

LEGISLATIVE BILL 1059

Approved by the Governor January 19, 1972

Introduced by William F. Swanson, 27th District

AN ACT to amend sections 44-3,103, 44-3,108, and 44-1034, Reissue Revised Statutes of Nebraska, 1943, and sections 44-386.03 and 44-711, Revised Statutes Supplement, 1969, relating to insurance; to harmonize the provisions thereof with previous legislation; to eliminate obsolete matter; to clarify the meaning thereof; and to repeal the original sections. Be it enacted by the people of the State of Nebraska,

Section 1. That section 44-386.03, Revised Statutes Supplement, 1969, be amended to read as follows:

44-386.03. Every such association shall hold annual meetings of its members at regular intervals which shall not be, in any case, more than fourteen nor less than ten months apart. At such annual meeting there shall be transacted such business of the association as may come before it, which business shall include but not be limited to the election of officers or directors from among the members. All of said officers or directors shall be elected annually and shall not be less than five in number; Provided, that the Director of Insurance may approve a different number of directors and officers, or a different method of choosing the directors or officers, or both, or both a different number and a different method of choosing such directors and officers, if, in the opinion of the director, the interests of the members of the association are adequately protected thereby. Passage of all matters and business of such association shall require at least a majority vote of the members present in person or by proxy at any annual meeting or at any special meeting called. Notice of such annual meeting or special meeting shall be mailed to each member at his last-known address or otherwise distributed to him not less than ten nor more than thirty days prior to such meeting; Provided, that all references to members in this section shall be construed to mean a parent or the legal guardian of every member who is under twenty-one twenty years of age. The minutes of every annual and special meeting must be taken and made available to any member upon request.

Sec. 2. That section 44-3,103, Reissue Revised Statutes of Nebraska, 1943, be amended to read as

follows:

44-3,103. The Department of Aeronautics is authorized to purchase and pay for physical damage insurance on real property owned by it; Provided, that the provisions of this section shall not apply to any building, structure or other property whose repair, reconstruction or replacement will or may be accomplished out of the general tax, ~~or-building-levy-fund~~:

Sec. 3. That section 44-3,108, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-3,108. 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 Director of Insurance by rules and regulations may be exempt as not comprehended within the purpose of this section.

Sec. 4. That section 44-711, Revised Statutes Supplement, 1969, be amended to read as follows:

44-711. After the expiration of such thirty days from the filing of any such form, as provided in section 44-710, or at any time after having given written approval thereof, the director may, after a hearing of which at least ten days' written notice has been given to the insurer issuing such form, withdraw approval on any of the grounds stated in section 44-710. Such

disapproval shall be effected by written order of the director which shall state the grounds for disapproval and the date, not less than thirty days after such hearing, when the withdrawal of approval shall become effective. An appeal from the decision of the Director of Insurance may be taken pursuant to Chapter 44.

Sec. 5. That section 44-1034, Reissue Revised Statutes of Nebraska, 1943, be amended to read as follows:

44-1034. Service shall only be made upon such attorney, must be made in duplicate upon the Director of Insurance or, in his absence, upon the person in charge of his office, and shall be deemed sufficient service upon such society; Provided, however, that no such service shall be valid or binding against such society when it is required thereunder to file its answer, pleading or defense in less than thirty days from the date of mailing the copy of such service to such society. When legal process against any such society is served upon the director, he shall forthwith by either certified or registered mail send one of the duplicate copies prepaid and directed to its secretary or corresponding officer. Legal process shall not be served upon any such society except in the manner provided herein.

Sec. 6. That original sections 44-3,103, 44-3,108, and 44-1034, Reissue Revised Statutes of Nebraska, 1943, and sections 44-386.03 and 44-711, Revised Statutes Supplement, 1969, are repealed.