss, written proof covering the occurrence, the character and the extent of the loss for which claim is made.

g. A provision as follows:

PROOFS OF LOSS: Written proof of loss must be furnished to the insurer at its said office in case of claim for loss for which the policy provides any periodic payment contingent upon continuing loss within ninety days after the termination of the period for which the insurer is liable and in case of claim for any other loss within ninety days after the date of such loss. Failure to furnish such proof within the time required shall not invalidate nor reduce any claim if it was not reasonably possible to give proof within such time, provided such proof is furnished as soon as reasonably possible and in no event, except in the absence of legal capacity, later than one year from the time proof is otherwise required.

h. A provision as follows:

TIME OF PAYMENT OF CLAIMS: Indemnities payable under this policy for any loss other than loss for which this policy provides any periodic payment will be paid immediately upon receipt of due written proof of such loss. Subject to due written proof of loss, all accrued indemnities for loss for which this policy provides periodic payment will be paid . . . (insert period for payment which must not be less frequently than monthly) and any balance remaining unpaid upon the termination of liability will be paid immediately upon receipt of due written proof.

i. A provision as follows:

PAYMENT OF CLAIMS: Indemnity for loss of life will be payable in accordance with the beneficiary designation and the provisions respecting such payment which may be prescribed herein and effective at the time of payment. If no such designation or provision is then effective, such indemnity shall be payable to the estate of the insured. Any other accrued indemnities unpaid at the insured's death may, at the option of the insurer, be paid either to such beneficiary or to such estate. All other indemnities will be payable to the insured. (The following provisions, or either of them, may be included with the foregoing provision at the option of the insurer: If any indemnity of this policy shall be payable to the estate of the insured, or to an insured or beneficiary who is a minor or otherwise not competent to give a valid release, the insurer may pay such indemnity, up to an amount not exceeding \$. . . (insert an amount which shall not exceed one thousand dollars), to any relative

by blood or connection by marriage of the insured or beneficiary who is deemed by the insured to be equitably entitled thereto. Any payment made by the insurer in good faith pursuant to this provision shall fully discharge the insurer to the extent of such payment.

Subject to any written direction of the insured in the application or otherwise all or a portion of any indemnities provided by this policy on account of hospital, nursing, medical or surgical services may, at the insurer's option and unless the insured requests otherwise in writing not later than the time of filing proofs of such loss, be paid directly to the hospital or person rendering such services; but it is not required that the service be rendered by a particular hospital or person.)

j. A provision as follows:

PHYSICAL EXAMINATIONS AND AUTOPSY: The insurer at its own expense shall have the right and opportunity to examine the person of the insured when and as often as it may reasonably require during the pendency of a claim hereunder and to make an autopsy in case of death where it is not forbidden by law.

k. A provision as follows:

LEGAL ACTIONS: No action at law or in equity shall be brought to recover on this policy prior to the expiration of sixty days after written proof of loss has been furnished in accordance with the requirements of this policy. No such action shall be brought after the expiration of three years after the time written proof of loss is required to be furnished.

l. A provision as follows:

CHANGE OF BENEFICIARY: Unless the insured makes an irrevocable designation of beneficiary, the right to change of beneficiary is reserved to the insured and the consent of the beneficiary or beneficiaries shall not be requisite to surrender or assignment of this policy or to any change of beneficiary or beneficiaries, or to any other changes in this policy. (The first clause of this provision, relating to the irrevocable designation of beneficiary, may be omitted at the insurer's option.)

2. Other Provisions.

Except as provided in subsection 3 of this section, no such policy delivered or issued for delivery to any person in this state shall contain provisions respecting the matters set forth

below unless such provisions are in the words in which the same appear in this section; provided, however, that the insurer may, at its option, use in lieu of any such provision a corresponding provision of different wording approved by the commissioner which is not less favorable in any respect to the insured or the beneficiary. Any such provision contained in the policy shall be preceded individually by the appropriate caption appearing in this subsection or, at the option of the insurer, by such appropriate individual or group captions or subcaptions as the commissioner may approve.

a. A provision as follows:

CHANGE OF OCCUPATION: If the insured be injured or contract sickness after having changed his occupation to one classified by the insurer as more hazardous than that stated in this policy or while doing for compensation anything pertaining to an occupation so classified, the insurer will pay only such portion of the indemnities provided in this policy as the premium paid would have purchased at the rates and within the limits fixed by the insurer for such more hazardous occupation. If the insured changes his occupation to one classified by the insurer as less hazardous than that stated in this policy, the insurer, upon receipt of proof of such change of occupation, will reduce the premium rate accordingly, and will return the excess pro-rata unearned premium from the date of change of occupation or from the policy anniversary date immediately preceding receipt of such proof, whichever is the more recent. In applying this provision, the classification of occupational risk and the premium rates shall be such as have been last filed by the insurer prior to the occurrence of the loss for which the insurer is liable or prior to date of proof of change in occupation with the state official having supervision of insurance in the state where the insured resided at the time this policy was issued; but if such filing was not required, then the classification of occupational risk and the premium rates shall be those last made effective by the insurer in such state prior to the occurrence of the loss or prior to the date of proof of change in occupation.

b. A provision as follows:

MISSTATEMENT OF AGE: If the age of the insured has been misstated, all amounts payable under this policy shall be such as the premium paid would have purchased at the correct age.

c. A provision as follows:

OTHER INSURANCE IN THIS INSURER: If an accident or sickness or accident and sickness policy or policies previously issued by the insurer to the insured be in force concurrently herewith, making the aggregate indemnity for . . . (insert type of coverage or coverages) in excess of \$. . . (insert maximum limit of indemnity or indemnities) the excess insurance shall be void and all premiums paid for such excess shall be returned to the insured or to his estate.

Or, in lieu thereof:

Insurance effective at any one time on the insured under a like policy or policies in this insurer is limited to the one such policy elected by the insured, his beneficiary or his estate, as the case may be, and the insurer will return all premium paid for all other such policies.

d. A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on a provision of service basis or on an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability under any expenses incurred coverage of this policy shall be for such proportion of the loss as the amount which would otherwise have been payable hereunder plus the total of the like amounts under all such other valid coverages for the same loss of which this insurer had notice bears to the total like amounts under all valid coverages for such loss, and for the return of such portion of the premiums paid as shall exceed the pro-rata portion for the amount so determined. For the purpose of applying this provision when other coverage is on a provision of service basis, the "like amount" of such other coverage shall be taken as the amount which the services rendered would have cost in the absence of such coverage. (If the foregoing policy provision is included in a policy which also contains the next following policy provision there shall be added to the caption of the foregoing provision the phrase "EXPENSE INCURRED BENEFITS." The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities

of this or any other state of the United States or any province of Canada, and by hospital or medical service organizations, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, automobile medical payments insurance, or coverage provided by hospital or medical service organizations or by union welfare plans or employer or employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage.")

e. A provision as follows:

INSURANCE WITH OTHER INSURERS: If there be other valid coverage, not with this insurer, providing benefits for the same loss on other than an expense incurred basis and of which this insurer has not been given written notice prior to the occurrence or commencement of loss, the only liability for such benefits under this policy shall be for such proportion of the indemnities otherwise provided hereunder for such loss as the like indemnities of which the insurer had notice (including the indemnities under this policy) bear to the total amount of all like indemnities for such loss, and for the return of such portion of the premium paid as shall exceed the pro-rata portion for the indemnities thus determined. (If the foregoing policy provision is included in a policy which also contains the next preceding policy provision there shall be added to the caption of the foregoing provision the phrase "—OTHER BENEFITS". The insurer may, at its option, include in this provision a definition of "other valid coverage," approved as to form by the commissioner, which definition shall be limited in subject matter to coverage provided by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of United States or any province of Canada, and to any other coverage the inclusion of which may be approved by the commissioner. In the absence of such definition such term shall not include group insurance, or benefits provided by union welfare plans or by employer or

employee benefit organizations. For the purpose of applying the foregoing policy provision with respect to any insured, any amount of benefit provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute) whether provided by a governmental agency or otherwise shall in all cases be deemed to be "other valid coverage" of which the insurer has had notice. In applying the foregoing policy provision no third party liability coverage shall be included as "other valid coverage."

f. A provision as follows:

RELATION OF EARNINGS TO INSURANCE: If the total monthly amount of loss of time benefits promised for the same loss under all valid loss of time coverage upon the insured, whether payable on a weekly or monthly basis, shall exceed the monthly earnings of the insured at the time disability commenced or his average monthly earnings for the period of two years immediately preceding a disability for which claim is made, whichever is the greater, the insurer will be liable only for such proportionate amount of such benefits under this policy as the amount of such monthly earnings or such average monthly earnings of the insured bears to the total amount of monthly benefits for the same loss under all such coverage upon the insured at the time such disability commences and for the return of such part of the premiums paid during such two years as shall exceed the pro-rata amount of the premiums for the benefits actually paid hereunder; but this shall not operate to reduce the total monthly amount of benefits payable under all such coverage upon the insured below the sum of two hundred dollars or the sum of the monthly benefits specified in such coverages, whichever is the lesser, nor shall it operate to reduce benefits other than those payable for loss of time.

(The foregoing policy provisions may be inserted only in a policy which the insured has the right to continue in force subject to its terms by the timely payment of premiums (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue. The insurer may, at its option, include in this provision a definition of "valid loss of time coverage", approved as to form by the commissioner, which definition shall be limited in subject matter to coverage by governmental agencies or by organizations subject to regulation by insurance law or by insurance authorities of this or any other state of the United States or any

province of Canada, or to any other coverage the inclusion of which may be approved by the commissioner or any combination of such coverages. In the absence of such definition such term shall not include any coverage provided for such insured pursuant to any compulsory benefit statute (including any workmen's compensation or employer's liability statute), or benefits provided by union welfare plans or by employer or employee benefit organizations.)

g. A provision as follows:

UNPAID PREMIUM: Upon the payment of a claim under this policy, any premium then due and unpaid or covered by any note or written order may be deducted therefrom.

h. A provision as follows:

CANCELLATION: The insurer may cancel this policy at any time by written notice delivered to the insured, or mailed to his last address as shown by the records of the insurer, stating when, not less than five days thereafter, such cancellation shall be effective; and after the policy has been continued beyond its original term the insured may cancel this policy at any time by written notice delivered or mailed to the insurer, effective upon receipt or on such later date as may be specified in such notice. In the event of cancellation, the insurer will return promptly the unearned portion of any premium paid. If the insured cancels, the earned premium shall be computed by the use of the short-rate table last filed with the state official having supervision of insurance in the state where the insured resided when the policy was issued. If the insurer cancels, the earned premium shall be computed pro-rata. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

i. A provision as follows:

CONFORMITY WITH STATE STATUTES: Any provision of this policy which, on its effective date, is in conflict with the statutes of the state in which the insured resides on such date is hereby amended to conform to the minimum requirements of such statutes.

j. A provision as follows:

ILLEGAL OCCUPATION: The insurer shall not be liable for any loss to which a contributing cause was the

insured's commission of or attempt to commit a felony or to which a contributing cause was the insured's being engaged in an illegal occupation.

k. A provision as follows:

INTOXICANTS AND NARCOTICS: The insurer shall not be liable for any loss sustained or contracted in consequence of the insured's being intoxicated or under the influence of any narcotic unless administered on the advice of a physician.

3. **Inapplicable of Inconsistent Provisions.** If any provision of this section is in whole or in part inapplicable to or inconsistent with the coverage provided by a particular form of policy the insurer, with the approval of the commissioner, shall omit from such policy any inapplicable provision or part of a provision, and shall modify any inconsistent provision or part of the provision in such manner as to make the provision as contained in the policy consistent with the coverage provided by the policy.

4. **Order of Certain Policy Provisions.** The provisions which are the subject of subsections 1 and 2 of this section, or any corresponding provisions which are used in lieu thereof in accordance with such subsections shall be printed in the consecutive order of the provisions in such subsections or, at the option of the insurer, any such provision may appear as a unit in any part of the policy, with other provisions to which it may be logically related, provided the resulting policy shall not be in whole or in part unintelligible, uncertain, ambiguous, abstruse, or likely to mislead a person to whom the policy is offered, delivered, or issued.

5. **Third Party Ownership.** The word "insured" as used in this Act, shall not be construed as preventing a person other than the insured with a proper insurable interest from making application for and owning a policy covering the insured or from being entitled under such a policy to any indemnities, benefits and rights provided therein.

6. **Requirements of Other Jurisdictions.**

- a. Any policy of a foreign or alien insurer, when delivered or issued for delivery to any person in this state, may contain any provision which is not less favorable to the insured or the beneficiary than the provisions of this Act and which is prescribed or required by the law of the state under which the insurer is organized.
- b. Any policy of a domestic insurer may, when issued for delivery in any other state or country, contain any provis-

ion permitted or required by the laws of such other state or country.

7. Filing Procedure. The commissioner may make such reasonable rules and regulations concerning the procedure for the filing or submission of policies subject to this Act as are necessary, proper or advisable to the administration of this Act. This provision shall not abridge any other authority granted the commissioner by law.

§ 4. CONFORMING TO STATUTE.)

1. Other Policy Provisions. No policy provision which is not subject to section 3 of this Act shall make a policy, or any portion thereof, less favorable in any respect to the insured or to the beneficiary than the provisions thereof which are subject to this Act.

2. Policy Conflicting with this Act. A policy delivered or issued for delivery to any person in this state in violation of this Act shall be held valid but shall be construed as provided in this Act. When any provision in a policy subject to this Act is in conflict with any provision of this Act, the rights, duties, and obligations of the insurer, the insured and the beneficiary shall be governed by the provisions of this Act.

§ 5. APPLICATION.)

1. The insured shall not be bound by any statement made in an application for a policy unless a copy of such application is attached to or endorsed on the policy when issued as a part thereof. If any such policy delivered or issued for delivery to any person in this state shall be reinstated or renewed, and the insured or the beneficiary or assignee of such policy shall make written request to the insurer for a copy of the application, if any, for such reinstatement or renewal, the insurer shall within fifteen days after the receipt of such request at its home office or any branch office of the insurer, deliver or mail to the person making such request, a copy of such application. If such copy shall not be so delivered or mailed, the insurer shall be precluded from introducing such application as evidence in any action or proceeding based upon or involving such policy or its reinstatement or renewal.

2. No alteration of any written application for any such policy shall be made by any person other than the applicant without his written consent, except that insertions may be made by the insurer, for administrative purposes only, in such manner as to indicate clearly that such insertions are not to be ascribed to the applicant.

3. The falsity of any statement in the application for any policy covered by this Act may not bar the right to recovery thereunder unless such false statement materially affected either the acceptance of the risk or the hazard assumed by the insurer.

§ 6. NOTICE, WAIVER.) The acknowledgement by any insurer of the receipt of notice given under any policy covered by this Act, or the furnishing of forms for filing proofs of loss, or the acceptance of such proofs, or the investigation of any claim thereunder shall not operate as a waiver of any of the rights of the insurer in defense of any claim arising under such policy.

§ 7. AGE LIMIT.) If any such policy contains a provision establishing, as an age limit or otherwise, a date after which the coverage provided by the policy will not be effective, and if such date falls within a period for which premium is accepted by the insurer or if the insurer accepts a premium after such date, the coverage provided by the policy will continue in force subject to any right of cancellation until the end of the period for which premium has been accepted. In the event the age of the insured has been misstated and if, according to the correct age of the insured, the coverage provided by the policy would not have become effective, or would have ceased prior to the acceptance of such premium or premiums, then the liability of the insurer shall be limited to the refund, upon request, of all premiums paid for the period not covered by the policy.

§ 8. NON-APPLICATION TO CERTAIN POLICIES.) Nothing in this Act shall apply to or affect (1) any policy of workmen's compensation insurance or any policy of liability insurance with or without supplementary expense coverage therein; or (2) any policy or contract of reinsurance; or (3) any blanket or group policy of insurance; or (4) life insurance, endowment or annuity contracts, or contracts supplemental thereto which contain only such provisions relating to accident and sickness insurance as (a) provide additional benefits in case of death or dismemberment or loss of sight by accident, or as (b) operate to safeguard such contracts against lapse, or to give a special surrender value or special benefit or an annuity in the event that the insured or annuitant shall become totally and permanently disabled, as defined by the contract or supplemental contract.

§ 9. VIOLATION.) Any person, partnership or corporation wilfully violating any provision of this Act or order of the commissioner made in accordance with this Act, shall forfeit to the people of the state a sum not to exceed five hundred dollars for each such violation, which may be recovered by a civil action. The commissioner may also suspend or revoke the license of an insurer or agent for any such wilful violation. A

violation of the provisions of this Act shall constitute a misdemeanor.

§ 10. JUDICIAL REVIEW.) Any order or decision of the commissioner under this Act shall be subject to review by appeal within the time and in the manner provided by Chapter 28-32 of the North Dakota Revised Code of 1943 as the same has been or may hereafter be amended.

§ 11. REPEAL.) Sections 26-0338 and 26-0339 of the North Dakota Revised Code of 1943 are hereby repealed.

§ 12. EFFECTIVE DATE OF ACT.) This Act shall take effect on the first day of July, 1953. A policy, rider or endorsement, which could have been lawfully used or delivered or issued for delivery to any person in this state immediately before the effective date of this Act may be used or delivered or issued for delivery to any such person during three years after the effective date of this Act without being subject to the provisions of section 2, 3 or 4 of this Act.

Approved March 20, 1953.

CHAPTER 190

H. B. No. 680
(Neukircher and Fitch)

AUTHORIZATION OF LLOYDS INSURANCE; REPEAL

AN ACT

To repeal section 26-0718 of the 1949 Supplement to the North Dakota Revised Code of 1943 relating to the authorizing of associations of individuals known as Lloyds to transact insurance.

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

§ 1. Section 26-0718 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby repealed.

Approved March 10, 1953.

CHAPTER 191

H. B. No. 708
(Neukircher, Schmalenberger, Fitch)

PROCUREMENT OF INSURANCE, INDEMNITY CONTRACT, AND
BONDS NOT PROCURABLE FROM AUTHORIZED COMPANIES
FROM COMPANIES NOT OTHERWISE AUTHORIZED TO DO
BUSINESS

AN ACT

Permitting the procurement of insurance, indemnity contract, and bonds not procurable from authorized companies doing business in this state from companies not otherwise authorized to do business in this state.

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

§ 1 DEFINITION OF TERMS.) The words, "commissioner" or "insurance commissioner", as used in this Act, refer to the commissioner of insurance of the state of North Dakota. A "surplus line" agent is one to whom a "surplus line" license has been issued by the commissioner under the provisions of this Act.

§ 2. ISSUANCE OF LICENSE; FEE; AUTHORITY CONFERRED BY LICENSE.) Upon receipt of an application in proper form, on blanks furnished by the commissioner, and on payment of a license fee of ten dollars (\$10.00), the insurance commissioner may issue a "surplus line" license to any duly qualified and licensed insurance agent of this state. Such license shall permit the agent named therein to act as agent in this state for any foreign company or insurer not authorized to transact business in this state in securing, issuing or placing policies of insurance, contracts of indemnity and/or surety bonds on property located in, or undertakings to be carried out in, this state for such companies.

§ 3. EXECUTION AND DELIVERY OF BOND; RIGHTS CONFERRED BY LICENSE.) Before receiving such license, such 'surplus line' agent shall execute and deliver to the commissioner a bond in the penal sum of two thousand dollars (\$2,000.00) in such form and with such sureties as the commissioner shall approve, conditioned that he will fully comply with all requirements of this Act. Such license shall entitle such agent to transact business for any or all unauthorized companies or insurers as provided in this Act, and shall expire on April 30th next following the date of issue.

§ 4. AFFIDAVIT AS PREREQUISITE OF INSURANCE; CONTENTS.) Before the person named in such license shall procure, effect or issue any such insurance policy or indemnity contract or surety bond, he shall in every case execute and file with the commissioner his affidavit in acceptable form that the insured is unable, after diligent search, to procure the insurance, indemnity contract, or surety bond desired from a company authorized to do business in this state. If the commissioner concurs in the allegation set forth in the affidavit the commissioner may authorize the procuring of the insurance, indemnity contract or bond from a company not authorized to do business in this state.

§ 5. ENDORSEMENT OF POLICY.) Every policy issued under this section shall be endorsed 'Issued in an unauthorized company, under agent's license No.....,' which endorsement shall be properly filled in and signed by the agent.

§ 6. SERVICE OF PROCESS.) Any company desiring to transact any business under the terms of this Act, by any agent or agents in this state, shall appoint in writing the commissioner of insurance to be its true and lawful attorney, upon whom legal process in any action or proceeding against it shall be served, and in such writing, shall agree that any legal process against it, which is served upon such attorney, shall be of the same legal force and validity as if served upon such company, and that said authority shall continue in force so long as any liability remains outstanding in this state. Copies of such appointment certified by the 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. Such service 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 company. When legal process against such company is served upon the commissioner of insurance he shall forthwith forward by registered mail one of the duplicate copies, prepaid, and directed to its secretary or corresponding officer. For each copy of process the commissioner of insurance shall collect two dollars (\$2.00) which shall be paid by the plaintiff at the time of such service, the same to be recovered by him as part of the taxable costs if he prevails in the suit. Legal process shall not be served upon such company except in the manner provided herein. In any suit on a policy on behalf of the owner or holder thereof, the service of process shall be made as in this section provided, but the action must be prosecuted in the county of the policy holder's residence.

§ 7. RECORD OF BUSINESS; FILING OF STATEMENT; CONTENT.) Every agent shall keep a separate account of the business under his 'surplus line' license and on or before the first day of April in each year shall file with the commissioner a statement for the twelve months preceding, giving the name of the insured to whom such policy or indemnity contract granting such unauthorized insurance has been issued, the name and home office of each company issuing any such policy or contract, the amount of such insurance, the rates charged therefor, the gross premiums charged therein or therefor, the date and term of the policy and the amount of premium returned on each policy cancelled or not taken, with such information and upon such form as required by the commissioner, and pay the commissioner an amount equal to the taxes imposed by law on the premiums of like authorized insurance companies. If a 'surplus line' policy covers risks or exposures only partially in this state, the tax so payable shall be computed upon the portion of the premium which is properly allocable to the risks or exposures located in this state.

§ 8. SURPLUS LINE INSURANCE VALID.) Insurance contracts procured as 'surplus line' coverage from unauthorized insurers in accordance with this Act shall be fully valid and enforceable as to all parties, and shall be given recognition in all matters and respects to the same effect as like contracts issued by authorized insurers.

§ 9. ACTIONS AGAINST COMPANIES ISSUING INSURANCE; VENUE; SERVICE OF PROCESS; TIME FOR ANSWER.) Every company, insurer or insurers making insurance under the provisions of this section shall be deemed and held to be doing business in this state as an unlicensed concern and may be sued upon any cause of action arising under any policy of insurance so issued and delivered by it. Such suit shall be brought in the district court of the county wherein the plaintiff resides. Service of summons and complaint in such a suit shall be made upon the commissioner of insurance in the manner provided by section 6 of this Act.

§ 10. PENALTY FOR FAILURE TO FILE STATEMENT AND PAY TAX; ACTION FOR RECOVERY; REVOCATION OF LICENSE; CONDITIONS PREREQUISITE TO REISSUANCE; HEARING PROCEDURE AND JUDICIAL REVIEW.) Every such agent who fails or refuses to make and file said annual statement, and to pay the taxes required to be paid thereon prior to the first day of May after such tax is due, shall be liable for a fine of twenty-five (\$25.00) dollars for each day of said delinquency. Such tax and fine may be recovered in an action to be instituted by the commissioner in the name of the state, the attorney general representing him, in any court of competent jurisdiction, and the fine, when so

collected, shall be paid to the state treasurer and placed to the credit of the general fund. If any such agent shall fail to make and file said annual statement and pay the said taxes, or shall refuse to allow the commissioner to inspect and examine his records of the business transacted by him pursuant to this section, or shall fail to keep such records in manner as required by the commissioner, or shall falsify the affidavit referred to in section 4 of this Act, the surplus line agent's license of such agent shall be immediately revoked by the commissioner.

Before the commissioner of insurance shall revoke or suspend any such license he shall give to the agent written notice of the charges and of the hearing, not less than twenty (20) days prior to the time set for such hearing. Such notice shall be forwarded by registered mail addressed to the agent at his last known address. Full opportunity shall be given at such hearing to the agent to appear with counsel and be heard upon such charges. Any agent or other person aggrieved by any order or decision made by the commissioner of insurance may appeal therefrom to the district court of the county where the aggrieved party may reside, or the district court of Burleigh County, North Dakota, within thirty (30) days from the making and filing of the order or decision, by filing in the office of the commissioner of insurance a notice of the appeal in writing and in this case the commissioner of insurance shall within twenty (20) days after filing of the notice, make and return to the district court a full and complete certified transcript of the finding and order appealed from and of all parts relative thereto on file in his office, including the notice of appeal, and upon the filing of the certified transcript all matters involved therein shall be brought on for trial upon the merits at the next term of the court after the filing of the transcript, unless otherwise ordered by the court; and upon the trial and findings of fact on which the order is based shall be prima facie evidence of the matters therein stated. During the pendency of the proceedings upon the review the order of the commissioner of insurance shall be suspended, but in the event of a final determination against such agent, the license shall be immediately revoked. In the event of the revocation of a license of an agent whether by the action of the commissioner or by judicial proceedings, another license shall not be issued to that agent until one (1) year shall elapse from the effective date of such revocation, nor until all taxes and fines are paid, nor until the commissioner shall be satisfied that full compliance with this section will be had.

§ 11. SURPLUS LINES IN SOLVENT INSURERS.) A 'surplus line' agent shall not knowingly place 'surplus line' insurance with insurers unsound financially. The agent shall ascertain the

financial condition of the unauthorized insurer before placing insurance therewith. The agent shall not so insure with any stock insurer having capital and surplus amounting to less than two hundred fifty thousand dollars (\$250,000.00); or with any other type of insurer having assets of less than two hundred thousand dollars (\$200,000.00), of which not less than one hundred thousand dollars (\$100,000.00) is surplus.

§ 12. AGENT'S AUTHORITY.) An agent duly licensed as provided in this act may accept business from any duly licensed agent for an admitted company and may compensate him therefor, provided such insurance is written in conformity with the provisions of the insurance code.

§ 13. COMMISSIONER TO MAKE RULES.) The commissioner may make and publish reasonable rules and regulations, consistent with this act, in respect to transactions governed thereby and the basis or bases for his determination hereunder.

§ 14. REPEALING CLAUSE.) All acts and parts of acts in conflict herewith are hereby repealed.

Approved March 6, 1953.

CHAPTER 192

H. B. No. 618
(McLellan and Crothers)

INVESTMENT OF FUNDS OF INSURANCE COMPANIES

AN ACT

To amend and reenact subsection 3 of section 26-0811 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to investment of funds of insurance companies.

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

§ 1.) Subsection 3 of section 26-0811 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-0811. INVESTMENT OF FUNDS OF INSURANCE COMPANIES; IN WHAT AUTHORIZED.) A domestic insurance company may invest any of its funds and accumulation in:

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 sixty-six and two-thirds 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 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 bond holders under the provisions of the trust indentures.

Approved March 4, 1953.

CHAPTER 193

S. B. No. 51
(Legislative Research Committee)
(at the request of the Public Welfare Board)

CHARITABLE INSTITUTIONS OR GOVERNMENT AGENCIES
MAY BE BENEFICIARIES OF FRATERNAL
BENEFIT SOCIETIES

AN ACT

To amend and reenact section 26-1219 of the North Dakota Revised Code of 1943, relating to beneficiaries of fraternal benefit societies; restrictions.

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

§ 1. AMENDMENT.) Section 26-1219 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-1219. BENEFICIARIES; RESTRICTIONS.) The payment of death benefits shall be 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, to a person or persons dependent upon the member, a person or persons upon whom the member is dependent, or to the member's estate. If the member shall become dependent upon an incorporated charitable institution or any governmental agency from which a member received aid after the issuance of the original certificate, he shall have the privilege, with the consent of the society, to make such institution or governmental agency his beneficiary. Within the above restrictions, each member shall have the right to designate his beneficiary, and, from time to time, to have the same changed in accordance with the laws, rules, and regulations of the society. 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 member. Any society, by its law and within the above classes, may limit the scope of beneficiaries.

Approved February 28, 1953.

CHAPTER 194

H. B. No. 681
(Holand)

ORGANIZATION OF COUNTY MUTUAL INSURANCE
COMPANIES

AN ACT

To amend and reenact section 26-1501 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to organization of county mutual insurance companies.

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

• § 1. AMENDMENT.) Section 26-1501 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-1501. COUNTY MUTUAL INSURANCE COMPANY; ORGANIZATION; ORGANIZERS REQUIRED.) A corporation for mutual insurance against loss or damage by fire, lightning, cyclone, wind-storm, tornado, hail, except upon growing crops, any hazard upon any risk upon livestock, explosion, except the explosion of steam boilers and flywheels, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke to the property of the insured, theft, vandalism, malicious mischief, water damage and freezing, or all such forms of insurance, may be formed in accordance with the provisions of this chapter by:

1. Any number of persons, not less than fifty, residing in not more than ten counties in this state, who collectively own property of not less than one hundred thousand dollars in value which they desire to insure; or
2. Any number of persons, not less than twenty-five, residing in any one county in this state, who collectively own property of not less than twenty-five thousand dollars in value which they desire to insure.

No such company shall write insurance, insuring against loss by reason of bodily injury to a person or against legal liability of the insured arising out of the death or injury of any person, or against legal liability of the insured arising out of the loss or destruction of, or damage to, the property of any other person.

Approved March 4, 1953.

CHAPTER 195

S. B. No. 181
(Baeverstad and Gronvold)

REINSURANCE BY COUNTY MUTUAL INSURANCE
COMPANIES

AN ACT

To allow county mutual insurance companies to reinsure in one contract against excessive losses upon all risks written and to amend and reenact section 26-1513 of the North Dakota Revised Code of 1943, relating to territorial limitations of county mutual insurance companies.

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

§ 1. REINSURANCE OF EXCESSIVE LOSSES.) Except as otherwise provided in sections 26-0503 and 26-0715 of the North Dakota Revised Code of 1943, any county mutual insurance company may reinsure in a single contract, with other county mutual insurance companies, against excessive losses on all contracts of insurance written. Such reinsurance contracts may provide:

1. That whenever the total losses per dollar of insurance in force of any county mutual insurance company joining such contract should exceed the average total losses per dollar of insurance in force of all county mutual insurance companies joining such contract, such excessive loss or a portion thereof shall be paid to such county mutual insurance company or companies suffering the excessive loss by the companies having a lower than average loss ratio; and
2. That such payments by individual companies suffering a lower than average loss ratio shall be pro-rated according to a formula based upon the total dollars of insurance in force of any participating company as compared to the total dollars of insurance in force of all participating companies suffering a lower than average loss ratio.

In no case shall such payments by any single company be greater than that sum which would bring the loss ratio per dollar of insurance in force of such company up to the average loss per dollar of insurance in force of all participating companies.

§ 2. DESIGNATION OF ATTORNEY IN FACT: ASSESSMENTS.) Companies participating in such a reinsurance contract shall designate an attorney in fact whose duty it shall be to calculate the average loss per dollar of insurance in force for each participating company and the average loss per dollar of insurance in force of all participating companies at regular intervals. It shall also be the duty of the attorney in fact to prorate and assess the excessive losses against the participating companies in the manner provided in section 1 of this Act and to collect such assessments and pay them over to the companies suffering the excessive losses. The participating companies may pay such assessments out of reserves or a company may assess its individual members in the manner provided for other ordinary losses. Each participating company shall pay an agreed advance premium which shall be sufficient to pay all administrative expenses of the attorney in fact.

§ 3. SUPERVISION BY INSURANCE COMMISSIONER.) The commissioner of insurance shall have full powers of supervision over all reinsurance contracts executed under the provisions of this Act.

§ 4. AMENDMENT.) Section 26-1513 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-1513. TERRITORIAL LIMITS OF COMPANY'S OPERATIONS; TERMS OF POLICIES; PROPERTY INSURABLE.) A company formed under the provisions of this chapter shall not insure any property beyond the limits of the territory comprised in the formation of the company except as provided in subsection 3 of section 26-1502 and except that this territorial limitation shall not apply to reinsurance contracts. Its policies shall be issued for not to exceed five years. No policy shall be issued covering property located within the platted limits of any incorporated municipality in this state. The company shall not insure property other than:

1. Detached dwellings and their contents;
2. Farm buildings and their contents;
3. Country schoolhouses and the furniture, books and fixtures therein;
4. Country churches and the furniture and other contents thereof;
5. Automobiles, and a policy covering automobiles shall cover the same only when they are in buildings or on premises described in the policy;

6. Livestock on the premises of the owner or anywhere within the limits of the territory within which the company is authorized to operate;
7. Farm machinery and vehicles, including threshing machines only when the same are not in service, in buildings or on the premises of the owner, or as described in the policy; and
8. Hay or grain in stack on the premises of the owner thereof.

Policies issued by the company may cover loss or damage to livestock, harness, and vehicles temporarily taken from the territory of the company if the same are not removed more than twenty-five miles from such territory.

Approved March 20, 1953.

CHAPTER 196

H. B. No. 662
(Sortland, Esterby and Simenson)

HAIL INSURANCE INDEMNITY; WHEN LOSSES ALLOWED

AN ACT

To amend and reenact section 1 of chapter 191 of the North Dakota Session Laws of 1951, relating to the amount of hail insurance indemnity and when losses allowed, and declaring an emergency.

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

§ 1. AMENDMENT.) Section 1 of chapter 191 of the North Dakota session laws of 1951, is hereby amended and reenacted to read as follows:

26-2223. AMOUNT OF INDEMNITY; WHEN LOSSES ALLOWED.) The maximum amount of indemnity for total loss shall be either eight dollars per acre or twelve dollars per acre, and the application for hail insurance coverage may specify either of said amounts. No indemnity shall be allowed to any claimant for a loss of less than ten percent, and a loss of eighty-five percent or over shall be deemed a total loss. A loss of fifty percent of actual determined hail damage may be allowed to insured wheat, oats, barley, rye and flax crops laying in windrows,

bound or shocked. Only loss or damage to crops directly traceable to hail shall be allowed and no indemnity shall be allowed or paid for damage to any crop after it is abandoned.

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

Approved March 5, 1953.

CHAPTER 197

H. B. No. 631

(Haugen, Rohde, Hegge, Lindberg of Burke-Divide)
(and Erickson of Burke-Divide)

ADDITIONAL HAIL INSURANCE COVERAGE

AN ACT

To amend and reenact section 26-2224 as amended by chapter 191 of the Session Laws of 1951, relating to additional insurance; when such insurance is effected; and section 26-2232 of the 1949 Supplement to the North Dakota Revised Code of 1943 as amended by chapter 191 of the Session Laws of 1951, relating to the rate of hail indemnity.

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

§ 1. AMENDMENT.) Section 26-2224 of the North Dakota Revised Code of 1943 as amended by section 2 of chapter 191 of the North Dakota session laws for 1951 is hereby amended and reenacted to read as follows:

26-2224. ADDITIONAL INSURANCE: APPLICATION; WHEN EFFECTIVE; CONTENTS OF APPLICATION.) If the original application for hail insurance calls for eight dollars per acre insurance, the insured, before loss and before July fifteenth, may make an application to the state hail insurance department for an additional four dollars per acre protection. Such application shall be made in duplicate upon forms prepared and furnished by the commissioner of insurance, and shall be mailed directly to the department at Bismarck, and shall contain the legal description of the land, the kind of crops, the acreage thereof on which additional insurance is desired, and a statement to the effect that such crops have not been damaged or destroyed by hail. The location of the crops on which additional insurance

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

§ 2. AMENDMENT.) Section 26-2232 of the 1949 Supplement to the North Dakota Revised Code of 1943 as amended by section 4 of chapter 191 of the North Dakota session laws of 1951 is hereby amended and reenacted to read as follows:

26-2232. COMMISSIONER DETERMINES RATE OF HAIL INDEMNITY TAX LEVY; COLLECTION OF HAIL INDEMNITY TAX BY COMMISSIONER WITH DISCOUNT; CERTIFICATE TO COUNTY AUDITORS; DUTIES OF COUNTY AUDITORS AND TREASURERS.) The commissioner of insurance shall determine the rate of levy for the hail indemnity tax in each of the districts described in section 26-2230. When twelve dollars per acre insurance is carried, the indemnity tax shall be as much greater than the tax for eight dollars per acre insurance as twelve is greater than eight.

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

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

Approved March 5, 1953.

CHAPTER 198

H. B. No. 630

(Haugen, Rohde, Hegge, Lindberg of Burke-Divide)
(and Erickson of Burke-Divide)

**HAIL INSURANCE; RATE OF PREMIUM; PAYMENT, REFUND,
PRO-RATING LOSS PAYMENTS; ADDITIONAL INSURANCE**

AN ACT

To amend and reenact section 26-22242 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to rate of premium; payment, refund, prorating payment of losses where losses exceed total paid in with applications for such additional insurance and declaring an emergency.

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

§ 1. AMENDMENT.) Section 26-22242 of the 1949 Supplement to the North Dakota Revised Code of 1943, is hereby amended and reenacted to read as follows:

26-22242. RATE OF PREMIUM; PAYMENT; REFUND; PAYMENT OF LOSSES WHERE LOSSES EXCEED TOTAL PAID IN WITH APPLICATIONS FOR SUCH ADDITIONAL INSURANCE.) All applications for additional insurance provided for herein (26-22241) must be accompanied by a cash deposit of eight percent of the risk

applied for in the eastern district and a cash deposit of fifteen percent of the risk applied for in the western district as such districts are hereinafter provided for (26-22243). After the close of the hail adjusting season in each year and after the premium rates for each of the two districts shall have been determined, which rates shall be determined by the total hail losses suffered by holders of such additional insurance, herein provided for (26-22241), in each of such districts, plus the expense of administering such additional insurance in each district, the department shall refund any excessive premium deposit made at the time of the application for such additional insurance. If, however, the total amount necessary for indemnity payment for such additional insurance for any year exceeds eight percent of risk carried by the department for such year in the eastern district and/or exceeds fifteen percent of risk carried in the western district, the commissioner of insurance may use any moneys in the surplus of the state hail insurance fund to pay the difference between the moneys actually obtained by the premium deposit and the amount actually needed to pay all legal indemnities for such additional insurance for such year. In the following or in any succeeding year or years when the indemnity for hail losses is not in excess of the premium deposit for each district, carried by the department, the commissioner before making any refund to each such district as herein provided shall reimburse the state hail insurance fund from the funds of such district in such amount each year as in his discretion shall be reasonable, until all amounts withdrawn therefrom for the payment of such additional hail insurance losses shall have been repaid.

§ 2. EFFECTIVE DATE.) The above section shall be retroactive to the extent that the commissioner shall have authority to pay out of the state hail insurance surplus fund the deficiency resulting from the losses exceeding the premium deposit for the year 1952.

§ 3. SAVING CLAUSE.) If any section or part of any section in this act for any reason shall be determined or declared unconstitutional, illegal or void, such determination shall not vitiate or void all such parts as are legal and valid.

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

Approved March 18, 1953.

CHAPTER 199

H. B. No. 629

(Haugen, Fitch, Hegge, Hafner, Mollet, Langseth, Neukircher,
(Lindberg of Stutsman, Rudolf, Rohde, Wolf of)
(McIntosh-Logan and Heimes)

PAYMENT OF PREMIUMS FOR BONDING
OF PUBLIC OFFICIALS

AN ACT

To amend and reenact section 26-2306 of the 1949 Supplement to the North Dakota Revised Code of 1943, relating to premiums paid for bonding of public officials.

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

§ 1. AMENDMENT.) Section 26-2306 of the 1949 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2306. PREMIUMS: AMOUNT TO WHOM PAID; MINIMUM.) The premium for insurance furnished under this chapter shall be twenty-five cents per year per one hundred dollars of the amount of the required bond. Such premium shall be paid in advance by the proper authority of the state, or of the subdivision of the state, which the public employe 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 public employe 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 employes 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. 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 employes 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.

Approved March 6, 1953.