

INSURANCE

CHAPTER 240

H. B. No. 790
(Thompson of McLean)

AUTOMOBILE WARRANTIES

AN ACT

To regulate the issuance of car warranties, to require a license, bond, approval of car warranty contract form and the filing of rate schedules and to authorize the revocation of license upon breach of warranty contracts, and providing a penalty.

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

§ 1.) An automobile warranty issued by anyone other than the automobile manufacturer or dealer shall be construed as a contract of insurance and all warranties shall be on a contract form prescribed or approved by the commissioner of insurance.

§ 2.) No person, firm, corporation or association shall engage in the business of providing or writing automobile warranty insurance without first having obtained from the commissioner of insurance a certificate of authority to issue automobile warranty insurance policies.

§ 3.) The commissioner of insurance shall not issue a certificate of authority to issue automobile warranty insurance policies unless he shall be satisfied by the submittal of evidence as he may reasonably require that such company is qualified in accordance with the laws of this state governing insurance companies, to transact business in this state under the laws thereof.

§ 4.) Each certificate of authority issued under any provisions of this Act shall expire on the thirtieth day of April succeeding the date of issuance, and renewal thereof may be issued by the commissioner when he is satisfied that such company is qualified to transact business in this state under the laws thereof.

§ 5.) Any company engaged in the issuance of car warranty insurance policies shall be considered an insurance company and subject to the fees specified by law to be paid by insurance companies.

§ 6.) Before an automobile warranty insurance company shall be authorized to transact business in this state, the commissioner of insurance shall require it to file with him a cash surety bond in the sum of one hundred thousand dollars on such form as shall be prescribed by the commissioner.

§ 7.) Every person, firm, corporation or association engaged in the automobile warranty insurance business shall file with the commissioner a current rate schedule and only such rates as are approved by the commissioner shall be effective.

§ 8.) The commissioner of insurance is hereby authorized to revoke the license of any person, firm, corporation or association engaged in the sale of automobile warranty insurance, without a hearing, when he has determined that a breach of warranty contract has occurred. Such revocation order may be appealed to the district court of Burleigh County by a licensee aggrieved thereby.

§ 9.) Any person, firm or association who shall engage in the sale or furnishing of car warranties in this state without complying with the provisions of this Act shall be guilty of a misdemeanor and punishable by a fine of one thousand dollars or imprisonment in the county jail for not more than one year or both such fine and imprisonment.

Approved March 12, 1959.

CHAPTER 241

H. B. No. 652

(Lowe, Schuler, Trom, Solberg, Wilkie, Bassingthwaite)

INSURANCE FOR NUCLEAR REACTION DAMAGE

AN ACT

Authorizing affixing or including a written statement to the standard policy excluding loss or damage caused by nuclear reaction; provided, however, that insurers may assume coverage for loss or damage caused by nuclear reaction by endorsement.

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

§ 1. Authorizing Affixing or Including to the Standard Policy a Written Statement Excluding Loss or Damage Caused by Nuclear Reaction.) Insurers issuing the standard policy pursuant to section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943 are authorized to affix thereto or include therein a written statement that the policy

does not cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether directly or indirectly resulting from an insured peril under said policy.

§ 2. Insurers May Assume Coverage for Loss or Damage Caused by Nuclear Reaction by Endorsement.) Provided, however, that nothing herein contained shall be construed to prohibit the attachment to any such policy of an endorsement or endorsements specifically assuming coverage for loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination.

Approved March 9, 1959.

CHAPTER 242

S. B. No. 230
(Murphy)
(By request)

INSURING TITLES TO REAL PROPERTY

AN ACT

Governing the organization and operation of corporations organized for the purpose of insuring titles to real property.

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

§ 1.) Every domestic or foreign corporation organized for the purpose of insuring titles to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, shall be subject to and shall comply with all the requirements of the laws of this state made applicable to insurance companies generally and the rules and regulations of the commissioner of insurance, excepting as hereinafter provided and insofar as said laws, rules or regulations may be inconsistent with the other provisions in this chapter contained.

§ 2.) No domestic corporation organized for the purpose of insuring titles to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, shall be incorporated under this chapter unless it has an authorized capital of not less than two hundred fifty thousand dollars and a surplus of not less than one hundred thousand dollars, and it may issue no policy or insurance until at least fifty percent of the minimum capital stock re-

quired by this section, and all the surplus required, shall have been paid in, the residue of capital stock to be paid in within twelve months from the time of filing the articles of incorporation, but the commissioner of insurance, for good cause shown, may extend the time of payment of such residue for the further period of one year.

§ 3.) The surplus provided for in section 2 of this chapter shall constitute a guaranty fund, which shall be invested in securities as provided by section 26-0811 North Dakota Revised Code of 1943, as amended, and be duly deposited with the commissioner of insurance and his certificate thereof procured, as provided by law. This deposit shall be maintained unimpaired and the principal of the fund shall be applied only to the payment of losses and expenses by reason of its guaranty and insurance contracts, with the right to the company to collect the income thereof and to substitute other like securities of equal amount and value from time to time.

§ 4.) Within thirty days after the filing of the annual statement as provided by chapter 26-07 North Dakota Revised Code of 1943, as amended, the corporation shall in addition to the deposit of the surplus as provided by section 3 annually apportion to a special reserve fund an amount equal to ten percent of all premiums received. This special reserve fund shall not be subject to other liabilities of the corporation to the extent of, and so long as there is, any outstanding liability on any guaranty or insurance or certificate issued by it. The corporation shall be entitled to withdraw from this special reserve fund annually a sum equal to five percent of said fund as shown in its annual statement. No title insurance company shall be obliged to maintain an unearned premium reserve.

§ 5.) If an insurer fails to satisfy any judgment against it arising out of its liability under any title insurance policy, issued, insured, or assumed by it, within thirty days after the finality of the judgment becomes fixed, the judgment may be enforced against the insurer's guaranty fund deposit through the following procedure:

- (1) The judgment creditor shall petition the court wherein the judgment is entered and as part of the same cause, truthfully setting forth the facts regarding the insurer's failure to satisfy the judgment as required by this section.
- (2) Upon such petition the court shall direct the issuance of a special execution directed to the sheriff of Burleigh County, requiring that the sheriff sell so much of the securities on deposit as may be required to satisfy the judgment and pay the costs of the levy.

- (3) The special execution shall be executed by the sheriff by delivering to the state treasurer and to the commissioner of insurance each a certified copy of said writ of execution together with a certified copy of the judgment and of said petition and order, and within ten days thereafter there shall be delivered to said sheriff sufficient of such securities to satisfy the judgment in full. Said securities shall be sold by the sheriff upon execution as in the case of sales of personal property upon execution generally.

§ 6.) No domestic corporation organized for the purpose of insuring title to real property in this state or of insuring against loss by reason of defective titles thereto, or encumbrances thereon, or foreign corporation authorized to do business in this state, shall issue any policy, binder, or certificate unless it shall have secured from a person, firm or corporation holding a certificate of authority under the provisions of chapter 43-01 North Dakota Revised Code of 1943, as amended, the record title evidence of the title to be insured, and such title evidence has been examined by a person duly admitted to the practice of law as provided by chapter 27-11 North Dakota Revised Code of 1943, as amended, and any corporation violating the provisions of this section shall have its certificate of authority revoked as provided by chapter 26-07, North Dakota Revised Code of 1943, as amended.

Approved March 17, 1959.

CHAPTER 243

H. B. No. 755
(Brown)

LIFE INSURANCE POLICIES

AN ACT

To amend and reenact subsection 8 of section 26-0335 of the North Dakota Revised Code of 1943, as amended relating to provisions required in life insurance policies issued on other than standard forms; and repealing all acts or parts of acts in conflict herewith.

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

§ 1. **Amendment.**) Subsection 8 of section 26-0335 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

8. A provision which, in event of default in premium payments, after premiums shall have been paid for three

years, shall secure to the owner of the policy a stipulated form of insurance, the net value of which shall be equal at least to the reserve at the date of default on the policy and on any dividend additions thereto, computed according to a mortality table, interest rate, and method of valuation permitted by section 26-1001, less a sum of not more than two and one-half percent of the amount insured by the policy and of any existing dividend additions thereto, and less any existing indebtedness to the company on the policy. Such provision shall stipulate that the policy may be surrendered to the company at its home office within one month from the date of default for a specified cash value at least equal to the sum which otherwise would be available for the purchase of insurance as aforesaid, and may stipulate that the company may defer payment for not more than six months after the application therefor is made. Provided, however, that if the benefits under the policy are calculated according to the Commissioners 1958 Standard Ordinary Mortality Table, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality shown in the Commissioners 1958 Extended Term Insurance Table, and that if the benefits under the policy are calculated according to any other more modern table than the American Experience table of mortality, the value of any extended term insurance, with accompanying pure endowment, if any, may be calculated according to rates of mortality not exceeding 130 percent of the rates according to such more modern table. This provision shall not be required in a policy providing term insurance of twenty years or less;

§ 2. Repeal.) All acts or parts of acts in conflict herewith are hereby repealed.

Approved March 4, 1959.

CHAPTER 244

H. B. No. 743
(Neukircher, Fitch, Loewen)

FIRE INSURANCE POLICIES

AN ACT

Permitting the commissioner of insurance to approve forms of insurance policies other than the standard policy as provided in section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943.

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

§ 1.) The commissioner of insurance may approve for use within the state of North Dakota a form of policy which does not correspond to the standard fire insurance policy as provided by section 26-0340 of the 1957 Supplement to the North Dakota Revised Code of 1943, provided that the coverage of such approved policy form with respect to the peril of fire shall not be less than that contained in the standard fire insurance policy as provided in said section.

Approved March 4, 1959.

CHAPTER 245

H. B. No. 749
(Van Sickle)

EXPENSE FUND ASSESSMENTS IN BENEVOLENT SOCIETIES

AN ACT

To amend and reenact section 26-2519 of the 1957 Supplement to the North Dakota Revised Code of 1943, relating to expense fund assessments of benevolent societies.

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

§ 1. **Amendment.)** Section 26-2519 of the 1957 Supplement to the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2519. The Expense Fund; Credits to; Levies for.) The membership fee of the society, which shall be not less than

one dollar nor more than five dollars, may be used for expenses. The certificate of membership shall state the percentage of death assessments, not exceeding ten percent, that may be used for expenses, and moneys received on such assessments, within the limitations herein stated, shall be credited to the expense fund. Expense fund assessments may be levied in accordance with the provisions therefor in the membership certificate in amounts not exceeding three dollars in any one calendar year.

Approved March 4, 1959.

CHAPTER 246

S. B. No. 180

(Livingston, Krause, Redlin, Brooks)

HOSPITAL SERVICE CONTRACT PROVISIONS

AN ACT

To amend and reenact section 26-2602 of the North Dakota Revised Code of 1943, relating to authorized contract provisions.

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

§ 1. Amendment.) Section 26-2602 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2602. Contract Provisions Authorized.) The hospital service plan operated by such corporation also may provide for hospital service and other related health services, excluding the practice of medicine, as advancements in health care and treatment warrant the extension and provision of such services and in case of emergency or expediency. All hospital and related health services provided shall be subject to the approval of such hospital service plan corporations.

Approved March 2, 1959.

CHAPTER 247

S. B. No. 181

(Livingston, Brooks, Krause, Redlin)

ANNUAL REPORTS TO INSURANCE COMMISSIONER

AN ACT

To amend and reenact section 26-2605 of the North Dakota Revised Code of 1943, relating to annual report to commissioner of insurance.

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

§ 1. **Amendment.)** Section 26-2605 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

26-2605. Annual Report to Commissioner of Insurance.) Every such corporation, annually, on or before the first day of April, shall file in the office of the commissioner of insurance a statement verified by at least two of the principal officers of said corporation showing its condition on the thirty-first day of December then next preceding, which shall be in such form and shall contain such matters as the commissioner of insurance shall prescribe.

Approved March 2, 1959.