

CHAPTER 68.

STRIKING OUT PART OF SECTION.

AN ACT to Amend Section One (1,) of Chapter Seventy-two (72,) of the Laws of 1887, Relating to the Sale of Intoxicating Liquors.

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

§ 1. That section one (1,) of chapter seventy-two (72,) of the laws of 1887, relating to the sale of intoxicating liquors be and the same is hereby amended by striking out all of said section after the word "Chapter" in the sixth (6) line thereof.

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

Approved, February 18, 1889.

INSURANCE.

CHAPTER 69.

AMENDMENT OF LAW.

AN ACT Amending Sections 2, 9, 10, 12, 27, 29, 32 and 33, of Chapter 69, of the Session Laws of 1885, Relating to Insurance.

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

§ 1. POWER.] That Section 2, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 2. All companies heretofore organized or organized under this act shall have power to effect re-insurance of any risks taken by them respectively.

§ 2. INVESTMENT OF CAPITAL.] That Section 9, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 9. It shall not be lawful for any insurance company organized under the laws of this Territory, to invest its capital and the

fund accumulated in the course of its business, or any part thereof, except in bonds or mortgages on improved unincumbered real estate within the Territory of Dakota, worth double the sum loaned thereon exclusive of buildings, unless such buildings are insured and the policies transferred to the company, and also such real estate as shall be requisite for its convenient accommodation in the transaction of its business, and also in the bonds of the Territory, or stocks or treasury notes of the United States and also the bank stock of national banks, and also in the stocks and bonds of any county or incorporated city in the Territory, authorized to be issued by the Legislature, to loan the same, or any part thereof, on the security of such stocks or bonds, or treasury notes, or upon bonds or mortgages, as aforesaid, and to change and re-invest the same in like securities as occasion may from time to time require; but the surplus money over and above the capital stock of such insurance company, incorporated under any law of this Territory, may be invested in or loaned upon the pledge of public stocks or bonds of the United States or of any of the states, or stocks, bonds or other evidence of indebtedness of any solvent dividend paying institution, incorporated under the laws of this Territory, or United States, except their own stock, provided, always that the market value of such stocks, bonds or other evidence of indebtedness, shall be, at all times during the continuance of such loan, at least ten per centum more than the amount loaned thereon.

§ 3. PURCHASE, ETC., OF REAL ESTATE.] That Section 10, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 10. No company organized by or under the laws of this Territory, shall purchase, hold or convey real estate except for the purpose and in the manner herein set forth to-wit:

1. Such as shall be requisite for its convenient accommodation in the transaction of its business; or 2. Such as shall have been mortgaged to it in good faith as security for loans previously contracted or for money due; or 3. Such as shall [have] been conveyed to it in satisfaction of debts previously contracted in legitimate business, or for money due, or 4. Such as shall have been purchased at sales upon judgments, decrees or mortgage foreclosures obtained or made for such debts. And it shall not be lawful for any such company to purchase, hold or convey real estate in any other case or for any other purpose.

§ 4. BY-LAWS.] That Section 12, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 12. The incorporators or directors, as the case may be, of any company organized under this act, or incorporated under any law of this Territory, shall have power to make such by-laws, not inconsistent with the laws of this Territory, as may be deemed necessary for the government of its officers and conduct of its affairs, and the same, when necessary, to alter and amend. And they and their successors may have a common seal and change and alter the same at their pleasure.

§ 5. APPLIES TO WHAT.] That Section 27, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 27. The provisions of this act shall apply to all insurance companies, associations or partnerships, incorporated or organized under the laws of this Territory, or of any other state or territory of the United States, or any foreign government, transacting the business of fire, cyclone, tornado, hail, marine, live stock, or any other species or kind of insurance upon property in this Territory, and all such companies shall make annual statements of their condition and affairs to the Auditor, in the same manner and the same form as similar companies organized under the laws of this Territory.

§ 6. EXAMINATION BY AUDITOR.] That Section 29, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 29. It shall be the duty of the Territorial Auditor whenever he shall deem it expedient to do so, in person or by one or more persons appointed by him for that purpose not officers or agents of, or in any manner interested in any insurance company doing business in this Territory, except as policy holders, to examine into the affairs of any company incorporated under any law of this Territory, or companies of other states or territories, or any foreign companies doing business by their agents in this Territory; it shall be the duty of the officers or agents of any such company doing business in this Territory to cause their books to be opened for the inspection of the Auditor or persons so appointed, and otherwise to facilitate such examinations so far as it may be in their power to do, and pay all reasonable expenses incurred therein, in no case to exceed ten dollars per diem. And for that purpose the said Auditor or person or persons appointed by him, shall have the power to examine, under oath, the officers and agents of any such company, relative to the business of said company and whenever the said Auditor shall deem it for the best interests of the public so to do, he shall publish the result of such investigation in two newspapers in this Territory.

§ 7. TRANSFER OF STOCK.] That Section 32, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 32. No transfer of the stock of any company organized under this act, or incorporated under any law of this Territory, made during the pendency of any such investigation, will release the party making the transfer from his liability for losses which may have occurred previous to the transfer.

§ 8. REVOCATION OF CERTIFICATE.] That Section 33, of Chapter 69, Laws of 1885, be and the same is hereby amended to read as follows: Section 33. And whenever it shall appear to said Auditor from examination or from the report of the person or persons appointed by him, that the affairs of any company incorporated by the laws of this Territory, or of any other state or territory, or any foreign government are in an unsound condition, he shall revoke the certificates granted in behalf of said company, and shall cause a notification thereof to be published in any newspaper of general circula-

tion published at the Capital, and mail a copy thereof to each agent of the company. The agent or agents of such company, shall, after such notice, be required to discontinue the issuing of new policies and the renewal of any policies previously issued.

§ 9. MUTUAL COMPANIES.] That section 41 chapter 69, laws of 1885, be and the same is hereby amended to read as follows: "Section 41, article 1. Any number of persons not less than twenty-five (25) residing in this Territory, who shall collectively own real estate herein of not less than twenty-five thousand dollars, (25,000) in value, may associate themselves and become incorporated for the purpose of mutual insurance against loss or damage by hail, tornadoes, cyclones, and hurricanes by complying with the provisions of this section.

Article 2. They shall organize by adoption and signing articles of incorporation, which shall contain:

1. The name of the corporation, which shall not be the same as that previously assumed by any other corporation in the Territory.
2. The general nature of its business and the place of the principal office or headquarters.
3. The names and residence and the value of the real estate owned by the persons respectively, so associating to form such corporation.
4. The time of the commencement, and the period of the duration of such corporation.
5. The number, names and places of residence of the directors, and of the president, secretary and treasurer of such corporation for the first year of its existence, and the time and place of the election of their successors.

Article 3. Such articles shall be acknowledged by the persons signing the same in the manner by law provided for the acknowledgment of deeds, and shall be filed for record in the office of the Territorial Auditor.

Article 4. The Territorial Auditor shall before filing such articles submit the same to the Attorney General who shall examine said articles, and if he find the same to have been executed in conformity to law, he shall endorse the word "Approved" thereon, and date, sign and return the same to the Auditor of the Territory who shall thereupon file the same in the records in his office and shall issue under his hand and official seal, and deliver to the said corporation his certificate to the effect that such corporation has been duly incorporated under the provisions of this act, and is authorized to transact business from and after the date thereof. Such certificates shall be recorded in the office of the Register of Deeds of the county wherein such corporation shall have its principal office, and said certificate and records and any certified copies of such records shall be received in all the courts of this Territory as *prima facie* evidence that such corporation has been duly organized and created under the laws of the Territory of Dakota.

Article 5. Upon the issuance of such certificate, the persons therein named shall be and become a corporation, and authorized to transact the business of mutual insurance against loss or damage to property by hail, tornadoes, cyclones and hurricanes, in such manner and upon such terms as in and by its by-laws may be provided. It shall have perpetual succession, sue and be sued, contract and be contracted with, implead and be impleaded by its corporate name in any of the courts of this Territory, and shall possess the usual powers and be subject to the usual duties of corporations.

Article 6. The general management of the business of said corporation shall be vested in directors, each of whom shall during his term of office, be a policy holder in said corporation, such directors shall be elected annually and shall hold their office for one year, and until their successors are elected and qualified. The directors shall choose from their own number a president, secretary and treasurer, whose respective terms of office shall be one year, and whose duties and compensation shall be such as may be in the by-laws of the corporation provided.

Article 7. Such corporation before commencing its business shall prepare and adopt by-laws which shall describe the duties of its officers, the manner, place and time of electing them, the directors, the scheme and manner of transacting its business, and such other rules and regulations as may be deemed essential for the government of the corporation and the management of its affairs. Such by-laws shall not be amended, changed, suspended or repealed except in the manner therein set forth, and a copy of the same and of any subsequent amendments thereto or changes therein shall be by the secretary forthwith filed with the Territorial Auditor, who shall safely keep the same in his office.

Article 8. Such corporation is authorized to issue policies of insurance signed by its president and secretary agreeing to pay to the person assured thereby all loss and damage to the property insured which he may sustain by hail, tornadoes, cyclones and hurricanes for a period of not more than five (5) years, and not exceeding in amount the sum specified in such policy.

Article 9. Every holder of a policy of such insurance shall be a member of the corporation. He shall have the right to participate in the election of directors and shall be eligible to election to any office in such corporation; he shall be liable to the corporation for his pro rata share of all losses and damages by hail, tornadoes, cyclones and hurricanes sustained by any other member, and also for his pro rata share of the expenses of the management of the business of such corporation, and shall be bound and subject to the by-laws thereof.

Article 10. The corporation shall in and by its by-laws provide for the manner in which such insurance shall be effected and the terms and conditions thereof, the time and manner in which losses by it sustained under its policy of insurance shall be determined, proved,

adjusted and paid, the time and manner in which assessments shall be made upon its members for their respective pro rata share of such losses and the time, manner and place in which and the person to whom such assessment shall be paid, it shall also, in and by its by-laws, provide such other regulations, terms and conditions as it may be necessary for effectively and fully carrying out its scheme of insurance and the said by-laws in force at the time of the date of any policy of insurance issued by the corporation shall have the force and effect of law in the determination of all questions and claims arising under such policy between the holder thereof and the said corporation.

Article 11. The said corporation shall also in and by its by-laws provide the manner, terms and conditions upon which any member thereof may withdraw or be suspended or expelled therefrom.

Article 12. The secretary of the corporation shall prepare and submit to the members thereof, at each annual meeting, a detailed statement of the condition of such corporation and its transactions for the preceding year, showing the date and number of policies issued, to whom the same were issued, and the amount respectively insured thereby, the number of assessments made during the year and the amount actually paid in upon each assessment respectively, the losses sustained during the year and whether the same have been paid or adjusted or remain unpaid or unadjusted or are disputed, the number of members of the corporation, the number of new members received during each year, their names, and residence of members who are withdrawn or been suspended or expelled from the corporation during the year, the policies and respective numbers thereof which have been cancelled during the year, and itemized statement of the expenses of such corporation during each year, and of the amount and condition of its funds and such other matters as may be of interest to the members. A copy of such annual statement shall within thirty (30) days after such meeting be filed and preserved by the Territorial Auditor.

Article 13. No corporation formed under this act shall continue for a longer period than thirty years.

Article 14. No corporation formed under this act shall insure any property outside the Territory of Dakota nor any property other than detached dwellings and farm buildings and their contents, and live stock while on the premises or running at large, and hay, grain and other farm products while growing or while in the shock, stack, bin, crib or granary upon such premises nor shall it insure any property whatever in any incorporated city or village.

Article 15. All the books, papers and files of such corporation shall at all times be open to the examination of any member thereof or his agent or attorney, and any such members, agent, or attorney shall at all times have the right to make such copies of such books, papers and files as he may wish to have.

Article 16. The articles of association may be amended in any

respect which might have been lawfully made a part of such original articles at any annual meeting of the members of the corporation, upon a vote of two-thirds of the members present at such meeting.

§ 10. PROOF OF PUBLICATION.] That section 16, of chapter 69, laws of 1885, be and the same is hereby amended by adding to said section the following words: "And the proof of publication herein required shall be filed with the Territorial Auditor within three months from the time of the filing of the annual statement."

§ 11. REPEAL.] All acts and parts of acts in conflict herewith are hereby repealed.

§ 12. EFFECT WHEN.] This act shall take effect and be in force from and after its passage and approval.

Approved March 8th, 1889.

INTEREST.

CHAPTER 70.

RATE LIMITED TO TWELVE PER CENT.

AN ACT to Amend Section Eleven Hundred of the Civil Code.

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

§ 1. RATE OF INTEREST.] That Section Eleven Hundred of the Civil Code, is hereby amended to read as follows:

SECTION 1100. Any person or corporation contracting to receive a greater rate of interest, or discount than twelve per cent upon any contract, verbal or written, shall forfeit the whole of said interest so contracted to be received; and shall be entitled only to recover the principal sum due, and if any part of such interest shall have been paid, it may be recovered in an action for that purpose, or set off in an action to recover such principal.

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

§ 3. IN EFFECT WHEN.] This act shall take effect and be in force from and after its passage and approval.

Approved, March 5th, 1889.