

INSURANCE

CHAPTER 198

S. B. No. 150
(George)

INSURANCE COMPANY ANNUAL STATEMENT

AN ACT

To amend and reenact section 26-0705 of the North Dakota Revised Code of 1943, relating to filing of annual statement.

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

§ 1. Amendment.) Section 26-0705 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-0705. Each Company Required To File Annual Statement.) Every insurance company doing business in this state shall transmit to the commissioner of insurance, not later than the first day of April in each year, a statement of its condition and business for the year ending on the preceding thirty-first day of December. An insurance company organized under the law of any foreign country or province shall include in such statement only business transacted within the United States of America, and shall file a supplemental statement of business transacted without the United States not later than the first day of December. The commissioner, upon the receipt in his office of any such statement, shall stamp the date of the receipt thereon. He shall not accept the annual statement from any company if the same was transmitted after the date designated in this section unless the same is accompanied by the penalty prescribed in this chapter for each day's delinquency in the filing thereof.

Approved March 6, 1957.

CHAPTER 199

S. B. No. 254

(Wadeson by request)

COUNTY MUTUAL INSURANCE COMPANIES; LIMITATIONS

AN ACT

To amend and reenact section 26-1513 of the 1953 Supplement to the North Dakota Revised Code of 1943 as amended, relating to territorial limits of operation of county mutual insurance companies, terms of policies and property insurable.

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

§ 1. **Amendment.**) Section 26-1513 of the 1953 Supplement to the North Dakota Revised Code of 1943 as amended by chapter 191 of the North Dakota Session Laws of 1955 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 is authorized to insure all property located outside of incorporated cities or villages in this state.

Policies issued by the company may cover loss or damage to livestock, harness, vehicles, and farm machinery while temporarily on or off the premises of the insured if the same are not removed more than fifty miles from the state.

Approved March 1, 1957.

CHAPTER 200

H. B. No. 651
(Hornstein, Ostrem, and Miller)

MUTUAL INSURANCE EXPENSE AND LOSS FUNDS

AN ACT

To amend and reenact section 26-1518 of the North Dakota Revised Code of 1943, relating to permanent expense and loss funds of mutual insurance companies.

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

§ 1. **Amendment.**) Section 26-1518 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-1518. Permanent Expense And Loss Fund: Assessment For; Delinquent Loss Assessments Credited To.) The board of directors of a county or district mutual insurance company may levy and collect an assessment for the purpose of providing funds for the payment of the current expenses of the company or for the purpose of establishing a permanent loss fund. Such fund at no time shall exceed one percent of the amount of insurance in force in the company, except that where mutual insurance companies write a combined policy of fire and windstorm insurance, they shall be allowed to maintain a permanent loss fund not to exceed two percent of the amount of insurance in force in the company. Assessments levied for the purposes specified in this section shall be collected as assessments made for the payment of current losses are collected. If a delinquent loss assessment is collected after other assessments to cover such loss have been made and collected, the amount collected on the delinquent loss assessment shall be added to the permanent loss fund.

Approved March 6, 1957.

CHAPTER 201

H. B. No. 645

(Paulson, Larson, Wilkie, Anderson of Eddy-Foster,
 (Nygaard, Beede, Link, Lynch, Schuler, Kitzmann),
 (Frank, Olsen, Gagnum, Poling, Schmalenberger),
 (Dick and Solberg)

STATE HAIL INSURANCE FUND

AN ACT

To amend and reenact sections 26-2207, 26-2211, 26-2212, 26-2213, 26-2214, 26-2215, 26-2216, 26-2217, 26-2220, 26-2222, 26-2223, 26-2225, 26-2226, 26-2229, 26-2230, 26-2233, 26-2238, 26-2245, 26-2246, 26-2252 and 26-2254, and to repeal sections 26-2208, 26-22241, 26-22242, 26-22243, 26-22244, and 26-2227 of the North Dakota Revised Code of 1943 as amended, relating to the state hail insurance department, and declaring an emergency, and for transfer of funds.

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

§ 1. **Amendment.)** Section 26-2207 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2207. State Hail Insurance Fund: Permanent Surplus; How Maintained; Appropriations From Fund.) A separate fund designated as the state hail insurance fund shall be maintained by the state treasurer, and all moneys collected under the provisions of this chapter shall be turned over to the state treasurer and kept in such fund. There shall be maintained in such fund a permanent surplus in the sum of five million dollars for the purpose of carrying out the provisions of this chapter and of paying hail losses promptly. All hail indemnities payable under the provisions of this chapter shall be paid from the state hail insurance fund, and all moneys placed in such fund are appropriated for the purpose of paying such hail indemnities. The legislative assembly shall appropriate moneys required to pay the expenses of conducting the hail insurance department from such fund.

§ 2. **Amendment.)** Section 26-2211 of the North Dakota Revised Code of 1943 as amended by chapter 192 of the 1955 Session Laws, is hereby amended and reenacted to read as follows:

26-2211. Crops Insurable: Dates When Coverage On Insured Crops Commences And Terminates.) Crops of rye, wheat, speltz, barley, oats, flax, corn, buckwheat, millet,

sweet clover, alfalfa, and cane grown on cultivated land which is listed as actually cropped are insurable in the state hail insurance department in the manner specified in this chapter. Insurance obtained under the provisions of this chapter shall not become effective on winter wheat or winter rye before twelve o'clock noon, central standard time, of June first and shall not become effective on other crops before twelve o'clock noon, central standard time, of June tenth of any year. No indemnity shall be allowed for a loss to oats, speltz, winter rye, or winter wheat which occurs later than twelve o'clock noon, central standard time, of September first, nor for a loss to corn, barley, wheat, and all other insurable crops except flax, which occurs later than twelve o'clock noon, central standard time, of September fifteenth, nor for a loss to flax which occurs later than twelve o'clock noon, central standard time, of September twentieth of any year. Any crops which have been damaged materially by hail before an application is filed with the state hail insurance department shall not be insured until the percent of damage has been determined. This damage is to be taken into consideration in case additional hail loss is sustained.

§ 3. **Amendment.)** Section 26-2212 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2212. Assessors To Solicit Applications For Coverage: Contents And Effect Of Application.) Each assessor in the state, within his district or county, shall solicit applications for hail insurance coverage. Each year the assessor shall inquire of the owner or occupant of all tillable land within his district or county whether or not he has crops growing or intends to grow crops upon such land during the current year which he wishes to insure against loss by hail under the provisions of this chapter. Such assessor shall explain fully the provisions of this chapter relative to the amount of hail insurance per acre obtainable, the time within which notice of hail loss on crops insured with the department must be given, and the time and manner of payment of hail indemnity taxes and hail losses. An application for hail insurance coverage on any crop which has not been damaged materially by hail may be taken by the assessor at any time up to and including July twentieth of the year for which the insurance is desired. The application shall be taken in triplicate upon forms to be furnished by the commissioner of insurance and shall contain the following information:

1. The description of each piece of land to be insured showing the number of the section and the designation of the quarter section or subdivision thereof upon which

- the insured crop is growing or to be grown, and the number of the township and range;
2. The acreage, description, and location of the different kinds of crops to be insured; and
 3. The interest of the applicant in the crop to be insured.

The information contained in the application shall be furnished by the applicant and shall be binding upon him, and the application shall be the basis for computing the hail indemnity tax charged against the lands therein described except as further provided in this chapter.

§ 4. Amendment.) Section 26-2213 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2213. Duty Of Assessor When Application Taken: Return Of Unused Supplies.) The assessor shall endorse on each copy of the application for hail insurance coverage taken by him the date and hour when he took the application, and as soon as possible or not later than twenty-four hours thereafter, he shall mail the original and duplicate copies thereof to the state hail insurance department and the triplicate copy thereof to the county auditor of his county. Immediately after July twentieth, each assessor shall forward to the county auditor of his county, or to the state hail insurance department, any unused hail insurance listing supplies.

§ 5. Amendment.) Section 26-2214 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2214. Application To County Auditor; Duties Of County Auditor.) Any person who does not make application with the assessor for hail insurance coverage may make application for such coverage with the county auditor of the county or with the state hail insurance department at any time up to and including July twentieth, and if July twentieth falls on a Sunday, before five o'clock p.m., central standard time, on the following day. When the county auditor takes an application, he shall retain the triplicate copy thereof and immediately shall mail the original and duplicate thereof to the state hail insurance department. The provisions of this chapter which govern the assessor in taking applications shall apply to the county auditor so far as the same are applicable.

§ 6. Amendment.) Section 26-2215 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2215. County Officials To Furnish Information: County Auditor To Furnish Delinquent Hail Tax List.) Each county official shall furnish to the state hail insurance department such information as it may require to carry out the provisions of this chapter. Upon receipt of an application for hail insurance coverage the county auditor shall forward to the commissioner of insurance, on forms to be prepared by him, a statement of the amount of unpaid hail taxes due and delinquent on the lands covered by such application as shown by the records in his office and in the office of the county treasurer.

§ 7. Amendment.) Section 26-2216 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2216. Compensation Of Assessors, And County Auditors For Taking Applications.) The assessors and county auditors, in addition to other compensation allowed them by law, shall receive three-tenths percent of the risk carried on the applications for hail insurance coverage listed and reported by them and approved by the commissioner of insurance. The commissioner of insurance shall certify to the state auditor a list of the assessors and county auditors entitled to payment under this section showing the several amounts due them, and the state auditor shall draw warrants on the state treasurer for the payment of such compensation upon such certificate.

§ 8. Amendment.) Section 26-2217 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2217. Tenant May Sign Application If He Has Consent Of Owner.) The legal occupant of tillable lands of which he is not the owner may make application for hail insurance covering crops upon such lands as the agent for the owner of the land if he has written consent from the owner to do so. Such written consent may be filed on a separate form or may be contained in a letter from the owner, and such consent shall be made a part of the application, but such application shall not be in effect until midnight of the date shown on the postmark on the envelope in which the consent is mailed to the state hail insurance department.

§ 9. Amendment.) Section 26-2220 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2220. Owner Of Contract For Deed Has Insurable Interest In Crop.) If lands are bought on contract for deed, the purchaser of the land under such contract shall be the party responsible for the payment of hail indemnity taxes levied

subsequent to the date of the contract, and the record of title owner of the land in such case shall not determine whether or not hail insurance shall be carried on crops grown on lands described in such contract, except where land is bought on contract for deed from the state school land department, such application for insurance shall be made on special cash policy.

§ 10. Amendment.) Section 26-2222 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2222. Application May Be Amended.) An applicant for hail insurance coverage may amend his application as to the kind of crop to be covered and the location thereof, at any time prior to the time he may have sustained a loss upon the crops involved, by notifying the state hail insurance department of such change by registered mail.

§ 11. Amendment.) Section 26-2223 of the North Dakota Revised Code of 1943 as amended by chapter 193 of the 1955 Session Laws, 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 five percent, and a loss of ninety percent or over shall be deemed a total loss. A loss of one hundred percent of actual determined hail damage may be allowed to insured wheat, oats, barley, rye and flax crops laying in windrows, bound or shocked. Only loss or damage to crops directly traceable to hail shall be allowed and no indemnity shall be allowed or paid for damage to any crop after it is abandoned.

§ 12. Amendment.) Section 26-2225 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2225. Cancellation Of Insurance: When Permitted; Notice Of Cancellation.) If before loss by hail and on or before the first day of July in the year for which insurance has been furnished, there shall be a total or partial failure or loss of crops insured due to any cause other than hail, the insured may cancel his hail insurance for that part of the season remaining after the date of cancellation by filing with the state hail insurance department a notice of cancellation in duplicate in such manner and form as the commissioner of insurance may determine. The notice of cancellation shall specify the acreage, kind of crop, and the legal description of

the premises upon which the crops were sown. If the crops insured against loss by hail are on rented lands, the owner of the land and the tenant thereon must sign the notice of cancellation unless either the owner or the tenant is insured separately, in which case only the signature of the one insured shall be required on the notice of cancellation referring to his separate insurance. Hail insurance coverage furnished under this chapter shall not be canceled unless the notice of cancellation describes by diagram and location the number of acres of any one kind of crop sown on any legal description as shown in the application for insurance filed with the state hail insurance department for the current year.

§ 13. **Amendment.**) Section 26-2226 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2226. When Cancellation Of Hail Insurance Coverage Effective.) No notice of cancellation of hail insurance coverage shall be effective unless such notice has been received in the office of the state hail insurance department before five o'clock p.m., central standard time, on July third of the year for which such coverage was allowed. If a notice of cancellation has been filed as required by this chapter, the cancellation of hail insurance on the crops described in such notice shall be effective at twelve o'clock noon, central standard time, on the date when such notice was executed, providing however that such crop or crops have been inspected or approved by the state hail insurance department.

§ 14. **Amendment.**) Section 26-2229 of the North Dakota Revised Code of 1943 as amended by chapter 194 of the 1955 Session Laws, is hereby amended and reenacted to read as follows:

26-2229. Levy Of Hail Indemnity Tax.) There shall be levied in each and every year, and in each county in this state, pursuant to section 177 of the Constitution of North Dakota and Article 24 of the amendments to the Constitution of North Dakota, an indemnity acreage tax on all lands insured with the state hail insurance department under the provisions of this chapter sufficient to secure the moneys required for the purposes described in this chapter.

§ 15. **Amendment.**) Section 26-2230 of the North Dakota Revised Code of 1943 as amended by chapter 194 of the 1955 Session Laws, is hereby amended and reenacted to read as follows:

26-2230. Areas And Districts In State For Purposes Of Levying Hail Indemnity Tax; Rates Between Area And District Levies.) For the purpose of levying the acreage indemnity

tax required under the provisions of this chapter, the state shall be divided into three areas as follows:

Area No. 1 shall include the counties of Towner, Cavalier, Pembina, Ramsey, Walsh, Nelson, Grand Forks, Eddy, Foster, Griggs, Steele, Traill, Barnes, Cass, Ransom, Sargent and Richland;

Area No. 2 shall include the counties of Renville, Bottineau, Rolette, Ward, McHenry, Pierce, Benson, McLean, Sheridan, Wells, Mercer, Oliver, Morton, Burleigh, Kidder, Stutsman, Grant, Sioux, Emmons, Logan, McIntosh, LaMoure and Dickey;

Area No. 3 shall include the counties of Divide, Burke, Williams, Mountrail, McKenzie, Dunn, Golden Valley, Billings, Stark, Slope, Hettinger, Bowman and Adams.

The following proportions or loss ratios shall be used in all three areas as follows:

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

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

1. District No. 1, not more than 2%
2. District No. 2, not more than 2½%
3. District No. 3, not more than 3%
4. District No. 4, not more than 4%

5. District No. 5, not more than 5%
6. District No. 6, not more than 6%

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

1. District No. 1, not more than 4%
2. District No. 2, not more than 4½%
3. District No. 3, not more than 5%
4. District No. 4, not more than 6%
5. District No. 5, not more than 8%
6. District No. 6, not more than 10%

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

1. District No. 1, not more than 6%
2. District No. 2, not more than 7%
3. District No. 3, not more than 8%
4. District No. 4, not more than 10%
5. District No. 5, not more than 12%
6. District No. 6, not more than 14%

§ 16. **Amendment.)** Section 26-2233 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2233. Use Of Surplus When Losses Exceed Premium Levy: Subsequent Levies.) If the total amount necessary for indemnity tax for any year equals more than the premium levied by the state hail insurance department for such year, 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 levy for hail indemnity tax and the amount actually needed to pay all legal indemnities 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 levied by the department, the commissioner of insurance may use such excess to reimburse the surplus fund for moneys so used.

§ 17. **Amendment.)** Section 26-2238 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2238. Abatement Of Hail Indemnity Taxes; Correction Of Records; Compromises.) The commissioner of insurance may make correction of hail tax records on application submitted to him in such manner and form as he shall determine. An application for the abatement of hail indemnity taxes upon lands which are claimed to have been listed erroneously for hail insurance purposes must be filed with the state hail

insurance department before the levy for hail insurance taxes is determined for the year in which it is claimed that the erroneous listing occurred and before the adjustment of hail losses upon such lands, if a loss has occurred, has been made. The commissioner shall not approve such an application until the error has been proved to his satisfaction. When the holder of a superior lien upon lands described in a hail tax certificate has paid the general taxes without the inclusion of the hail indemnity tax, such hail indemnity tax shall be canceled from the records in the proper county and in the hail insurance department after the expiration of three years from the passing of title on the foreclosure of the superior lien if the title to such land has not reverted to the original owner within such time. The commissioner of insurance may refund any hail indemnity tax wrongfully collected upon presentation of a written application therefor, or may make a compromise settlement of a hail indemnity tax which does not constitute a prior lien when the lien thereof is subject to extinction by the foreclosure of the superior lien and may order the cancellation of the hail indemnity tax and the satisfaction of the same upon the records pursuant to such compromise settlement. When a compromise settlement of a hail indemnity tax has been made, the unpaid balance of such tax shall become a lien upon the land upon which it was levied if the ownership of the land reverts to the original mortgagor.

§ 18. Amendment.) Section 26-2245 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2245. Adjustment Of Claims: Reinspection Where Claimant Dissatisfied.) In making adjustments of claims the adjuster shall inspect the crops on which damage is claimed, and he may administer oaths and call witnesses to testify as to the condition of the crop before and after the loss. He shall establish the fact that hail fell from evidence other than that found in the field examined by witnesses living near the land on which loss is claimed. The adjustment of any loss or claim for damage hereunder may be deferred at the option of the commissioner of insurance until the extent of damage can be determined. In case any of the crops insured shall be so injured by drought, frost or being over-ripe, or from any other causes so that such portion will not result in profit over and above the actual cost of cutting, harvesting and marketing, then the state hail insurance department shall not be liable for any damage which may occur from hail. The state hail insurance department shall not be liable for any damage caused by neglect of the insured to cut over-ripe grain that may later be damaged by hail. Whenever possible, the adjuster shall secure the written concurrence of the claimant, or his

legal representative, in the adjustment of the claim, and if such concurrence is obtained, he shall forward it to the commissioner of insurance immediately. If the claimant does not concur in the findings and award of the adjuster, the adjuster shall notify the commissioner of insurance immediately, and upon the request of the claimant duly made within three days thereafter, upon blanks furnished by the department for the purpose, or by notice in writing to the commissioner of insurance, the state hail insurance department, through its authorized deputy inspector, shall reinspect the crops claimed to have been damaged.

§ 19. **Amendment.**) Section 26-2246 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

22-2246. Arbitration Of Loss; Appointment Of Arbitrators; Deposit By Insured; Expenses Of Arbitration; Effect Of Determination.) If, upon the reinspection provided for in section 26-2245, the insured still refuses to concur in the adjustment as found by the inspector, the deputy inspector shall notify the claimant of his intention to submit the case to arbitration. Within six hours after such notice, the claimant shall deposit with the deputy inspector an amount not less than twenty-five dollars nor more than fifty dollars, to be determined by the deputy inspector, as security for the payment of the fees and expenses of the members of the board of arbitration and deputy inspector if the finding of the members of the board of arbitration and deputy inspector is in an amount not greater than that offered by the deputy inspector. Such deposit shall be in a certified check, bank draft, or postal money order drawn to the order of the state hail insurance department. Within twelve hours after the deposit is made, excluding the time between seven o'clock p.m. and seven o'clock a.m., the deputy inspector and the claimant each shall appoint and produce on the premises where the loss was sustained one disinterested person. The person appointed by the inspector and the person appointed by the claimant shall appoint a third person. The three persons so appointed shall constitute the board of arbitration, and the findings concurred in by a majority of such board shall be final and binding upon the state hail insurance department and the claimant. If the board of arbitration finds more loss than was allowed by the deputy inspector, the expenses and costs of the adjustment shall be paid by the state hail insurance department. If the board does not find a greater loss than was allowed by the deputy inspector, the inspector shall forward the deposit received from the claimant to the state hail insurance department, together with vouchers signed by the members of the board of arbitration and by any witnesses called before the board,

and certified by the deputy inspector. The state hail insurance department shall place such deposit to the credit of the state hail insurance fund, and warrants shall be drawn thereon for the payment of the fees of the members of the board of arbitration, the expenses of the deputy inspector, and the fees of witnesses, and any balance remaining from such deposit shall be returned to the claimant. The fees to be paid to arbitrators and witnesses under this section shall be at the discretion of the commissioner of insurance.

§ 20. **Amendment.**) Section 26-2252 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2252. Payment Of Hail Losses; Deduction Of Unpaid Hail Taxes; Certification Of Deductions.) Warrants in payment of hail losses shall be drawn after the adjustments thereof are approved. The commissioner of insurance, through the manager of the state hail insurance department, shall draw such warrants on the state treasurer payable out of the state hail insurance fund, and the warrants shall be mailed by the department to the persons entitled thereto, or if the warrant is a joint warrant, to one of such persons. The warrants shall become due and payable immediately upon issue and shall draw no interest unless they are registered for lack of funds, in which event they shall draw interest at the rate of five percent per annum from the date of registration. Before writing such warrants, the commissioner shall deduct the current hail indemnity taxes if ascertained at the time, all unpaid hail indemnity taxes for prior years upon the lands covered by the policy as certified by the county auditor, and any other unpaid indemnity tax for which the insured is liable. If the hail indemnity taxes for the then current year are not determined when the payment of the indemnity is made, the commissioner shall deduct from the indemnity a sum which he considers sufficient to cover such tax, but such deduction shall not exceed fifteen percent of the total risk covered by the policy. The commissioner shall certify all deductions made under the provisions of this section to the various county auditors, and the county auditors and county treasurers shall use such certification as authority for striking from the tax rolls the current or delinquent taxes which have been paid by deduction from the indemnity. Any amount deducted by the department in excess of the actual premium and other legal deductions shall be repaid to the claimant within a reasonable time after the hail indemnity tax rate has been determined. Any net indemnity of less than one dollar shall be paid to the claimant direct by postage stamps, and a record of such payments shall be kept.

§ 21. Amendment.) Section 26-2254 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2254. Insurance Of Homestead And Indian Lands: Issuance Of Other Special Policies.) The hail insurance department may insure crops grown on homestead lands on which a patent has not been issued, on land within the boundaries of Indian reservations, on lands not otherwise subject to taxation, and in all cases where crops of the kinds described in this chapter are not insurable on regular applications filed under this chapter. In any case where crops are not covered by an approved application made in accordance with other provisions of this chapter, any party having a direct interest in such crops may apply for insurance on his proportionate share of such crops according to the provisions of this section. The applications requesting such special insurance shall be filed with the hail insurance department directly upon blanks furnished by the commissioner of insurance, under such rules and regulations as he may direct, and shall be accompanied by a certified check or draft in payment of the premium in Area Number One at the rate of six cents for each dollar of insurance applied for, in Area Number Two at the rate of ten cents for each dollar of insurance applied for and in Area Number Three at the rate of fourteen cents for each dollar of insurance applied for. The commissioner of insurance, when crops are insured under the provisions of this section, shall refund, after the actual levy per acre has been ascertained, such amounts to such applicants as will make the cost per acre the same for crops insured under the provisions of this section as the cost per acre within the same county to those who carry the insurance in the regular manner. The commissioner, through the manager of the state hail insurance department, shall draw warrants on the state treasurer, payable out of the state hail insurance fund, to the persons to whom such refunds are due. Such warrants shall be mailed by the state hail insurance department to the parties who are entitled thereto according to the records.

§ 22. Transfer: Authority To Make Loan; Amount Limited; Providing For Repayment.) The state insurance commissioner is authorized to apply for a loan not to exceed one million dollars from any money available in the state bonding fund to carry out the provisions of this chapter. Such application shall be made to the state industrial commission, and if such application for a loan is approved the state auditor is directed to make a transfer of moneys from the state bonding fund to the state hail fund in such amount or amounts not to exceed one million dollars. Provided that whenever the state hail fund reaches two million dollars, five hundred thousand dollars or

any lesser amount that may be required to repay the loan in full, shall be paid into the state bonding fund.

§ 23. Repeal.) Section 26-2208 of the North Dakota Revised Code of 1943 is hereby repealed. Sections 26-22241, 26-22242, 26-22243 and 26-22244 of the 1953 Supplement to the North Dakota Revised Code of 1943, as amended, is hereby repealed. Section 26-2227 of the North Dakota Revised Code of 1943 is hereby repealed.

§ 24. 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, 1957.

CHAPTER 202

H. B. No. 681
(Brown and Esterby)

FIRE AND TORNADO FUND, INCREASE IN RESERVE

AN ACT

To amend and reenact sections 26-2413 and 26-2414 of the 1953 Supplement to the North Dakota Revised Code of 1943, providing for an increase in the reserve fund.

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

§ 1. Amendment.) Section 26-2413 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2413. Assessments.) If the reserve fund shall have been depleted below the sum of eight million dollars, the commissioner shall determine the amount of money which may be necessary to bring the said reserve fund up to the sum of eight million dollars and he, thereupon shall levy an assessment against each and every policy in force with the fund on all public property. Said assessment shall be computed as follows:

The eighty percent or ninety percent co-insurance rate established by the Fire Underwriters Inspection Bureau for each insured property to which said eighty percent or ninety percent co-insurance rate may be applicable, and the full rate established for properties to which the said co-insurance rate

is not applicable under the rules of the said Fire Underwriters Inspection Bureau, shall be applied to the amount of insurance provided in each policy and the result of the application of said rate to the amount of insurance shall set the tentative assessment to be made against such policy. The total of all such tentative assessments, shall then be ascertained. The percentage of such assessment necessary to restore the reserve fund to the sum of eight million dollars shall then be computed and collected on each policy, provided that until the reserve fund shall reach eight million dollars, the assessment shall be in such amount as may be determined by the commissioner but in no event in excess of 50% of the rates set by the Fire Underwriters Inspection Bureau unless the reserve fund shall be depleted below three million dollars. In case of a fractional percentage the next higher whole percent shall be used in such computation.

§ 2. **Amendment.)** Section 26-2414 of the 1953 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2414. New Construction Insurance Rate.) Any property which shall not have been insured in the fund for a period of at least five years shall be charged a premium equal to fifty percent of the rate established by the Fire Underwriters Inspection Bureau. Any additional insurance shall be regarded as a new risk upon which premiums must be paid until such additional insurance has been in force for a period of five years. After any such property shall have been insured in the fund for a period of five years and the reserve fund is not up to eight million dollars on August 1, 1947, it shall thereafter be charged a premium equal to twenty-five percent of such bureau rate. However, after the reserve fund is up to eight million dollars and any property shall have been insured in the fund for a period of five years it shall thereafter be subject only to the assessment as provided in this chapter.

Approved March 12, 1957.

CHAPTER 203

S. B. No. 234
(Knudson)

HOSPITAL SERVICE CORPORATION; CONTRACTS
AND REPRESENTATIVES

AN ACT

Relating to nonprofit hospital service corporations' contracts for needy or other persons; and licensing of sales representatives of such corporations.

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

§ 1. Hospital Care For Needy Or Other Persons; Payments.)

Every nonprofit corporation organized and conducting business under the provisions of chapter 26-26 of the North Dakota Revised Code of 1943, as amended, may, in its discretion, contract with state and federal, or other governmental agencies, to provide hospital care for needy or other persons upon such terms and conditions as may be determined by its board of trustees.

§ 2. Licensing Of Sales Representatives.) The sales representatives of any corporation subject to the provisions of chapter 26-26 of the North Dakota Revised Code of 1943, as amended, who may also act as sales representatives in the sale of nonprofit medical service contracts as defined in chapter 26-27 of the 1953 Supplement of the North Dakota Revised Code of 1943, as amended, shall be subject to the laws pertaining to insurance agents as defined in chapter 26-17 of the North Dakota Revised Code of 1943, where applicable. The license or certificate for such sales representatives shall be issued on a form as prescribed by the commissioner of insurance, and the fee therefor shall be two dollars.

Approved March 13, 1957.

CHAPTER 204

H. B. No. 577

(Anderson of Eddy-Foster and Hofstrand)

UNFAIR INSURANCE PRACTICES

AN ACT

Relating to unfair methods of competition and unfair and deceptive acts and practices in the business of insurance.

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

§ 1. Declaration Of Purpose.) The purpose of this Act is to regulate trade practices in the business of insurance in accordance with the intent of Congress as expressed in the Act of Congress of March 9, 1945 (Public Law 15, 79th Congress), by defining, or providing for the determination of, all such practices in this state which constitute unfair methods of competition or unfair or deceptive acts or practices and by prohibiting the trade practices so defined or determined.

§ 2. Definitions.) When used in this Act:

(a) "Person" shall mean any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds insurer, fraternal benefit society, and any other legal entity engaged in the business of insurance, including agents, brokers and adjusters.

(b) "Commissioner" shall mean the commissioner of insurance of this state.

§ 3. Unfair Methods Of Competition Or Unfair And Deceptive Acts Or Practices Prohibited.) No person shall engage in this state in any trade practice which is defined in this Act as, or determined pursuant to this Act to be, an unfair method of competition or an unfair or deceptive act or practice in the business of insurance.

§ 4. Unfair Methods Of Competition And Unfair Or Deceptive Acts Or Practices Defined.) The following are hereby defined as unfair methods of competition and unfair and deceptive acts or practices in the business of insurance:

(1) Misrepresentations and false advertising of policy contracts. Making, issuing, circulating, or causing to be made, issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued or to be issued or the benefits or advantages promised thereby or the dividends or share of the surplus to be received thereon, or

making any false or misleading statements as to the dividends or share of surplus previously paid on similar policies, or making any misleading representation or any misrepresentation as to the financial condition of any insurer, or as to the legal reserve system upon which any life insurer operates, or using any name or title of any policy or class of policies misrepresenting the true nature thereof, or making any misrepresentation to any policyholder insured in any company for the purpose of inducing or tending to induce such policyholder to lapse, forfeit, or surrender his insurance.

(2) False information and advertising generally. Making, publishing, disseminating, circulating or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine or other publication, or in the form of a notice, circular, pamphlet, letter or poster, or over any radio station, or in any other way, an advertisement, announcement or statement containing any assertion, representation or statement with respect to the business of insurance or with respect to any person in the conduct of his insurance business, which is untrue, deceptive or misleading.

(3) Defamation, making, publishing, disseminating, or circulating, directly or indirectly, or aiding, abetting or encouraging the making, publishing, disseminating or circulating of any oral or written statement or any pamphlet, circular, article or literature which is false, or maliciously critical of or derogatory to the financial condition of an insurer, and which is calculated to injure any person engaged in the business of insurance.

(4) Boycott, coercion and intimidation. Entering into any agreement to commit, or by any concerted action committing, any act of boycott, coercion or intimidation resulting in or tending to result in unreasonable restraint of, or monopoly in, the business of insurance.

(5) False financial statements. Filing with any supervisory or other public official, or making, publishing, disseminating, circulating or delivering to any person, or placing before the public, or causing directly or indirectly, to be made, published, disseminated, circulated, delivered to any person, or placed before the public, any false statement of financial condition of an insurer with intent to deceive.

Making any false entry in any book, report or statement of any insurer with intent to deceive any agent or examiner lawfully appointed to examine into its condition or into any of its affairs, or any public official to whom such insurer is required by law to report, or who has authority by law to examine into

its condition or into any of its affairs, or, with like intent, willfully omitting to make a true entry of any material fact pertaining to the business of such insurer in any book, report or statement of such insurer.

(6) Stock operations and advisory board contracts. Issuing or delivering or permitting agents, officers or employees to issue or deliver, agency company stock or other capital stock, or benefit certificates or shares in any common-law corporation, or securities or any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance.

(7) Unfair discrimination. (a) Making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, or in any other of the terms and conditions of such contract.

(b) Making or permitting any unfair discrimination between individuals of the same class and of essentially the same hazard in the amount of premium, policy fees, or rates charged for any policy or contract of accident or health insurance or in the benefits payable thereunder, or in any of the terms or conditions of such contract, or in any other manner whatever.

(8) Rebates. (a) Except as otherwise expressly provided by law, knowingly permitting or offering to make or making any contract of life insurance, life annuity or accident and health insurance, or agreement as to such contract other than as plainly expressed in the contract issued thereon, or paying or allowing, or giving or offering to pay, allow, or give, directly or indirectly, as inducement to such insurance, or annuity any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, or any valuable consideration or inducement whatever not specified in the contract; or giving, or selling, or purchasing or offering to give, sell, or purchase as inducement to such insurance or annuity or in connection therewith, any stocks, bonds, or other securities of any insurance company or other corporation, association, or partnership, or any dividends or profits accrued thereon, or anything of value whatsoever not specified in the contract.

(b) Nothing in clause 7 or paragraph (a) of clause 8 of this subsection shall be construed as including within the definition of discrimination or rebates any of the following practices: (i) in the case of any contract of life insurance or life annuity, paying bonuses to policyholders or otherwise abating their premiums in whole or in part out of surplus accumulated from nonparticipating insurance, provided that

any such bonuses or abatement of premiums shall be fair and equitable to policyholders and for the best interests of the company and its policyholders; (ii) in the case of life insurance policies issued on the industrial debit plan, making allowance to policyholders who have continuously for a specified period made premium payments directly to an office of the insurer in an amount which fairly represents the saving in collection expenses; (iii) readjustment of the rate of premium for a group insurance policy based on the loss or expense experience thereunder, at the end of the first or any subsequent policy year of insurance thereunder, which may be made retroactive only for such policy year.

§ 5. Power Of Commissioner Of Insurance.) The commissioner shall have the power to examine and investigate into the affairs of every person engaged in the business of insurance in this state in order to determine whether such person has been or is engaged in any unfair method of competition or in any unfair or deceptive act or practice prohibited by section 3 of this Act.

§ 6. Hearings, Witnesses, Appearances, Production Of Books And Service Of Process.) (a) Whenever the commissioner of insurance shall have reason to believe that any such person has been engaged or is engaging in this state in any unfair method of competition or any unfair or deceptive act or practice defined in section 4, and that a proceeding by him in respect thereto would be to the interest of the public, he shall issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof.

(b) At the time and place fixed for such hearing, such person shall have an opportunity to be heard and to show cause why an order should not be made by the commissioner of insurance requiring such person to cease and desist from the acts, methods or practices so complained of. Upon good cause shown, the commissioner of insurance shall permit any person to intervene, appear and be heard at such hearing by counsel or in person.

(c) Nothing contained in this Act shall require the observance at any such hearing of formal rules of pleading or evidence.

(d) The commissioner of insurance, upon such hearing, may administer oaths, examine and cross-examine witnesses, receive oral and documentary evidence, and shall have the power to subpoena witnesses, compel their attendance, and require the production of books, papers, records, correspondence, or other documents which he deems relevant to the

inquiry. The commissioner of insurance, upon such hearing, may, and upon the request of any party shall, cause to be made a stenographic record of all the evidence and all the proceedings had at such hearing. If no stenographic record is made and if a judicial review is sought, the commissioner of insurance shall prepare a statement of the evidence and proceeding for use on review. In case of a refusal of any person to comply with any subpoena issued hereunder or to testify with respect to any matter concerning which he may be lawfully interrogated, the district court of Burleigh County or the county where such party resides, on application of the commissioner of insurance, may issue an order requiring such person to comply with such subpoena and to testify; and any failure to obey any such order of the court may be punished by the court as a contempt thereof.

(e) Statements of charges, notices, orders, and other processes of the commissioner of insurance under this Act may be served by anyone duly authorized by the commissioner of insurance, either in the manner provided by law for service of process in civil actions, or by registering and mailing a copy thereof to the person affected by such statement, notice, order, or other process at his or its residence or principal office or place of business. The verified return by the person so serving such statement, notice, order, or other process, setting forth the manner of such service, shall be proof of the same, and the return postcard receipt for such statement, notice, order or other process, registered and mailed as aforesaid, shall be proof of the service of the same.

§ 7. Cease And Desist Orders And Modifications Thereof.)

(a) If, after such hearing, the commissioner of insurance shall determine that the method of competition or the act or practice in question is defined in section 4 and that the person complained of has engaged in such method of competition, act or practice in violation of this Act, he shall reduce his findings to writing and shall issue and cause to be served upon the person charged with the violation an order requiring such person to cease and desist from engaging in such method of competition, act or practice.

(b) Until the expiration of the time allowed under section 8(a) of this Act for filing a petition for review by appeal if no such petition has been duly filed within such time or, if a petition for review has been filed within such time, then until the transcript of the record in the proceeding has been filed in the district court, as hereinafter provided, the commissioner of insurance may at any time, upon such notice and in such manner as he shall deem proper, modify or set aside in whole or in part any order issued by him under this section.

(c) After the expiration of the time allowed for filing such a petition for review if no such petition has been duly filed within such time, the commissioner of insurance may at any time, after notice and opportunity for hearing, reopen and alter, modify or set aside, in whole or in part, any order issued by him under this section, whenever in his opinion conditions of fact or of law have so changed as to require such action or if the public interest shall so require.

§ 8. Judicial Review Of Cease And Desist Orders.) (a) Any person required by an order of the commissioner of insurance under section 7 to cease and desist from engaging in any unfair method of competition or any unfair or deceptive act or practice defined in section 4 may obtain a review of such order by filing in the district court of Burleigh County, within thirty days from the date of the service of such order, a written petition praying that the order of the commissioner of insurance be set aside. A copy of such petition shall be forthwith served upon the commissioner of insurance, and thereupon the commissioner of insurance forthwith shall certify and file in such court a transcript of the entire record in the proceeding, including all the evidence taken and the report and order of the commissioner. Upon such filing of the petition and transcript such court shall have jurisdiction of the proceeding and of the question determined therein, shall determine whether the filing of such petition shall operate as a stay of such order of the commissioner of insurance, and shall have power to make and enter upon the pleadings, evidence, and proceedings set forth in such transcript a decree modifying, affirming or reversing the order of the commissioner of insurance, in whole or in part. The findings of the commissioner as to the facts, if supported by competent evidence, shall be conclusive.

(b) To the extent that the order of the commissioner of insurance is affirmed, the court shall thereupon issue its own order commanding obedience to the terms of such order of the commissioner of insurance. If either party shall apply to the court for leave to adduce additional evidence, and shall show to the satisfaction of the court that such additional evidence is material and that there were reasonable grounds for the failure to adduce such evidence in the proceeding before the commissioner of insurance, the court may order such additional evidence to be taken before the commissioner of insurance and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner of insurance may modify his findings of fact, or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings which if supported by competent evidence shall be conclusive, and his recommendation, if any, for the modifica-

tion or setting aside of his original order, with the return of such additional evidence.

(c) A cease and desist order issued by the commissioner of insurance under section 7 shall become final

- (1) Upon the expiration of the time allowed for filing a petition for review if no such petition has been duly filed within such time; except that the commissioner of insurance may thereafter modify or set aside his order to the extent provided in section 7(b); or
- (2) Upon the final decision of the court if the court directs that the order of the commissioner of insurance be affirmed or the petition for review dismissed.

(d) No order of the commissioner of insurance under this Act or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order from any liability under any other laws of this state.

§ 9. Procedure As To Unfair Methods Of Competition And Unfair Or Deceptive Acts Or Practices Which Are Not Defined.)

(a) Whenever the commissioner of insurance shall have reason to believe that any person engaged in the business of insurance is engaging in this state in any method of competition or in any act or practice in the conduct of such business which is not defined in section 4, that such method of competition is unfair or that such act or practice is unfair or deceptive and that a proceeding by him in respect thereto would be to the interest of the public, he may issue and serve upon such person a statement of the charges in that respect and a notice of a hearing thereon to be held at a time and place fixed in the notice, which shall not be less than ten days after the date of the service thereof. Each such hearing shall be conducted in the same manner as the hearings provided for in section 6. The commissioner of insurance shall, after such hearing, make a report in writing in which he shall state his findings as to the facts, and he shall serve a copy thereof upon such person.

(b) If such report charges a violation of this Act and if such method of competition, act or practice has not been discontinued, the commissioner of insurance may, through the attorney general of this state, at any time after ten days after the service of such report cause a petition to be filed in the district court of this state within the district wherein the person resides or has his principal place of business, to enjoin and restrain such person from engaging in such method, act or practice. The court shall have jurisdiction of the proceeding and shall have power to make and enter appropriate orders

in connection therewith and to issue such writs as are ancillary to its jurisdiction or are necessary in its judgment to prevent injury to the public *pendente lite*.

(c) A transcript of the proceedings before the commissioner of insurance including all evidence taken and the report and findings shall be filed with such petition. If either party shall apply to the court for leave to adduce additional evidence and shall show, to the satisfaction of the court, that such additional evidence is material and there were reasonable grounds for the failure to adduce such evidence in the proceedings before the commissioner of insurance the court may order such additional evidence to be taken before the commissioner of insurance and to be adduced upon the hearing in such manner and upon such terms and conditions as to the court may seem proper. The commissioner of insurance may modify his findings of fact or make new findings by reason of the additional evidence so taken, and he shall file such modified or new findings with the return of such additional evidence.

(d) If the court finds that the method of competition complained of is unfair or that the act or practice complained of is unfair or deceptive, that the proceeding by the commissioner of insurance with respect thereto is to the interest of the public and that the findings of the commissioner of insurance are supported by the weight of the evidence, it shall issue its order enjoining and restraining the continuance of such method of competition, act or practice.

§ 10. Judicial Review By Intervenor.) If the report of the commissioner of insurance does not charge a violation of this Act, then any intervenor in the proceedings may within ten days after the service of such report, cause a notice of appeal to be filed in the district court of Burleigh County for a review of such report. Upon such review, the court shall have authority to issue appropriate orders and decrees in connection therewith, including, if the court finds that it is to the interest of the public, orders enjoining and restraining the continuance of any method of competition, act or practice which it finds, notwithstanding such report of the commissioner of insurance, constitutes a violation of this Act.

§ 11. Penalty.) Any person who violates a cease and desist order of the commissioner of insurance under section 7, after it has become final, and while such order is in effect, shall, upon proof thereof to the satisfaction of the court, forfeit and pay to the state of North Dakota a sum not to exceed fifty dollars, which may be recovered in a civil action, except that, if such violation is found to be willful, the amount of such penalty shall be a sum not to exceed five hundred dollars.

§ 12. Provisions Of Act Additional To Existing Law.) The powers vested in the commissioner of insurance by this Act, shall be additional to any other powers to enforce any penalties, fines or forfeitures authorized by law with respect to the methods, acts and practices hereby declared to be unfair or deceptive.

§ 13. Immunity From Prosecution.) If any person shall ask to be excused from attending and testifying or from producing any books, papers, records, correspondence or other documents at any hearing on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture, and shall notwithstanding be directed to give such testimony or produce such evidence, he must nonetheless comply with such direction, but he shall not thereafter be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter or thing concerning which he may testify or produce evidence pursuant thereto, and no testimony so given or evidence produced shall be received against him upon any criminal action, investigation or proceeding, provided, however, that no such individual so testifying shall be exempt from prosecution or punishment for any perjury committed by him while so testifying and the testimony or evidence so given or produced shall be admissible against him upon any criminal action, investigation or proceeding concerning such perjury, nor shall he be exempt from the refusal, revocation or suspension of any license, permission or authority conferred, or to be conferred, pursuant to the insurance laws of this state. Any such individual may execute, acknowledge and file in the office of the insurance commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

§ 14. Separability Provision.) If any provision of this Act, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of the Act, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

Approved March 7, 1957.