

a part of the tax levied against such county or counties, in addition to the amount so levied by said board for Territorial purposes.

§ 2. ATTORNEY GENERAL TO BRING SUIT, WHEN.] Upon the report of the superintendent, provided in section one, it shall be the duty of the Attorney General to bring suit against the county so indebted, for the amount due the Territory and any judgment obtained in such action may be enforced as other judgments against counties are enforced.

Approved, March 11, 1887.

INSURANCE.

CHAPTER 67.

COUNTY MUTUAL INSURANCE COMPANIES.

AN ACT To Amend Chapter 70, of the Session Laws of 1885, Relatnig to County Mutual Insurance Companies.

Be it Enacted by the Legislative Assembly of the Territory of Dakota: That chapter seventy of the Session Laws of 1885, relating to county mutual insurance companies, be amended so as to read as follows:

§ 1. WHO MAY UNITE TO FORM COMPANY.] It shall be lawful for any number of persons, not less than twenty-five, residing in any county in this Territory, who collectively shall own property not less than twenty-five thousand (25,000) [dollars] in value, which they desire to insure, to form themselves into a company for mutual insurance against loss or damage by fire, lightning and hail, which corporation shall possess other powers and be subject to other duties of corporations, and the corporate name thereof shall embrace the name of the county in which the business office of the said company shall be located.

§ 2. DIRECTORS. Every company so formed, shall choose of that number not less than five nor more than thirteen directors, to manage the affairs of such company, who shall hold their office for one year, or until others are elected and qualified and such directors shall choose one of their number president, vice-president,

secretary and treasurer and said treasurer shall give such bond as may be required by the board of directors of said company, and said company may also require the secretary thereof to give such bonds.

§ 3. ARTICLES TO BE FILED.] The directors of such company shall file their articles of incorporation, together with a copy of their by-laws and the names of the officers of such company, in the office of the county clerk, or the auditor of the county in which such company is located, and shall keep a record of their proceedings in a book kept for that purpose, together with the names of all persons insured and the amount each person is insured, which record shall be kept open for inspection to all the members in such company at the office of the secretary thereof.

§ 4. MAY ISSUE POLICIES.] The directors of such company may issue policies, signed by the president and secretary, agreeing in the name of the company to pay all losses or damage by fire, lightning and hail, for a term not exceeding five years, to the holder of such policies, not exceeding the sum named in such policy.

§ 5. DUTY OF COMPANY.] In all cases of insurance against loss or damage by hail, it shall be the duty of such company to keep a separate and distinct record of all interest, premiums and policies of insurance, relating or pertaining to such hail insurance, and no note, premium, undertaking or policy of insurance which shall be received, issued or delivered for any insurance against loss by hail shall be used in any connection with insurance against loss or damage by reason of any other cause, and that no moneys, premiums or funds arising out of or received for insurance against loss or damage by hail shall be used in the payment of any loss or damage by reason of fire or lightning, and that no moneys, premiums or funds arising out of, or received for insurance against loss or damage by fire and lightning shall be used in the payment of any loss or damage by hail.

§ 6. OBLIGATION OF INSURED AGAINST HAIL.] Every person insuring grain against loss or damage by hail shall, except where cash premium is paid, execute and deliver to such company his promissory note, bearing even date with the policy issued to him therefor, together with such security as may be required by the board of directors, or the by-laws of such company. In case of insurance against loss or damage by hail, the directors of such company may issue policies, signed by the president and secretary, agreeing in the name of the company, to pay all losses or damages by hail, or such pro rata share of such loss or damage as can be paid out of the highest limit of the liabilities of the members, which liabilities shall be established by the by-laws of such company, before the issuing of any policy of insurance against loss or damage by hail.

§ 7. DUTY OF DIRECTORS.] It shall be the duty of the board of directors to appoint one or more adjusters, prescribe their

duties and fix their compensation, requiring them to report to the president or secretary upon all losses or damage by hail adjusted by them. Upon any loss or damage by hail, the party sustaining the same shall immediately notify the secretary or a duly appointed adjuster of such loss or damage. In case the adjuster and party sustaining the loss cannot agree, the claimant may then appeal, as provided for in section ten of this act, and notice of loss or damage by hail shall be the same as is prescribed in said section ten of this act.

§ 8. WHAT BY-LAWS MAY PROVIDE.] It shall be lawful for any company organized under this act, to provide in their by-laws for creating a fund of not to exceed fifteen thousand (15,000) dollars in the hail department, and the sum of not to exceed three thousand (3,000) dollars in the fire and lightning department, the by-laws to set forth the manner in which such funds shall be created and the purpose to which they shall be applied.

§ 9. OBLIGATION OF INSURED AGAINST FIRE AND LIGHTNING.] Every person insured against loss or damage by fire and lightning, shall give his undertaking, bearing even date with the policy so issued to him, binding himself, his heirs and assigns to pay his pro rata share to the company of all losses or damage by fire and lightning, which may be sustained by any member thereof, and every such undertaking shall within five days after the execution thereof, be filed with the secretary in the office of said company and shall remain on file in said office, except when required to be produced in court as evidence. He shall also at the time of receiving such insurance pay such percentage in cash or such reasonable sum named in the policy, as may be required by the rules and by-laws of the company.

§. 10. IN CASE OF LOSS.] Every member of said company who may sustain loss or damage by fire, and lightning, shall immediately notify the secretary of said company, or in case of his absence, the president thereof, specifying the property destroyed, the damage and cause thereof, which officer shall forthwith ascertain and adjust the amount of such loss or damage or who shall forthwith convene the directors of such company whose duty it shall be to appoint a committee of not more than three members of said company, to ascertain the amount of such loss and in case of the inability of the parties to agree upon the amount of such damage, the claimant shall choose a disinterested party and the company shall chose a disinterested party, who shall constitute a board of arbitration to settle such loss, and in case these parties cannot agree, they shall choose a third party to act with them, and said board of arbitration shall have power to examine witnesses and determine all matters in dispute and the decision of said board shall be final.

§ 11. MAY CLASSIFY PROPERTY.] The company, under the provisions of this act, may classify property insured at the time of issuing the policy thereon, under different rates, corresponding

as nearly as may be to the greater or less risk from fire or loss which may attach to each several building or personal property insured, or damage by hail. Whenever the amount of any loss shall be ascertained, and there are not sufficient funds in the treasury to pay such loss or damage, the president or secretary shall convene the directors of said company, who shall make assessments on the property insured, taken [taking] in connection the rate of premium under which it may have been classified; *Provided, however,* That no assessment for loss or damage by hail shall be made prior to the first day in September of the year in which said loss occurred.

§ 12. SECRETARY TO COLLECT ASSESSMENTS.] It shall be the duty of the secretary, whenever such assessment shall have been completed, to notify every person composing such company by letter sent to their postoffice address, of the amount of such loss, and the sum due from him as his share thereof, and the time when, and to whom, such payment is to be made, and such time shall not be less than thirty days nor more than sixty days from the time of such notice. And no company organized under the provisions of this act shall be liable in any action at law or otherwise, for the recovery of any loss or damage by hail before the fifteenth day of November of the year in which such loss occurred.

§ 13. SUITS.] Suits at law may be brought against any member of such company who shall refuse or neglect to pay any assessment made upon them by the provisions of this act, and the directors of such company so formed who shall wilfully neglect to perform the duties imposed upon them under the foregoing sections of this act shall be liable in their individual capacity to the person sustaining such loss.

§ 14. PROHIBITION.] No company formed under the provisions of this act shall insure any property outside the limits of the county in which such company is located, nor shall they insure any property other than detached dwellings and their contents, farm buildings and their contents, school houses and school furniture therein, church buildings and furniture therein, live stock only on the premises or running at large and hay or grain in bin or stack, or growing grain against damage by hail, nor shall they insure any property within the limits of any incorporated city or village in this Territory.

§ 15. ELECTION OF DIRECTORS.] The directors of each company so formed, shall be chosen by vote at the annual election thereof, which shall be held on the first Tuesday after the first Monday in January of each year and every member shall have one vote; but no person shall vote by proxy at such election; *Provided,* That any company organized under the provisions of this act, whose policies of insurance shall not run for a longer period than one year; all persons holding policies of insurance therein during the year immediately preceding the annual elec-

tion shall be considered as members of said company and shall be entitled to vote at such election.

§ 16. STATEMENT OF CONDITION.] It shall be the duty of the secretary of every company as aforesaid, to prepare a statement, showing the condition of such company on the Tuesday preceding the annual election, which statement shall contain the amount insured, the number of policies issued and to whom, and the amount insured by each policy and other matters pertaining to the interest of such company, which statement shall be filed in the office of the county auditor in the county in which such company is located, on or before the fifteenth day of January of each year and which statement shall also be read to the members at their annual meeting, or so much thereof as may be required by the members present.

§ 17. WITHDRAWALS.] Any member of such company may withdraw therefrom at any time by giving ten days' notice to the president in writing, or to the secretary thereof and by paying his share of all claims existing at the expiration of the ten days, against said company, and the directors, or a majority thereof, shall have power to annul any policy, by giving ten days' notice in writing to the holder thereof.

§ 18. NON-RESIDENTS.] Non-residents of any county in this Territory owning property therein, may become members of any company founded under this act and shall be entitled to all the rights and privileges pertaining thereto, except that it shall not be lawful for such non-residents to become directors in such company.

§ 19. BY-LAWS.] Any company so formed may adopt such by-laws for its regulation as are not inconsistent with the provisions of this act and may therein prescribe the compensation for its officers.

§ 20. DURATION OF CORPORATION.] No company formed under this act shall continue for a longer term than thirty years.

§ 21. All acts or parts of acts inconsistent with the provisions of this act are hereby repealed.

§ 22. This act shall take effect and be in force from and after its passage and approval.

Approved, February 25, 1887.

CHAPTER 68.

PROVIDING FOR INSURANCE OF TERRITORIAL INSTITUTIONS.

AN ACT Relating to the Insurance of Public Buildings in the Territory of Dakota.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PROPERTY TO BE INSURED—GOVERNOR TO APPROVE COMPANY.] It shall be the duty of the board of trustees, directors or regents, to cause to be insured in such insurance company or companies as may be approved by the Governor, for the benefit of the Territory of Dakota, the public buildings and contents, or institutions under their control or charge, respectively, for an amount not to exceed two-thirds their value, and for that purpose they are hereby authorized to expend such a sum as may be necessary, and upon presenting vouchers therefor to the Auditor of the Territory of Dakota, it shall be his duty to draw a warrant upon the Treasurer of Dakota in payment of the sum or amount so expended.

§ 2. DUTY OF GOVERNOR.] It shall be the duty of the Governor of the Territory of Dakota to cause to be insured all other public buildings and contents belonging to the Territory of Dakota, for the benefit of the Territory of Dakota, at not to exceed two-thirds their value, and for that purpose the Auditor shall draw his warrant upon the Treasurer in payment of the premiums for such insurance.

§ 3. IN EVENT OF LOSS.] In the event of a loss occurring under any policy upon any public building insured under the provisions of this act, the money received from the insurance shall be used and expended by the Governor, board of directors, trustees or regents, in the erection or repair of the building upon the site of the one injured or destroyed, and such building shall be occupied and used for the same purposes as the one damaged or destroyed. Policies under this act shall run in the name of the Territory of Dakota and shall be for a term of three years.

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

§ 5. This act shall take effect and be in force from and after its passage and approval.

Approved, March 11, 1887.

CHAPTER 69.

CANCELLATION AND FORFEITURE OF INSURANCE POLICIES.

AN ACT To Regulate the Cancellation and Forfeiture of Insurance Policies.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. HOLDER OF POLICY MAY SURRENDER SAME FOR CANCELLATION AT ANY TIME.] That the holder of any policy of insurance against loss or damage to property by fire or other casualty hereafter issued by any insurance company doing business in this Territory, may, notwithstanding any provision thereof, or contract to the contrary, at any time surrender the same for cancellation; and upon such surrender, the company issuing such policy shall retain or receive such proportion and no more of the premium paid or agreed to be paid, as corresponds with the usual short rates upon term policies, as adopted and maintained by the Minnesota and Dakota Fire Underwriters Union of St. Paul, Minnesota, for the time the policy remained in force.

§ 2. POLICY FORFEITED, WHEN—INSURER TO GIVE NOTICE—WHAT NOTICE TO CONTAIN.] No such policy of insurance shall, by virtue of any condition, or provision thereof, be forfeited, suspended or impaired for non-payment of any note or obligation taken for the premium, or any part thereof, unless the insurer shall, not less than thirty (30) days prior to the maturity of such premium, note, or obligation, mail, postage prepaid to the assured at his usual post office, a notice stating:

1. The date when such note or obligation will become due.
2. The amount of principal and interest, that will then be due.
3. The effect upon the policy of non-payment.
4. Such notice shall further inform the assured of his right, at his own election, either to pay in full, and keep the policy in full force, or to terminate the insurance by surrendering the policy, and paying such part of the whole premium as it shall have earned, and must further state the amount, which assured is lawfully required to pay, or which, on account of previous payment, may be due him, in case of his election, to terminate the insurance on the day of the maturity of the premium, note or obligation.

§ 3. PREMIUM DEFINED.] The term "premium," within the meaning of this act, includes policy fees, in excess of two (2) dollars, on any one (1) policy, and all other sums of money paid, or agreed to be paid in consideration of a policy of insurance.

§ 4. This act to take effect and be in force from and after its passage and approval.

NOTE BY THE SECRETARY OF THE TERRITORY.

The foregoing act having been presented to the Governor of the Territory for his approval, and not having been returned by him to the House of the Legislative Assembly, in which it originated, within the time prescribed by the organic act, has become a law without his approval.

BISMARCK, Dak., March 7, 1887.

M. L. McCORMACK,
Secretary of the Territory.

INTOXICATING LIQUORS.

CHAPTER 70.

PROVIDING FOR PROHIBITION BY LOCAL OPTION.

AN ACT To Prohibit the Sale of Intoxicating Liquors by Local Option.

Be it Enacted by the Legislative Assembly of the Territory of Dakota:

§ 1. PETITION OF VOTERS.] If a petition signed by at least one-third ($\frac{1}{3}$) of the legal voters of any county, as shown by the preceding general election, shall be presented to the county commissioners of any county, at least sixty (60) days before the Tuesday next after the first Monday in November, in the year 1887, praying that the question of prohibition of the sale of intoxicating liquors be submitted to a vote of such county, it shall be the duty of the board of county commissioners to order an election to be held on the Tuesday next after the first Monday in November, 1887, at which election the qualified voters of such county shall vote upon the question of prohibiting the sale of intoxicating liquors in such county. Such election shall be in all respects conducted as general elections are conducted.

§ 2. BALLOTS OF VOTERS.] All persons voting at any election held under the provisions of this act, who are opposed to the sale of such intoxicating liquors, shall have written or printed on their ballots "Against the Sale" and those who favor the sale of such intoxicating liquors, shall have written or printed on their ballots "For the Sale."

§ 3. WHEN LICENSE NOT TO ISSUE.] Should a majority of the ballots cast at such election be "Against the Sale," it shall be un-