

## A BILL

FOR AN ACT TO REGULATE THE PAYMENT OF LOSSES BY FIRE INSURANCE COMPANIES, AND TO DEFINE THE DUTIES OF SUCH COMPANIES IN CERTAIN CASES; AND TO PREVENT OVER-INSURANCE OF BUILDINGS AND OTHER STRUCTURES.

SECTION 1. *Be it enacted by the General Assembly of the State of Iowa,* It shall not be lawful for any company, corporation, association or individual, transacting the business of fire insurance in this state, to take any application for, or make, issue or deliver any policy of insurance, or renewal, upon any real estate without first making a careful examination of the property sought to be insured, with a view to ascertain the condition, situation and actual value thereof.

SEC. 2. It shall not be lawful for any such company, corporation, association or individual to insure any real estate for a greater amount than two-thirds of the actual cash value thereof.

SEC. 3. Any company, corporation, association or individual, hereafter insuring any building or structure against loss or damage by fire or lightning, by renewal of a policy heretofore issued or otherwise, in case the property insured shall be wholly destroyed, in the absence of any change in the property materially increasing the risk, without the consent of the insurer, and also of intentional fraud or criminal fault on the part of the assured or his assigns, shall pay the full amount mentioned in the policy or renewal, less any depreciation in the property after the date of the policy, upon which the insurer receives a premium, and the amount of the insurance written in such policy shall be taken conclusively to be the true value of the property when insured, and the true amount of loss and measure of damages when destroyed, less any depreciation in the property, as above stated: and in case there are two or more policies upon the property, each policy shall contribute to the payment of the loss in proportion to the amount of insurance mentioned therein; but in no case shall the insurer be required to pay more than the amount mentioned in its policy; and any condition or stipulation in any policy of insurance or contract, providing that the insurer may rebuild or repair the property in case of loss or damage, shall be void.

SEC. 2. *Be it further enacted*, If any statement contained in the schedule made and sworn  
2 to, as contemplated in section one of this act, is found to be false, the person verifying said  
3 schedule shall be deemed guilty of a misdemeanor and perjury, and the court shall find ac-  
4 cordingly; and the county in which said person resides shall receive from such person or per-  
5 sons, by a suit, \$500 for each and every such offense; and the said amounts shall be deposited  
6 for the benefit of the school fund of this state.

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SEC. 4. In any suit or action brought in any court in this state upon any policy of insurance, on any building or structure, the company, corporation, association or individual issuing the policy of insurance sued upon, shall be estopped from pleading or proving any over-valuation of the property insured, or any misrepresentation of the condition or situation thereof, unless such misrepresentation or over-valuation be willfully false and directly material to the risk.

SEC. 5. A person who solicits insurance and procures the application therefor, shall be held to be the agent of the party hereafter issuing or renewing a policy upon such application, anything in the application or policy to the contrary notwithstanding.

SEC. 6. In any suit or action brought upon any policy of insurance, if defense be made thereto, and the defendant fails to establish such defense, and judgment be rendered for the plaintiff, the court shall thereupon render judgment against the defendant, and in favor of the plaintiff, for a reasonable attorney fee in such action, in addition to the amount recovered in the suit and the taxable costs.

SEC. 7. All fire insurance companies, or corporations, shall, upon issuing or renewing any policy, attach to such policy, or indorse thereon, a plain copy of any application or representation of the assured, which by the terms of the policy is made a part thereof, or of the contract of insurance, or referred to therein, or which may in any maner affect the validity of such policy. The omission to do so shall not render the policy forfeited, but if any corporation, company or association neglects to comply with the requirements of this section it shall forever be precluded from pleading, alleging or proving such application or representation, or any part thereof, or the falsity of any part thereof, in any action upon such policy; and the plaintiff in any such action shall not be required, in order to recover against the insurer, to plead or prove such application or representation, but may do so at his option.

SEC. 8. Any stipulation or agreement in any policy or contract, limiting the time in which suit may be commenced on any policy for loss to a less period than two years after the loss occurs, shall be void.

SEC. 9. In case of loss, the assured shall have not less than sixty days thereafter in which to serve upon the insurer a notice thereof, accompanied by an affidavit, stating when the loss occurred, and whether the same was total or partial, and the amount claimed from the insurer by reason thereof. Such notice and affidavit may be served upon any agent of the insurer in the county where the loss occurred, or upon the company, and when made upon the company the service may be personal, or may be made by mailing the same to the company, addressed to it at its principal place of business. But no informality in such notice or affidavit shall affect the assured in his right of recovery, if the same be sufficient to afford

9 reasonable notice to the insurer that a loss has occurred, and the locality thereof. And after  
10 notice of any loss the insurer shall have sixty days thereafter in which to adjust and pay the  
11 same, before any suit can be commenced therefor. But no condition or stipulation in any  
12 policy or contract shall be valid that requires of the assured the performance of any act, be-  
13 fore he can bring suit for a loss, other than the notice and affidavit in this section specified.

SEC. 10. Any violation by any fire insurance company or association doing business in  
2 this state, of either of sections one, two and seven of this act, shall subject such company or  
3 association to a penalty of one hundred dollars for each offense, which may be collected by  
4 suit, in the name of the state by the district attorney, in the county where such offense is  
5 committed; and such penalty, when collected, shall be paid into the county treasury for the  
6 benefit of the school fund. But no violation of such sections, or either of them, by such  
7 company or association shall forfeit the policy.

SEC. 11. This act, being deemed of immediate importance, shall take effect from and  
2 after its publication in the *Iowa State Register* and the *Iowa State Leader*, newspapers pub-  
3 lished at Des Moines, Iowa.