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CHAPTER 11

FIRE INSURANCE

SUBCHAPTER I

STANDARD POLICY AND REGULATIONS

§ 1401. Standard policy required; exceptions

No fire insurance company shall issue fire insurance policies on property in this State, other than those of the standard form set forth in section 1402, except as follows:

1. What may be printed. A company may print on or in its policies its name, location and date of incorporation, the amount of its paid-up capital stock, the names of its officers and agents, the number and date of the policy and, if it is issued through an agent, the words, "This policy shall not be valid unless countersigned by the duly authorized agent of the company at ".

2. Description of property insured. A company may print or use in its policies, printed forms of description and specification of the property insured.

3. Authorized by law, charter; deductible policies. A company incorporated or formed in this State may print in its

policies any provisions which it is authorized or required by law to insert therein. Any company not incorporated or formed in this State may, with the approval of the commissioner, so print any provision required by its charter or deed of settlement or by the laws of its own state or country, not contrary to the laws of this State. The commissioner shall require any provision which, in his opinion, modifies the contract of insurance in such way as to affect the question of loss, to be appended to the policy by a slip or rider. The commissioner may authorize the issuance of deductible policies, i. e., policies under which the insured agrees to bear the loss up to an amount specified in the policy, and under which he contracts for indemnity against a loss in excess of that amount.

4. Blanks filled in print or writing. The blanks in said standard form may be filled in print or writing.

5. Provisions adding to or modifying standard form. A company may write upon the margin or across the face of a policy, or write, or print in type not smaller than 8-point, upon separate slips or riders to be attached thereto, provisions adding to or modifying those contained in the standard form. All such slips, riders and provisions must be signed by the officers or agent of the company so using them.

6. Words "Maine standard policy". A company may print upon policies issued in compliance with the preceding provisions of this section, the words, "Maine standard policy".

7. First page rearranged for other data. The first page of the standard fire insurance policy may, in form approved by the commissioner, be rearranged to provide space for the listing of amounts of insurance, rates and premiums for the basic coverages or perils insured under endorsements attached, and such other data as may be conveniently included for duplication on daily reports for office records. Companies organized under the laws of a country other than the United States may execute their policies in the names of the United States resident officers whose positions correspond to those of secretary and president.

R.S.1954, c. 60, § 104.

§ 1402. Form of standard policy

The standard form of fire insurance policy shall be plainly printed, and no portion thereof shall be in type smaller than 8-point, with permission to substitute for the word "company" a

more accurate descriptive term for the type of insurer, and shall be as follows:

No. .....

(Space for insertion of name of company or companies issuing the policy and other matter permitted to be stated at the head of policy)

(Space for listing amounts of insurance, rates, premiums for the basic coverages insured under the standard form of policy and for additional coverages or perils insured under endorsements attached)

Subject to Form No(s). attached hereto.

Insert form number(s) and edition date(s)

Mortgage Clause: Subject to the provisions of the mortgage clause attached hereto, loss, if any, on building items, shall be payable to:

Insert name(s) of mortgagee(s) and mailing address(es)

Agency at

Countersignature Date

..... Agent

In Consideration of the Provisions and Stipulations herein or added hereto and of the premium above specified, this Company, for the term of ..... from ..... at noon (Standard Time) to ..... at noon (Standard Time) at location of property involved, to an amount not exceeding the amount(s) above specified, does insure ..... and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without allowance for any increased cost of repair or reconstruction by reason of any ordinance or law regulating construction or repair, and without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured, against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described herein while located or contained as described in this policy, or pro rata for five days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere.

Assignment of this policy shall not be valid except with the written consent of this Company.

This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

Concealment, fraud. This entire policy shall be void if, whether before or after a loss, the insured has willfully concealed or misrepresented any material fact or circumstance concerning this insurance or the subject thereof, or the interest of the insured therein, or in case of any fraud or false swearing by the insured relating thereto.

Uninsurable and excepted property. This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

Perils not included. This Company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: (a) enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; (b) invasion; (c) insurrection; (d) rebellion; (e) revolution; (f) civil war; (g) usurped power; (h) order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; (i) neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; (j) nor shall this Company be liable for loss by theft.

Other Insurance. Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

Conditions suspending or restricting insurance. Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring

(a) while the hazard is increased by any means within the control or knowledge of the insured; or

(b) while a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or

(c) as a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

Other perils or subjects. Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

Added provisions. The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

Waiver provisions. No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

Cancellation of policy. This policy shall be cancelled at any time at the request of the insured, in which case this Company shall, upon demand and surrender of this policy, refund the excess of paid premium above the customary short rates for the expired time. This policy may be cancelled at any time by this Company by giving to the insured a ten days' written notice of cancellation with or without tender of the excess of paid premium above the pro rata premium for the expired time, which excess, if not tendered, shall be refunded on demand. Notice of cancellation shall state that said excess premium (if not tendered) will be refunded on demand.

Mortgagee interests and obligations. If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation.

If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of

bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all the mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

Pro rata liability. This Company shall not be liable for a greater proportion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

Requirements in case loss occurs. The insured shall give immediate written notice to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss, signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: The time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this policy, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at

such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

Appraisal. In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him and the expenses of appraisal and umpire shall be paid by the parties equally.

Company's options. It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

Abandonment. There can be no abandonment to this Company of any property.

When loss payable. The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

Suit. No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within twelve months next after inception of the loss.

Subrogation. This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

IN WITNESS WHEREOF, this Company has executed and attested these presents; but this policy shall not be valid unless countersigned by the duly authorized Agent of this Company at the agency hereinbefore mentioned.

(Space for insertion of signatures and titles of proper officers)

R.S.1954, c. 60, § 105; 1961, c. 317, §§ 193, 194; c. 328, § 1.

§ 1403. Protection from nuclear loss allowed

The standard policy as set forth in section 1402 is not intended to cover loss or damage caused by nuclear reaction or nuclear radiation or radioactive contamination, all whether or not directly or indirectly resulting from an insured peril under said policy.

Insurers issuing the standard policy pursuant to section 1402 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 or not directly or indirectly resulting from an insured peril under said policy. Nothing in this section 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.

1959, c. 170.

§ 1404. Lines numbered consecutively

The lines of the conditions of the standard fire insurance policy shall be numbered consecutively at the option of the commissioner.

1961, c. 328, § 2.

§ 1405. Willful violations

Any insurance company or agent who shall make, issue or deliver a policy of fire insurance in willful violation of sections 1401 or 1402 shall forfeit for each offense not less than $50 nor more than $200, but such policy shall nevertheless be binding upon the company issuing the same.

R.S.1954, c. 60, § 106.

§ 1406. Cancellation for nonpayment of premium

An insurance company issuing fire insurance policies on property in this State, under the standard form required by sections 1401 or 1402, may cancel any such policy in the manner provided by law without tendering to the assured a ratable proportion of the premium, if the premium has not been paid to the company or its agent, or to a duly licensed insurance broker through whom the contract of insurance was negotiated.

R.S.1954, c. 60, § 107.

§ 1407. Disagreement as to amount of loss

In case of loss under any fire insurance policy, issued on property in this State, in the standard form set forth in section 1402, and the failure of the parties to agree as to the amount of loss, if the insurance company shall not, within 10 days after a written request to appoint referees under the provision for arbitration in such policy, name 3 men under such provision, each of whom shall be a resident of this State and willing to act as one of such referees; or if such insurance company shall not, within 10 days after receiving the names of 3 men named by the insured under such provision, make known to the insured its choice of one of them to act as one of such referees, it shall be deemed to have waived the right to an arbitration under such policy and be liable to suit thereunder, as though the same contained no provision for arbitration as to the amount of loss or damage. In case of the failure of 2 referees, chosen respectively by the insurance company and the insured, to agree upon and select within 10 days from their appointment a 3rd referee willing to act in said capacity, either of the parties may within 20 days from the expiration of said 10 days make written application setting forth the facts to the commissioner to appoint such 3rd referee. Said commissioner shall thereupon make such appointment and shall send written notification thereof to the parties.

R.S.1954, c. 60, § 108.

§ 1408. Insurance on furniture, owned jointly by husband and wife

Insurance, effected by a husband or wife on a dwelling house owned by the insured and on the furniture therein, is valid for all the furniture, although part is owned by the husband and part by the wife.

R.S.1954, c. 60, § 109.

§ 1409. Time limit for adjusting and paying fire losses

In case of physical loss by fire to property insured by any company transacting insurance business in this State, said company or its representative shall begin adjustment of such loss within 20 days after the receipt of the notice provided for by section 1402; but no fire insurance company shall pay any loss or damage in excess of $1,000 until after the expiration of 45 days from the date of loss. Nothing contained in this section shall prevent the payment of a loss to any property owner when the aggregate loss under all policies covering the risk does not exceed $1,000. Upon application from an insurance company or its authorized representative, written permission to make earlier payment on any loss may be given said company or its authorized representative by the commissioner, and immediately upon issuance of such permit, the commissioner shall notify and grant permits to any other companies known to be interested in the risk. For any violation of this section the commissioner may suspend the authority of the company to transact business in this State for such length of time, not exceeding one year, as he may deem advisable. In any statute relating to fire insurance or in any policy of fire insurance reference to the date of loss or the time when a loss occurs shall mean the day of the fire against which the policy insures.

R.S.1954, c. 60, § 110; 1957, c. 204.

SUBCHAPTER II

DOMESTIC MUTUAL COMPANIES

Sec.

§ 1451. Insurance authorized; term limited

Domestic mutual fire insurance companies may make insurance on dwelling houses, stores, shops and other buildings, and on household furniture, merchandise and other property against loss or damage by fire orginating in any cause other than by design on the part of the assured, and for such other purposes as are now or may be hereafter enumerated in section 502.

R.S.1954, c. 60, § 82; 1963, c. 51.

§ 1452. Indorsements on policies

Every domestic mutual fire insurance company shall cause to be printed or written on the outside of every policy that it issues, under the number, name of the assured and date of expiration, the words "Total liability to assessment" and the figures showing such liability, except nonassessable policies.

R.S.1954, c. 60, § 83.

§ 1453. Insured as member

Every person insured by a domestic mutual fire insurance company, or his legal representatives or assigns, continuing to be insured therein, is a member of the company and subject to its bylaws during the term of insurance specified in his policy.

R.S.1954, c. 60, § 84.

§ 1454. Assessments; limits of liability stated

The insured, before receiving his policy, shall deposit his note for the sum determined by the directors, which shall not be less than 5% of the amount insured, and such part of it as the bylaws require shall be immediately paid and indorsed thereon. The remainder shall be assessed in such installments as the di-

rectors from time to time require for the payment of losses, accrued expenses and a reasonable overlay, to be assessed on all who are members when such losses or expenses happen, in proportion to the amounts of their notes. A mutual company which collects a cash premium of not less than the tariff rate charged by stock companies may take a premium note for an equal amount and such companies shall maintain a premium reserve equal to 50% of the cash premium on its policies in force. No domestic mutual insurance company shall insure in one risk an amount exceeding 25% of its gross assets, including the amount at any time due on its premium notes. In each case the net retention of liability shall be determined by section 507. Any mutual company in place of the premium note required by law may provide in the policy of insurance as a condition of the insurance made by the policy that the insured and legal representatives shall pay in addition to the stipulated premium of such policies such sum as may be assessed by the directors of the company pursuant to the laws of this State, but such contingent liability of a member shall not be less than an amount equal to the cash premium written in his policy. The total amount of the liability of the policyholder shall be plainly and legibly stated upon the filing-back of each policy. The delivery of the policy and payment of the premium by any assured shall be deemed an acceptance of the contract.

Any domestic mutual insurance company may, without pledging any of its assets, receive advances or borrow funds necessary for the purpose of its business or to enable it to comply with any surplus requirement or to make good any impairment or deficiency or other requirement of the laws of this State, or to defray the reasonable expenses of its organization, or to provide any fund to be voluntarily contributed to surplus, upon an agreement that such moneys and such interest thereon as may be agreed upon, said interest not exceeding 6% per year, shall be repaid only out of free and divisible surplus of such insurer with the approval of the commissioner whenever, in his judgment, the financial condition of such insurer warrants it. Any such sum or sums so advanced or so borrowed shall not form a part of the legal liabilities of such insurer and shall not be a basis of any counterclaim; but until repaid all statements published by such insurer or filed with the commissioner shall show, as a footnote thereto, the amount thereof then remaining unpaid. No such contract or agreement shall be valid unless first approved by the commissioner in writing as not unfair, misleading or contrary to any law of this State.

A domestic mutual fire insurance company from and after July 9, 1943 may issue nonassessable advance cash premium policies in this State upon compliance with either of the following requirements, notwithstanding any special law or charter previously enacted by the Legislature:

1. Surplus. It shall have and maintain a surplus to policyholders, as determined by its latest annual statement filed with the commissioner, of not less than $100,000, or

2. Surplus and unearned premium reserve. It shall have and maintain a surplus to policyholders, as determined by its latest annual statement filed with the commissioner, of not less than $75,000, provided its unearned premium reserve is at all times less than its surplus to policyholders.

If such a company, after qualifying to issue a nonassessable advance cash premium policy, shall fail to maintain one of these requirements it shall cease to issue a nonassessable policy until it has again met and maintained the requirements for a period of one year. If such a company issues both assessable and nonassessable advance cash premium policies, any assessment levied under the contingent liability provisions of this Title shall be for the exclusive benefit of holders of policies subject to assessment and such policyholders shall not be liable to an assessment in an amount greater in proportion to the total deficiency than the ratio that the deficiency attributable to the assessable business bears to the total deficiency.

R.S.1954, c. 60, § 85; 1961, c. 317, § 188.

§ 1455. Liability of agents; licenses for agents

Any person who solicits insurance on behalf of any domestic mutual fire insurance company or transmits for a person other than himself an application for, or a policy of insurance to or from such company, or in any manner acts in the negotiation of such insurance, or in the inspection or valuation of the property insured shall be deemed the agent of such company and, except as otherwise provided, shall become liable to all the duties, requirements, liabilities and penalties to which an agent of any insurance company is subject. Said companies shall procure licenses for their agents as provided in section 2502, but no fee shall be required by the commissioner for licenses issued to the agents of such companies.

R.S.1954, c. 60, § 87; 1959, c. 346, § 5.

§ 1456. Policy and note one contract; insolvency; liability of insured; note surrendered

A policy of insurance issued by a life, fire or marine insurance company domestic or foreign, and a deposit note given therefor are one contract. A loss under such policy or other equitable claims may be proved in defense to said note, though it was indorsed or assigned before it was due. When a company becomes insolvent, the maker of the note is only liable for the equitable proportion thereof which accrued during the solvency. If the insolvency occurs within 60 days of the date of the note, it is void except for the amount of the maker's claim, if any, on the company. No insured shall be held to contribute to any losses or expenses beyond the amount of his deposit note. At the expiration of his term of insurance, his note, on payment of all assessments for which it is liable, shall be relinquished to him, except as provided in section 1457.

R.S.1954, c. 60, § 88.

§ 1457. Lien on insured real estate

Any fire insurance company shall have a lien against the assured, on the buildings insured and the land appurtenant thereto, for the amount at any time due on said note, to commence from the time of the recording of the same, and to continue 60 days after the expiration of the policy on which such note is given, if the company causes a certificate of its claim to such lien, signed by the secretary, to be recorded by the register of deeds for the county or district. During the pendency of such lien, an attachment of such property, in a civil action on said note in favor of the company, has priority of all other attachments or claims. Execution, when recovered, may be levied on it accordingly.

R.S.1954, c. 60, § 89; 1963, c. 414, § 69.

§ 1458. Remedy if assessment not paid

If any assessment, made as provided in section 1454, is not paid by some person liable to pay the note, within 30 days after written demand by the company or its agent, the directors may declare the policy suspended until the assessment is paid or may at their option sue for and collect the amount due on such note. The full amount collected may remain in the treasury of the company subject to the payment of such sums as might otherwise be assessed on the note. The overplus at the termination of the policy shall be returned to the assured. Forwarding such notice to

the assured by mail to his last known address, or delivering it to him in hand by an authorized agent or officer of the company, shall be deemed conclusive proof that said notice has been duly given.

R.S.1954, c. 60, § 90.

§ 1459. Lien continues on deceased's property; policy descends to estate

Upon the death of a member, the lien of the company remains good on the property insured to the amount due on the deposit note, and the policy descends to the executor or administrator of the deceased for the benefit of the estate during its continuance, unless voluntarily surrendered or forfeited by the charter of the company.

R.S.1954, c. 60, § 91.

§ 1460. Annual statements by directors

The directors of every mutual company shall cause a detailed account of their expenses for the year preceding, the amount of property actually insured at that time, the amount due on their premium notes and the amount of all debts due to and from the company to be laid before the policyholders at the annual meeting.

R.S.1954, c. 60, § 92.

§ 1461. Compensation of directors; votes by proxy limited

The salary or compensation for services of the directors of domestic mutual fire insurance companies shall be fixed by the policyholders at their annual meeting and no policyholder or other person is allowed more than 15 votes by proxy.

R.S.1954, c. 60, § 93; 1959, c. 16.

§ 1462. Court review of assessments; adjustment of claims where no assessment made

Whenever the directors of a mutual fire insurance company or a mutual marine insurance company make an assessment or call on its members for money, or by vote determine that there exists a necessity for such assessment or call, they, or any person interested in the company as an officer, policyholder or creditor, may file in the Superior Court in any county, a complaint, praying the court to examine said assessment or call or to determine the

necessity therefor and all matters connected therewith, and to ratify, amend or annul the assessment or call or to order that the same be made as law and justice may require. The decision on such complaint, when filed by any party except the corporation, or a receiver or the commissioner, shall rest in the discretion of the court. Whenever the directors unreasonably neglect to make an assessment or call, to satisfy an admitted or ascertained claim upon the company, any judgment creditor, or any person holding such admitted or ascertained claim or the commissioner may make the application. Upon such application, if made by the directors, or upon order of court if made by application of any other party, the directors shall set forth the claims against the company, its assets and all other facts and particulars appertaining to the matter.

R.S.1954, c. 60, § 94; 1961, c. 317, § 189.

§ 1463. Order of notice to parties interested and proceedings

The court before which the complaint described in section 1462 is filed shall order notice to all parties interested, by publication or otherwise. Upon the return thereof, the court shall proceed to examine the assessment or call, the necessity therefor and all matters connected therewith. Any parties interested may appear and be heard thereon, and all questions that may arise shall be heard and determined as in other civil actions in which equitable relief is sought. The court may refer the apportionment or calculation to any competent person, and upon the examination may ratify, amend or annul the assessment or call, or order one to be made. In case the assessment or call is altered or amended, or one is ordered, the directors shall forthwith proceed to vote the same in legal form and the record of such vote shall be set forth in a supplemental answer.

R.S.1954, c. 60, § 95; 1961, c. 317, § 190.

§ 1464. Proceedings before master or auditor

Whenever the court appoints a master or auditor to make the apportionment or calculation for an assessment, such master or auditor shall appoint a time and place to hear all parties interested in the assessment or call, and shall give personal notice thereof, in writing, to the commissioner, and through the post office or in such other manner as the court directs, so far as he is able, to all persons liable upon said assessment or call. Said auditor or master shall hear the parties and make report to the

court of all his doings respecting such assessment or call, and all matters connected therewith, and all parties interested in such report or assessment have a right to be heard by the court, respecting the same, in the same manner as is provided.

R.S.1954, c. 60, § 96.

§ 1465. Assessments, when final; control of funds and payment of assessments

When an assessment or call has been ratified, ascertained or established as provided for in sections 1462 to 1464, a decree shall be entered which shall be final and conclusive upon the company and all parties liable to the assessment or call as to the necessity of the same, the authority of the company to make or collect it, the amount thereof and all formalities connected therewith. Where an assessment or call is altered or amended by vote of directors and decree of the court thereon, such amended or altered assessment or call is binding upon all parties who would have been liable under it as originally made, and in all legal proceedings shall be held to be such original assessment or call. All proceedings shall be at the cost of the company, unless the court for cause otherwise orders. In all cases the court may control the disposal of the funds collected under these proceedings, and may issue all necessary processes to enforce the payment of such assessments against all persons liable therefor.

R.S.1954, c. 60, § 97.

§ 1466. Assessments not sufficient; collection stayed by court

Whenever it shall appear to the court before which the complaint provided for in section 1462 is pending, that the net proceeds of any assessment or call will not be sufficient to furnish substantial relief to those having claims against the company, it may decree that no assessment shall be collected. When, on application of the commissioner or any person interested, said court is of opinion that further attempts to collect an assessment then partially collected will not benefit those having claims against the company, it may stay its further collection.

R.S.1954, c. 60, § 98; 1963, c. 414, § 70.

§ 1467. Insolvency or hazardous condition

Whenever any domestic mutual fire insurance company or assessment casualty company is found after examination to be

insolvent, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, its creditors or to the public, or when it has willfully violated its charter or any law of the State, or has refused to submit its books, papers, accounts and affairs for examination, the commissioner may, the Attorney General representing him, file in the Superior Court a complaint seeking for an order directing such corporation to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors or the public may require.

R.S.1954, c. 60, § 99; 1961, c. 317, § 191.

§ 1468. Injunction; hearing

On the application provided for in section 1467 or at any time thereafter, the court may, in its discretion, issue an injunction restraining such corporation from the transaction of its business or disposition of its property until the further order of the court. On the return of such order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner or his successor in office forthwith to take possession of the property and conduct the business of such corporation, and retain such possession and conduct such business until, on the application either of the commissioner, the Attorney General representing him, or of such corporation, it shall, after a like hearing, appear to the court that the ground for such order directing the commissioner to take possession has been removed and that the corporation can properly resume possession of its property and the conduct of its business.

R.S.1954, c. 60, § 100.

§ 1469. Decree of sequestration

If on the complaint provided for in section 1467, the court shall direct the commissioner to take possession of the property, conserve the assets of such corporation and conduct the business of the company, the rights of the said commissioner with reference to such corporation and its said assets shall be the same as those exercised by receivers and masters appointed by the courts for liquidation of insurance companies.

R.S.1954, c. 60, § 101; 1961, c. 317, § 192.

§ 1470. Special deputies, counsel and assistants

For the purposes of sections 1467 to 1471 the commissioner shall have power to appoint, under his hand and official seal, one or more special deputies as his agent or agents, and to employ such counsel, clerks and assistants as may be by him deemed necessary, and give each of such persons such powers to assist him as he may consider wise. The compensation of such special deputies, counsel, clerks and assistants, and all expenses of taking possession of and conducting the business of liquidating any such corporation, shall be fixed by the commissioner, subject to the approval of the court and shall, on certificate of the commissioner, be paid out of the funds or assets of such corporation. The commissioner may, subject to the approval of the court, make and prescribe such rules and regulations as to him shall seem proper.

R.S.1954, c. 60, § 102.

§ 1471. Removal of office and papers

At any time after the commencement of proceedings under an order of liquidation made pursuant to sections 1467 to 1470, the commissioner may remove the principal office of the corporation in liquidation to the City of Augusta. In event of such removal the court shall, upon the application of the commissioner, direct the clerk of the judicial courts in the county wherein such proceeding was commenced to transmit all of the papers filed therein with such clerk, to the clerk of the judicial courts in the County of Kennebec. The proceedings shall thereafter be conducted in the same manner as though they had been commenced in the County of Kennebec.

R.S.1954, c. 60, § 103.

SUBCHAPTER III

LIEN OF MORTGAGEES ON POLICIES

Sec.
1521. Lien established; application of payments.
1522. Enforcement of lien.
1523. Application of amount recovered.
1524. Priority of mortgagees.
1525. Mortgagee's policy void, unless consented to.

§ 1521. Lien established; application of payments

The mortgagee of any real estate or the mortgagee of any personal property shall have a lien upon any policy of insurance

against loss by fire procured thereon by the mortgagor, to take effect from the time he files with the secretary of the company a written notice, briefly describing his mortgage, the estate conveyed thereby and the sum remaining unpaid thereon. If the mortgagor, by a writing by him signed and filed with the secretary, consents that the whole of the sum secured by the policy, or so much as is required to discharge the amount due on the mortgage at the time when a loss occurs, shall be applied to the payment of the mortgage, it shall be so paid by the company and the mortgagee's receipt therefor shall be a sufficient discharge of the company.

R.S.1954, c. 60, § 111.

§ 1522. Enforcement of lien

If the mortgagor does not consent as provided for in section 1521, the mortgagee of any real estate may, at any time within 60 days after a loss, and the mortgagee of any personal property may at any time within 30 days after a loss, enforce his lien by a civil action against the mortgagor, and the company as his trustee, in which judgment may be rendered for what is found due from said company upon the policy, notwithstanding the time of payment of the whole sum secured by the mortgage has not arrived, and which said action shall be commenced and service made on such trustee within said 60 or 30 days.

R.S.1954, c. 60, § 112; 1963, c. 414, § 71.

§ 1523. Application of amount recovered

The amount recovered under section 1522 shall be applied first to the payment of the costs of the civil action and officer's fees on the execution and next to the payment of the amount due on the mortgage. The balance, if any, shall be retained by the company and paid to the mortgagor. If the company assumes the defense, it shall be liable to the plaintiff for costs in the same manner as the principal defendant, defending the action, would be.

R.S.1954, c. 60, § 113; 1963, c. 414, § 72.

§ 1524. Priority of mortgagees

When 2 or more mortgagees claim the benefit of sections 1521 to 1523, their rights shall be determined according to the priority of their claims and mortgages by the principles of law.

R.S.1954, c. 60, § 114.

§ 1525. Mortgagee's policy void, unless consented to

When any mortgagee claims the benefit of sections 1521 to 1524, any policy of insurance which he had procured or subsequently procures on his interest in the same property by virtue of his mortgage is void, unless consented to by the company insuring the mortgagor's interest.

R.S.1954, c. 60, § 115.