

INSURANCE

CHAPTER 207

H. B. No. 768
(Miller, Lundene)

EXAMINATION OF INSURANCE COMPANIES

AN ACT

To amend and reenact subsection 6 of section 26-01-04 and section 26-01-08 of the North Dakota Century Code, relating to official examination of insurance companies, and declaring an emergency.

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

§ 1. Amendment.) Subsection 6 of section 26-01-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

6. For an official examination, the actual expense and per diem incurred;

§ 2. Amendment.) Section 26-01-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-01-08. Examinations—By Whom Conducted—Compensation To Be Paid Into State Treasury.) All examinations of insurance companies required or permitted by law to be conducted by the insurance commissioner and whether or not the same are so-called convention examinations, shall be conducted by qualified regular employees of the insurance commissioner, and their compensation shall be paid out of the appropriation for that department. Any sums paid to said employees or to the insurance department or commissioner by the company or companies examined, as an examination fee or otherwise, shall be deemed to be state money, and forthwith shall be paid into the state treasury. Any sums paid to the employee or the department or commissioner as expense money for the examiner may be paid directly to the employee, and no employee may charge or collect from the state any expenses incurred in connection with any examination for or during which his expenses or any part thereof have been paid by any other person, firm, or corporation.

§ 3. **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 10, 1965.

CHAPTER 208

S. B. No. 130

(Walz, George, Hernet, Beck)

CANCELLATION OF MOTOR VEHICLE LIABILITY
INSURANCE

AN ACT

To provide cancellation provisions restricting the cancellation of an insured's motor vehicle liability insurance.

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

§ 1. **Notice Required Before Cancellation of Motor Vehicle Liability Policy—Penalty.)** All insurance companies authorized to sell insurance in the state of North Dakota who sell or write motor vehicle liability insurance contracts shall include in such contracts as a mandatory provision or endorsement the cancellation provisions as set forth by the national bureau of casualty underwriters, or other standard cancellation provisions that have been approved by the insurance department of North Dakota. Failure to comply with such cancellation provision requirements shall be sufficient cause for cancellation, revocation, or refusal to renew that company's certificate of authority to do business in North Dakota by the insurance commissioner.

Approved March 17, 1965.

CHAPTER 209

S. B. No. 191
(Lips)

SOLICITATION OF PROXIES

AN ACT

Enabling the insurance commissioner to promulgate rules and regulations respecting solicitation of proxies in regard to a security of a domestic stock insurance company.

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

§ 1. Insurance Commissioner Authorized to Regulate Solicitation of Proxies.) It shall be unlawful for any person, in contravention of such rules and regulations as the insurance commissioner may prescribe as necessary or appropriate in the public interest or for the protection of investors, to solicit or to permit the use of his name to solicit any proxy or consent or authorization in respect of any equity security of a domestic stock insurance company not listed on a national securities exchange registered as such with the Securities and Exchange Commission under the United States Securities Exchange Act of 1934, as amended. This section is applicable to all domestic stock insurers having one hundred or more stockholders of record; provided, however, that this section shall not apply to any insurer if ninety-five percent or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than five hundred stockholders. A domestic stock insurer which files with the Securities and Exchange Commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of nineteen hundred thirty-four, as amended, shall be exempt from the provisions of this section.

Approved March 10, 1965.

CHAPTER 210

H. B. No. 719
(Whittlesey, Meschke)

QUALIFICATION OF DIRECTORS

AN ACT

To amend and reenact section 26-08-06 of the North Dakota Century Code, relating to qualification of directors—residence requirements of directors and executive officers.

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

§ 1. **Amendment.)** Section 26-08-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-08-06. Qualification of Directors—Residence Requirements of Directors and Executive Officers.) One-third of the directors and a majority of the executive officers of a domestic insurance company must be residents of this state, and each of the directors of such a company, if it has a capital stock, must be the owner in his own right of stock of such company of the par value of at least five hundred dollars.

Approved March 10, 1965.

CHAPTER 211

H. B. No. 718
(Whittlesey, Meschke)

INVESTMENT OF FUNDS

AN ACT

To amend and reenact subdivision c of subsection 13 of section 26-08-11 of the North Dakota Century Code, relating to authorized investment of funds of insurance companies.

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

§ 1. **Amendment.)** Subdivision c of subsection 13 of section 26-08-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

- c. An investment in any single parcel of real estate acquired under the provisions of this subsection shall not exceed two percent of the admitted assets of the company;

Approved March 10, 1965.

CHAPTER 212

H. B. No. 650
(Giffey, Bruner)

COVERAGE OF MUTUAL INSURANCE COMPANIES

AN ACT

To create and enact section 26-15-01.1 and to amend and reenact section 26-15-01 of the North Dakota Century Code, providing that county mutual insurance companies may write limited liability insurance policies, and relating to the types of insurance coverage that may be issued by county mutual insurance companies and their territorial limits of operation.

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

§ 1. **Amendment.)** Section 26-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-15-01. County Mutual Insurance Company—Organization—Organizers Required.) A corporation for mutual insurance against loss or damage by fire, lightning, cyclone, windstorm, tornado, hail, except upon growing crops, any hazard upon any risk upon livestock, explosion, except the explosion of steam boilers and flywheels, riot, riot attending a strike, civil commotion, aircraft, vehicles, smoke to the property of the insured, theft, vandalism, malicious mischief, water damage and freezing, collision and overturn of farm machinery, collapse of buildings, glass breakage, the additional living expenses incurred over and above normal living costs in cases of damage, the removal of debris, the cost of repairing or replacing homes or living residences, or all such forms of insurance, may be formed in accordance with the provisions of this chapter by:

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

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

§ 2.) Section 26-15-01.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

26-15-01.1. Liability Insurance Contracts — Limitations.)

Any company organized under the provisions of this chapter may make contracts of insurance against loss, expense, or liability by reason of bodily injury or death by accident, disability, sickness, or disease suffered by others for which the insured may be liable or may have assumed liability, except no liability insurance contracts against any or all loss or expense resulting from the ownership, maintenance, or use of any motor vehicle normally operated, intended to be operated, or designed for use, upon any highway, road, or street in this state, shall be made. No contracts authorized under this section shall be accepted unless such contracts are totally reinsured with a company or companies authorized and licensed to write such insurance in the state of North Dakota.

Approved March 19, 1965.

CHAPTER 213

H. B. No. 822

(Leer, Glaspey, Poling, Opedahl, Hoffner, Breum, Meyer,
(Belquist, Erickson (Ward), Bloom)

SUSPENSION OF HAIL INSURANCE COVERAGE

AN ACT

To amend and reenact sections 26-22-23, 26-22-30, 26-22-32, 26-22-54, and 26-22-09 of the North Dakota Century Code, relating to state hail insurance and providing for a temporary suspension of the issuing of hail insurance coverage.

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

§ 1. **Amendment.)** Section 26-22-23 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-23. Amount of Indemnity — When Losses Allowed.)

The maximum amount of indemnity for total loss shall be twenty dollars per acre insurance. 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.

§ 2. **Amendment.)** Section 26-22-30 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-30. Districts in State for Purposes of Levying Hail Indemnity Tax.) For the purpose of levying the acreage indemnity tax required under the provisions of this chapter, the commissioner of insurance shall establish as many districts as may be deemed advisable from past experience or from any records available, and such districts may be changed from time to time as experience may indicate.

§ 3. **Amendment.)** Section 26-22-32 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-32. Commissioner Determines Rate of Hail Indemnity Tax Levy—Collection of Hail Indemnity Tax by a Commissioner with Discount—Certificate to County Auditors—Duties of County Auditors and Treasurers.) The commissioner of insurance shall establish a rate or rates of levy for the hail indemnity tax in each of the districts established pursuant to section 26-22-30. Such rate or rates shall be commensurate with the risk incurred as nearly as can be determined from past experience or from any records available, and such rate or rates may be changed from time to time as experience may indicate. The commissioner of insurance in the same manner may establish appropriate rates for hail insurance coverage containing a deductible clause. The rate or rates of levy for any year shall be established by the commissioner of insurance before applications for hail insurance coverage are solicited.

As soon as possible after the hail indemnity tax rates have been determined, the commissioner shall send a statement by mail to each owner of real property against which the hail indemnity tax has been levied, setting forth the amount of said hail indemnity tax. As soon as possible after the fifteenth day of November of each year, the commissioner through the state hail insurance department, shall file with the county auditor of each county a complete list of descriptions of lands within such county upon which the state hail insurance

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

§ 4. Amendment.) Section 26-22-54 of the 1963 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-54. 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 state 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 for each dollar of insurance applied for.

§ 5. Amendment.) Section 26-22-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-22-09. Loans May Be Made to Replenish State Hail Insurance Fund.) If during the period ending January 1, 1967 the moneys in the state hail insurance fund are insufficient to pay warrants drawn, or about to be drawn, upon such fund in payment of hail losses, the commissioner of insurance, with the approval and assistance of the industrial commission, may negotiate a loan upon the best terms possible; provided, how-

ever, that such loan may not exceed the amount reasonably necessary to pay hail losses occurring prior to January 1, 1967. The proceeds of such loan shall be turned over to the state treasurer and by him placed in the state hail insurance fund for disbursement pursuant to the provisions of this chapter. In order to negotiate such loan, the commissioner, with the assistance and approval of the industrial commission, may issue warrants, debentures, or certificates of indebtedness in such amounts and payable at such times as is deemed advisable. Such warrants, debentures, or certificates of indebtedness shall be drawn upon the state treasurer and shall be payable out of the state hail insurance fund. All warrants, debentures, or certificates of indebtedness so issued shall be countersigned by the department of accounts and purchases and the state auditor and entered by the department upon its records as obligations issued against and payable out of the state hail insurance fund. If bonds are used as security by the state hail insurance department when a loan is obtained, it shall not be mandatory to issue certificates of indebtedness based on anticipated collections of hail taxes. The state treasurer shall pay all such warrants, debentures, certificates of indebtedness, or contracted debts out of any moneys in the state hail insurance fund properly applicable thereto.

§ 6. Temporary Suspension.) Notwithstanding any other provision of law, the state hail insurance department shall not issue further insurance coverage during the six months period beginning July 1, 1965, and ending December 31, 1965, and the operations of the state hail insurance department shall be suspended for such period except for the processing and disposition of insurance coverage issued prior to July 1, 1965, and the adjustment and payment of claims arising under insurance coverage issued prior to July 1, 1965.

Approved March 19, 1965.

CHAPTER 214

S. B. No. 340
(Hernett, Lips)

REINSURANCE OF FIRE AND TORNADO FUND

AN ACT

To amend and reenact section 26-24-22 of the North Dakota Century Code, relating to reinsurance of the state fire and tornado fund.

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

§ 1. **Amendment.**) Section 26-24-22 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

26-24-22. Insurance Required.) The commissioner of insurance shall procure and he shall keep in force, an excess of loss reinsurance contract naming the state fire and tornado fund as the reinsured. Such reinsurance contract shall meet the following minimum specifications: (a) Reimburse the state fire and tornado fund for all losses in excess of five hundred thousand dollars incurred by the state fire and tornado fund under policies issued by the fund and arising out of each occurrence of a peril included in the state fire and tornado fund policies; (b) The limit of liability of such reinsurance contract shall be no less than twenty-five million dollars each loss occurrence and twenty-five million dollars as respects all loss occurrence each twelve month period; (c) A sixty day cancellation notice. The cost of such excess of loss reinsurance shall be paid out of the premium income of the state fire and tornado fund. This excess of loss reinsurance shall be procured by the commissioner and the state fire and tornado fund only through bids as hereinafter provided and shall be written only in a company or companies authorized to do business within the state of North Dakota. The contract shall be negotiated with and countersigned by a licensed North Dakota resident insurance agent. On or before the second Monday in June each odd numbered year the commissioner of insurance shall publish in the official newspaper of Burleigh County, North Dakota, a notice that on the last Monday in June of such year the insurance commissioner will accept bids at his office in the state capitol in the city of Bismarck, North Dakota. A copy of such notice shall also be posted at the office of the state fire and tornado fund. A copy of such notice shall also be mailed to each insurance company licensed to write fire insurance in the state of

North Dakota. On the said last Monday in June of each odd numbered year, the commissioner of insurance with the approval of the industrial commission shall contract for such excess of loss reinsurance with the company or group of companies submitting the lowest and best bid therefor for the two year period commencing on the ensuing first day of August. The commissioner of insurance with the approval of the industrial commission may disregard the provisions of this section after they have studied the available bids for the reinsurance required by this section.

Approved March 17, 1965.

CHAPTER 215

H. B. No. 783

(Lundene, Stockman, Krenz, Johnson (Barnes))

COERCING PURCHASER OF INSURANCE

AN ACT

To prohibit coercing a purchaser or borrower to insure with a particular insurance company or agent, and providing that a violation thereof shall be an unfair insurance practice.

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

§ 1. Coercing Purchaser or Borrower to Insure with Particular Company or Agent Prohibited.) 1. No person, firm or corporation engaged in selling real or personal property or in the business of financing the purchase of real or personal property or of lending money on the security of real or personal property and no trustee, director, officer, agent, or other employee of any such person, firm or corporation shall require, as a condition precedent, concurrent, or subsequent to the sale or financing the purchase of such property or to lending money upon the security of a mortgage thereon, or as a condition precedent, concurrent, or subsequent for the renewal or extension of any such loan or mortgage or for the performance of any other act in connection therewith, that the person, firm or corporation purchasing such property or for whom such purchase is to be financed or to whom the money is to be loaned or for whom such extension, renewal or other act is to be granted, or performed, negotiate any policy of insurance or renewal thereof covering such property through a particular insurance company, agent, solicitor or broker.

2. This Act shall not prevent the exercise by any person, firm or corporation of its right to designate reasonable financial requirements as to the insurer, the terms and provisions of the policy and the adequacy of the coverage with respect to insurance on property pledged or mortgaged to such person, firm or corporation; and nothing herein contained shall be construed as to prohibit the right of any person, firm or corporation from voluntarily negotiating or soliciting the placing of such insurance; nor shall this Act forbid the securing of insurance or a renewal thereof at the request of the purchaser or borrower or because of the failure of the purchaser or borrower to furnish the necessary insurance or renewal thereof.

§ 2. Unfair Insurance Practice.) Any violation of this Act shall constitute an unfair insurance practice and the person, firm or corporation practicing the same shall be proceeded against under the provisions of chapter 26-30 of the North Dakota Century Code.

Approved March 10, 1965.

CHAPTER 216

S. B. No. 187

(Lips)

INSIDER TRADING OF EQUITY SECURITIES

AN ACT

Concerning insider trading of domestic stock insurance company equity securities.

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

§ 1.) Every person who is directly or indirectly the beneficial owner of more than ten percent of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such company, shall file in the office of the commissioner of insurance on or before July 1, 1965, or within ten days after he becomes such beneficial owner, director or officer a statement, in such form as the commissioner of insurance may prescribe, of the amount of all equity securities of such company of which he is the beneficial owner, and within ten days after the close of each calendar month thereafter, if there has been a change in such ownership during such month, shall file in the office of the commissioner of insurance a statement, in such form as the commissioner of insurance may prescribe, indicating his ownership at the

close of the calendar month and such changes in his ownership as have occurred during such calendar month.

§ 2.) For the purpose of preventing the unfair use of information which may have been obtained by such beneficial owner, director or officer by reason of his relationship to such company, any profit realized by him from any purchase and sale, or any sale and purchase, of any equity security of such company within any period of less than six months, unless such security was acquired in good faith in connection with a debt previously contracted, shall inure to and be recoverable by the company, irrespective of any intention on the part of such beneficial owner, director or officer in entering into such transaction of holding the security purchased or of not repurchasing the security sold for a period exceeding six months. Suit to recover such profit may be instituted at law or in equity in any court of competent jurisdiction by the company, or by the owner of any security of the company in the name and in behalf of the company if the company shall fail or refuse to bring such suit within sixty days after request or shall fail diligently to prosecute the same thereafter; but no such suit shall be brought more than two years after the date such profit was realized. This section shall not be construed to cover any transaction where such beneficial owner was not such both at the time of the purchase and sale, or the sale and purchase, of the security involved, or any transaction or transactions which the commissioner of insurance by rules and regulations may exempt as not comprehended within the purpose of this section.

§ 3.) It shall be unlawful for any such beneficial owner, director or officer, directly or indirectly, to sell any equity security of such company if the person selling the security or his principal (1) does not own the security sold, or (2) if owning the security, does not deliver it against such sale within twenty days thereafter, or does not within five days after such sale deposit it in the mails or other usual channels of transportation; but no person shall be deemed to have violated this section if he proves that notwithstanding the exercise of good faith he was unable to make such delivery or deposit within such time, or that to do so would cause undue inconvenience or expense.

§ 4.) The provisions of section 2 of this Act shall not apply to any purchase and sale, or sale and purchase, and the provisions of section 3 of this Act shall not apply to any sale, of an equity security of a domestic stock insurance company not then or theretofore held by him in an investment account, by a dealer in the ordinary course of his business and incident to the establishment or maintenance by him of a primary or secondary market (otherwise than on an exchange as defined

in the Securities Exchange Act of 1934) for such security. The commissioner of insurance may, by such rules and regulations as he deems necessary or appropriate in the public interest, define and prescribe terms and conditions with respect to securities held in an investment account and transactions made in the ordinary course of business and incident to the establishment or maintenance of a primary or secondary market.

§ 5.) The provisions of sections 1, 2 and 3 of this Act shall not apply to foreign or domestic arbitrage transactions unless made in contravention of such rules and regulations as the commissioner of insurance may adopt in order to carry out the purposes of this Act.

§ 6.) The term "equity security" when used in this Act means any stock or similar security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right; or any other security which the commissioner of insurance shall deem to be of similar nature and consider necessary or appropriate, by such rules and regulations as he may prescribe in the public interest or for the protection of investors, to treat as an equity security.

§ 7.) The provisions of sections 1, 2, and 3 of this Act shall not apply to equity securities of a domestic stock insurance company if (1) such securities shall be registered, or shall be required to be registered, pursuant to section 12 of the Securities Exchange Act of 1934, as amended, or if (2) such domestic stock insurance company shall not have any class of its equity securities held of record by one hundred or more persons on the last business day of the year next preceding the year in which equity securities of the company would be subject to the provisions of sections 1, 2, and 3 of this Act except for the provisions of this subsection (2).

§ 8.) The commissioner of insurance shall have the power to make such rules and regulations as may be necessary for the execution of the functions vested in him by sections 1 through 7 of this Act, and may for such purpose classify domestic stock insurance companies, securities, and other persons or matters within his jurisdiction. No provision of sections 1, 2 and 3 of this Act imposing any liability shall apply to any act done or omitted in good faith in conformity with any rule or regulation of the commissioner of insurance, notwithstanding that such rule or regulation may, after such act or omission, be amended or rescinded or determined by judicial or other authority to be invalid for any reason.

Approved March 15, 1965.