

CHAPTER 200.

INSURANCE DEPARTMENT.

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200.01 Commissioner; qualifications, appointment, term. (1) On the effective date of this amendment (1957) the term of office of the incumbent commissioner of insurance shall expire and thereupon the governor, by and with the advice and consent of the senate, shall appoint a successor commissioner of insurance for a term commencing on the date of his appointment and ending June 1, 1959. Thereafter successors shall be appointed in like manner for terms of 4 years at least 30 days prior to the expiration of an incumbent's term and during the biennial session of the legislature within which such term expires. Such commissioner shall hold office until his successor is appointed and qualified.

(2) The person so appointed as such commissioner shall be known to possess a knowledge of the subject of insurance, and skill in matters pertaining thereto. No person appointed as such commissioner shall hold any other office under the laws of this or of any other state or of the United States. Such commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or profit, engage in any occupation or business interfering with or inconsistent with his duties, or serve on or under any political committee or as manager of any political campaign for any candidate or party. The commissioner of insurance shall be allowed such sum as may be required for his actual and necessary expenses incurred in representing this state at the annual meeting of the national convention of insurance commissioners.

200.02 Commissioner; oath; bond; seal. The commissioner shall take and file the official oath and effect coverage of himself under an official blanket or official position schedule bond in the penal sum specified in section 200.18. The commissioner shall have an official seal.

200.03 Commissioner; powers and duties generally. (1) **OFFICE LOCATION.** The commissioner shall have his office in the capitol and shall be provided by the department of administration with postage, stationery and office supplies and necessary printing.

(2) **SUPERVISION.** He shall enforce the laws relating to insurance and shall exercise such supervision and control over insurance companies and insurance agents doing business in this state as the law requires; and to that end he may make reasonable rules for their enforcement; and he may, by himself or by designation of his subordinates and other persons, conduct investigations, examinations and hearings, and administer oaths and take testimony.

(3) **LICENSE COMPANIES.** He shall examine insurance companies applying for a license to transact business, and if the affairs or conditions of any company fully meet the requirements of law, he shall issue his certificate licensing such company to do business, otherwise he shall deny the application.

(4) **VISITATION, REVOCATION OF LICENSE.** He may in person or by agent visit the general office of any licensed foreign insurance company and examine its affairs and conditions, and may revoke its license for failure to comply with the law or refusal to allow such examination.

(5) **NOTICE OF REVOCATION OF LICENSE.** He shall upon revocation of the license of a company give notice thereof by mail to all its agents who have been furnished a copy of such license, and shall publish notice of the revocation in the official state paper.

(7) **FORMS FOR ANNUAL STATEMENTS.** He shall prepare forms for annual statements for various kinds of insurance companies and societies and shall furnish them with such statement blanks.

(9) **ATTEND CONVENTIONS.** He shall represent this state at the annual meeting of the insurance commissioners of the several states.

(11) **STATE FIRE MARSHAL.** He shall be ex officio state fire marshal, and as such shall keep an itemized statement of all expenses incurred by him in the discharge of his duties; and shall audit all claims and vouchers for such expenses before they are submitted to the department of administration for payment.

(13) **DEPUTY COMMISSIONER.** The deputy commissioner of insurance shall take and file the official oath. Such deputy whenever detailed to special acts shall have the same power as the commissioner in all matters connected therewith; and in case of a vacancy in the office of commissioner or of the absence of the commissioner from the capitol, the deputy shall discharge the duties and exercise the powers of the commissioner.

(14) **CERTIFICATES OF AUTHORITY.** He shall keep in his office a complete record of all certificates of authority issued under ss. 209.04 and 206.41.

(15) **ATTORNEY FOR FOREIGN COMPANIES.** He is by law constituted the attorney for all insurance companies admitted to this state for the purpose of service of summons and all other legal processes upon such companies while licensed here and thereafter so long as there are any liabilities outstanding against them in this state.

(16) **SERVICE ON COMMISSIONER.** The service of such process shall be made by leaving duplicate copies thereof in the hands or office of the commissioner of insurance and paying to him for the use of the state the fee required by s. 200.13 (18) for each company. A certificate by the commissioner of insurance showing such service and attached to the original or third copy of such process presented to him for that purpose shall be sufficient evidence thereof.

(18) **NONPROFIT SERVICE PLANS.** He shall have such powers and perform such duties as are given to him or required of him and may perform such functions as he is permitted under s. 200.26, and for purposes of enforcing the provisions of that section may proceed under ss. 200.08, 200.13 and 200.14 to the same extent and in the same manner as if such organizations were domestic insurance corporations.

History: 1961 c. 33, 397, 463, 562, 624.

Under 200.03 (2) and 204.31 (3) (g) 3 Commissioner of insurance may adopt specific rule prohibiting use of word "compensation" in advertisement and solicitation prohibiting insurance or renewal of accident and sickness policies containing restrictive provisions. 50 Atty. Gen. 1. for policies if it would be misleading or encourage misrepresentation. 50 Atty. Gen. 8.

200.04 Reports, examinations, revocation of licenses, deposits, employes, expenses, collections, audit and payments. (1) All reports required of any insurance company shall be made to the commissioner.

(2) He may require any licensed insurance company or insurance agent from time to time to report to him in such form as he requires, in relation to its condition and any matter connected with its transactions. When written charges are filed against any company or insurance agent alleging that any return or statement filed by it with the commissioner is false, or that its affairs are in an unsound condition, or that it has violated the insurance laws of this state, he shall, and he may at any time on his own motion, examine into its affairs and conditions, and for that purpose may, without regard to the classified service, appoint as examiners, one or more competent persons who shall not be an officer or the agent of or in any manner interested, except as a policyholder, in any insurance company, and it shall be the duty of the company or insurance agent examined, its officers and agents, to open its books for inspection.

(3) If it shall appear to the commissioner that any foreign company is in an unsound financial condition he may revoke its license; and he shall cause a notice of such revocation to be published in the official state paper, and mail a copy thereof to each licensed agent of the company, and such agents shall thereupon discontinue writing business for it.

(4) The commissioner may require from any insurance company and any mutual benefit society, before and from time to time during any examination, such deposit with the state treasurer as he shall deem necessary for the cost of such examination. The commissioner shall determine the cost of each examination made, which shall include the salary and expenses of each examiner or other employe of the department of insurance whose services are required in connection with such examination or any report thereof, and any other expenses which may be directly apportioned. Deposits or payments made for such examinations shall be credited to the appropriation made by s. 20.460 (40). Section 76.305 shall not be applicable to any such deposits or payments and any such

deposits or payments shall not be deemed to be a tax or license fee within the meaning of any statute. If any other state shall charge a per diem fee for examination of companies of this state, the insurance companies of such other state shall be required to pay the same fee when examined by the insurance department of this state.

(5) In lieu of the procedures for examining insurers, mutual benefit societies, companies and insurance agents, the commissioner may accept a report of an examination made by a certified public accountant provided such examination and its report is in a form acceptable to the commissioner.

History: 1961 c. 463, 624.

200.05 Hearings; depositions; fees. The fees for stenographic services in investigations, examinations and hearings shall not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the department of administration, authorized by the certificate of the commissioner of insurance and shall be charged to the appropriation for the commissioner.

History: 1961 c. 316.

200.06 Restoration of capital. (1) Any domestic insurance corporation which is directed by the commissioner to make good its capital shall forthwith assess its stockholders the necessary amount therefor. If any stockholder fails to pay the amount of the assessment against his stock within 10 days after the same has become due and payable, the directors shall by resolution declare the stock of such person canceled and in lieu thereof, shall issue new certificates for such shares and sell the same at public sale upon 10 days' notice to be given by posting copies of such notice of sale in 5 public places in the town, village or city where such company is located. Upon such sale, the purchaser shall forthwith pay the amount of the assessment against said stock. The amount received from the sale of said stock, less the cost and expenses of such sale, shall be paid to the original owner of such stock.

(2) If losses accrue from risks taken after the expiration of the period limited by said commissioner for restoring the capital before such deficiency is made up, the directors shall be individually liable therefor. The transfer of the stock of such corporation, made during the investigation, by the commissioner, shall not release the transferor from his liability for losses which occurred previous to such transfer. Nothing herein contained shall be construed to impose any liability on any stockholder other than the return of the certificate of stock held by him as herein provided.

200.07 Reduction of capital. When the capital of any domestic insurance corporation is impaired to an amount exceeding twenty-five per cent thereof, and the commissioner shall be of the opinion that the interests of the public will not be prejudiced thereby, such corporation may, with his permission, reduce its capital and the par value of the shares thereof to such amount as he shall certify to be justified by the assets of such corporation; but no part of such assets shall be distributed to the stockholders, nor shall the capital stock be reduced to an amount less than the sum required by law for the organization of a corporation for the transaction of the same kind of business. Such a reduction of the capital must be authorized by a resolution adopted by a two-thirds vote of the board and signed by at least two-thirds of the directors and by its president. Upon the filing of a certified copy of such resolution, the commissioner shall execute a new certificate of incorporation to conform with such reduced capital, and the articles of organization shall be deemed to be amended in respect to the amount of its capital and of the par value of its shares so as to conform to such reduction. Such corporation may require the return of the certificate of stock held by each stockholder and in lieu thereof issue a new certificate for such number of shares as he may be entitled to.

200.08 Insolvent or delinquent companies; proceedings against. (1) When any domestic insurance company or fraternal or mutual benefit society is insolvent or has refused to submit its books, papers, accounts or affairs to reasonable inspection and examination, or has neglected or refused to obey an order of the commissioner to make good within the time prescribed any deficiency in its capital or its reserve, or has transferred or attempted to transfer its entire property or business, or entered into any transaction, the effect of which is to merge its property or business in the property or business of any other company or society, without having obtained the written approval of the commissioner, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public, or has wilfully violated its charter or articles of incorporation, or any law of the state, or any officer thereof has refused to be examined on oath touching its affairs, the commissioner may apply by veri-

fied petition to the circuit court of the home county of the company or society for and the court may make an order directing the company or society 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 interest of its policyholders, creditors, stockholders and the public may require.

(2) The court may also enjoin such company or society from the transaction of business or the disposition of its property, and may authorize the commissioner to immediately enter into the possession of such property and the conduct of such business, until the further order of the court.

(3) After hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such company or society, and retain such possession and conduct such business until the court shall find and order that such company or society can properly and safely resume possession of its property and the conduct of its business.

(4) If, on a like application and order to show cause the court shall order the liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner, who may deal with the property and business of such company or society in his name as commissioner or in the name of the company or society, as the court may direct, and shall be vested by operation of law with the title to all of the property, contracts and rights of action of such company or society as of the date of such order.

(5) The compensation of such special deputies, counsel, clerks and assistants, as the commissioner shall appoint to execute the orders of the court, and all expenses of taking possession of and conducting the business of liquidating such company or society, 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 assets of such company or society.

(6) To carry out the purposes of this section, the commissioner shall have power, subject to the approval of the court, to make and prescribe such rules and regulations as to him shall seem proper.

(7) The commissioner shall state in his annual report the names of the companies or societies so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall indicate his proceedings under this section.

(8) This section shall extend to the promoters, organizers, trustees or other persons having charge of the property or affairs of any domestic insurance company or fraternal or mutual benefit society proposed or attempted to be organized, including any corporation organized or proposed to be organized to hold or control the stock or securities of any such insurance company, and to any property within the jurisdiction of the courts of this state belonging to any foreign company or society.

200.09 Insolvency; powers of commissioner. All the powers and authority conferred upon the commissioner of banking, by section 220.08 and any amendment thereto, are hereby conferred upon and extended to the commissioner of insurance as to all insurance companies and fraternal or mutual benefit societies.

200.10 Enforce rights of policyholders. When the commissioner shall be satisfied that any insurance company, or fraternal benefit society, whose license has expired or has been revoked, does or omits to do any act whereby the rights of policyholders of such company, society or insurer, who are citizens of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with such policyholders is adversely affected, or refuses or neglects to make the settlements with or payments to such policyholders, or any class of such policyholders fairly required under its contracts, or in any other respect fails to carry out the agreements in its contracts with all or any class of such policyholders, he may, with the written consent of the governor and attorney general, made after such company, society or insurer shall have had notice of and opportunity for a hearing before the governor, attorney general and commissioner, bring an action in the name of the state in behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in such action and the expenses shall be borne as in other civil actions in behalf of the state. The company or society is required forthwith upon service of the complaint to file with the commissioner the names and addresses of all policyholders who are citizens of this state, or who hold contracts issued or delivered in this state, and who are affected by such action. A notice of such action shall be mailed by the commissioner to every such policyholder, or by the company, society or insurer, to every such policyholder, when the commissioner shall so order. Any policyholder affected by such ac-

tion may intervene. A statement of every action so brought shall be made in the annual report of the commissioner.

200.11 Orders, notice, court review. (1) Notice of any order by the commissioner may be given personally to any company, society or person, or by sending a copy of such order by prepaid registered mail, and the mail service shall be complete upon the delivery or tender of the copy to such company, society, or person by the postal authorities, and may be proved by the receipt of the addressee on the form used by the postal authorities, or by their report thereon that tender or receipt has been refused.

(2) Within ten days after receiving written notice of any order of the commissioner and not thereafter, the company, society, or person affected thereby, by verified petition specifying the reasons therefor, may ask for a rehearing and review thereof before the commissioner, which hearing shall be had within ten days unless the petitioner shall request otherwise, and the final order shall be made within three days after the close of such hearing. All evidence presented on such hearing shall be preserved.

(3) Any final order of the commissioner may be reviewed in the manner provided in chapter 227, but no such review shall be had upon any order refusing a license to any foreign company or mutual benefit society to transact business in this state where such company or society shall not on the date of the application for such license be lawfully transacting business in this state.

200.13 Fees. There shall be paid to the commissioner the following fees:

(1) For filing documents for examination preliminary to initial licensing or for any other initial filing of documents required by law as a prerequisite for operating or otherwise providing services in this state, including the filing of articles of incorporation, the first declaration or statement, a certified copy of charter, and others:

- (a) Domestic insurance companies: nonstock and stock, \$100;
- (b) Foreign insurance companies: nonstock and stock, \$100;
- (c) Alien insurance companies: nonstock and stock, \$100;
- (d) Interinsurers, \$100;
- (e) Rating bureaus, \$100;
- (f) Advisory organizations, \$100;
- (g) Motor clubs, \$100.

(2) For issuing a certificate of authority:

- (a) Domestic insurance companies: nonstock and stock, \$100;
- (b) Foreign insurance companies: nonstock and stock, \$100;
- (c) Alien insurance companies: nonstock and stock, \$100;
- (d) Interinsurers, \$100;
- (e) Rating organizations: fire, casualty and workmen's compensation, \$100;
- (f) Motor clubs, \$100.

(3) For annual renewal of certificate of authority:

- (a) Domestic, foreign and alien nonstock companies, \$25;
- (b) Domestic, foreign and alien stock companies, \$25;
- (c) Interinsurers, \$25;
- (d) Rating organizations: fire, casualty and workmen's compensation, \$100;
- (e) Motor clubs, \$25.

(4) For filing articles of amendment, domestic companies, \$10; and an additional sum equal to \$1 for each \$1,000 or fraction thereof of par value shares and 2 cents for each share without par value as authorized after such amendment, less a credit computed at the foregoing rates upon all shares as authorized immediately prior to such amendment.

(5) For filing a copy of amendment to the articles of incorporation of a foreign or alien company, \$10. If the amendment is filed more than 60 days after the same has become effective in the home state, the corporation shall pay to the commissioner a penalty of \$25.

(6) For filing articles of merger, \$10; and an additional sum equal to \$1 for each \$1,000 or fraction thereof of par value shares and 2 cents for each share without par value as authorized after such merger, less a credit computed at the foregoing rates upon all shares of domestic corporations which are parties to merger as authorized immediately prior to such merger.

(7) For filing a copy of articles of merger of a foreign or alien company, other than with a domestic corporation, \$10.

(8) For filing a statement of intent to dissolve, domestic companies, \$5.

(9) For filing articles of dissolution, domestic companies, \$5.

(10) For filing an application for withdrawal and final report of a foreign or alien insurance company, \$25.

(11) For filing an application by a foreign or alien insurance company for amended certificate of authority to transact business in this state, \$5.

(12) For filing an application to reserve a corporate name, \$5.

(13) For filing a notice of transfer of a reserved corporate name, \$5.

(14) For filing an annual statement, \$25.

(15) For issuance or renewal of an annual license:

(a) Resident agent, \$1;

(b) Nonresident agent, \$10;

(c) Surplus lines, \$100;

(d) Adjusters of insurance, \$2.

(16) For issuing a temporary agent's license, \$1.

(17) For examination of an applicant for an agent's license or certificate of registration, \$5.

(18) For service of process on the commissioner, \$2.

(19) For certifying and affixing the commissioner's seal, \$1.

(20) For the valuation of life insurance company policies; for every \$1,000 insured, \$0.01, but not to exceed the actual cost of making such valuation.

(21) For a copy of a paper filed in his office:

(a) Each standard size page or smaller: if copy is not furnished by the requester, \$0.30; if copy is furnished by the requester, \$0.06;

(b) Each legal size page: if copy is not furnished by the requester, \$0.40; if copy is furnished by the requester, \$0.08;

(c) Each annual statement page: if copy is not furnished by the requester, \$0.65; if copy is furnished by the requester, \$0.20;

(d) The minimum charge to be, \$1.

(22) For each company or agent; per name, \$0.05.

(23) For filing miscellaneous papers, \$1.

(24) In case companies combine to effect insurance under a joint policy, each company shall pay the same fees as if each one wrote a separate policy.

(25) Town mutual insurance companies, voluntary nonprofit sickness care plans organized under s. 185.981 and interscholastic benefit plans organized under s. 185.991 are exempt from all provisions of this section except subs. (19) and (21). Mutual benefit societies are subject to this section except they are exempt from subs. (2), (3), (10), (11), (12), (13), (15), (16) and (17). Nonprofit service plans, as defined by s. 200.26, are subject to this section.

(26) For the purposes of this section "domestic company" means any authorized insurer incorporated or organized under any law of this state including mutual benefit societies and nonprofit service plans as defined by s. 200.26; "foreign company" means any insurer incorporated or organized under the laws of any state including mutual benefit societies; and "alien company" means any insurer incorporated or organized under the laws of any foreign nation, or of any province or territory not included under the definition of foreign company. "State" means any state of the United States, the government of Puerto Rico and the District of Columbia.

History: 1961 c. 562, 624.

200.14 Law enforcement. (1) The commissioner shall notify every insurance company of its violation of any insurance law of this state and, in case of persistent and wilful violation thereof, he shall, if a domestic company, report the same to the attorney general; and if it be a foreign company he shall suspend or revoke its authority to do business in this state; and upon satisfactory evidence to him of the violation of any of such provisions by any agent of any company he shall suspend or revoke the license of such agent. Said commissioner shall cause action to be brought to recover all forfeitures incurred by insurance companies or their agents. The attorney general may compromise every such forfeiture.

(2) In addition to the provisions of subsection (1) and in addition to the right of the commissioner or the state to invoke other sanctions provided for by any other statute, the commissioner is authorized, upon written consent of a person or company charged with a violation of the insurance laws or an order issued by the commissioner, to impose and accept a forfeiture against such person or company in an amount not exceeding \$500 for each such violation without holding a hearing. The clear proceeds of any amount paid or recovered under this subsection shall be paid into the school fund.

200.15 Commissioner's report. (1) The commissioner shall preserve in permanent form a full record of his proceedings, including a concise statement of the condition of each insurance company and mutual benefit society visited or examined by him.

(2) He shall also make a report to the governor each year which shall include:

(a) A list of all insurance companies and mutual benefit societies authorized to do business in this state during the year, with their names, locations, amounts of capital, dates of incorporation and commencement of business, and kind or kinds of insurance in which they are engaged, respectively.

(b) A list of the companies and mutual benefit societies which have ceased to do business in this state during such year and the reasons therefor; and of those admitted during the year.

(c) The kind and total amount of insurance carried in the state insurance fund together with the amount of premiums collected, the source and nature of any other income, and the disbursements made. The report shall state separately the premiums, losses, the kind and amount of insurance carried on state property, and on other than state property.

(d) A detailed report of his official actions as ex officio state fire marshal.

(e) Such other information on the general conduct and conditions of all insurance companies doing business in this state as he or the governor deems necessary.

(3) The commissioner shall have printed not less than 1,000 nor more than 2,500 copies of the report made under sub. (2), in the form and manner determined by him.

History: 1961 c. 562.

200.17 Fire department dues; lists of towns; payment. (1) The commissioner shall annually forward to every company transacting fire insurance in this state a list of all cities, villages and towns entitled to fire department dues.

(2) Every company effecting fire insurance in any city, village or town entitled to any fire department dues shall, before the first day of March in each year, file with the commissioner a statement, showing the amount of premiums upon said insurance, and pay to him the total amount of such fire department dues. Return premiums, as defined in section 76.30, may be deducted in determining the premium on which the fire department dues are computed.

(3) The commissioner shall, before the first day of May in each year, compile the fire department dues paid by all companies, and certify the proper amount for each city, village or town to the department of administration; and such amount shall, upon being audited by the department of administration, be paid by the state treasurer to the respective cities, villages and towns entitled to the same.

(4) The commissioner shall include in such compilation and certification of fire department dues the amount of two per centum on the premiums paid the state fire fund for the insurance of any public property, other than state, located within any city, village or town entitled to fire department dues, and the amount of such dues shall be included in the apportionment to such cities, villages and towns; the commissioner shall notify the state treasurer of the amount so certified and the state treasurer shall charge the amount to the state fire fund.

(4m) The aggregate payment of fire department dues by the commissioner to cities, villages and towns, maintaining fire departments manned wholly or partly by volunteer firemen, shall be reduced by an amount equal to one half of the amount appropriated annually for fire training programs under ss. 20.850 (5) and 41.14. The amount paid to each such city, village and town shall be reduced on a proportionate basis. Such amounts shall be retained in the general fund for the purposes of the appropriations made under s. 20.850 (5).

(5) The commissioner shall transmit to the treasurer of each city, village and town entitled to fire department dues, a statement of the amount of such dues payable to it; and he shall furnish to such treasurer, upon his request, a list of the companies paying such dues and the amount paid by each.

200.18 Blanket bond or official position schedule bond. (1) The commissioner of insurance shall effect coverage of himself, the deputy commissioner of insurance and each employe of the commissioner under an official blanket bond in the penal sum of \$100,000 or under an official position schedule bond in accordance with the following schedule:

- (a) Commissioner of insurance\$100,000
- (b) Deputy commissioner of insurance and assistant state fire marshal.....\$100,000
- (c) Administrative assistant of the commissioner, not less than.....\$100,000
- (d) Actuaries and examiners, each, not less than.....\$ 5,000
- (e) Deputy fire marshal, each, not less than.....\$ 5,000
- (f) Manager of state insurance fund, not less than.....\$ 5,000
- (g) Manager of state life fund, not less than.....\$ 5,000

(2) Each employe of the commissioner shall be liable for his acts, defaults or misconduct, and actions therefor shall be prosecuted directly against such employe and the surety on the official blanket or official position schedule bond. The commissioner shall not be responsible for the acts, defaults or misconduct of his employes except where employes act under express direction of the commissioner.

(3) Each and every bond required within this section shall be underwritten by a surety company licensed to transact business in Wisconsin and shall be approved by the governor.

(4) The premium for any bond shall be charged to the appropriation made to the commissioner of insurance by s. 20.460 (1) except that the premium for bonds on employes of the state insurance fund shall be charged to the administration allotment made by s. 20.460 (71) and premiums for bonds on employes of the state life fund shall be charged to the administration allotment made by s. 20.460 (72).

(5) The official blanket or official position schedule bond referred to in this section shall conform substantially to the bond specified in section 19.01 (2) and be subject to the statutes governing official bonds.

200.19 Fire causes; investigation; report. (1) The chief of the fire department of every city and village, the president of every village in which no fire department exists, and every town clerk may investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in his city, village or town by which property has been destroyed or damaged when the damage exceeds \$25, and on fires of unknown origin he may especially investigate as to whether such fire was the result of carelessness, accident or design. Where any investigation discloses that such fire may be of incendiary origin, he shall report the same to the state fire marshal.

(2) The state fire marshal may supervise and direct such investigation whenever he deems it expedient.

(4) The state fire marshal shall keep a record of all fires occurring in the state, which shall be at all times open to public inspection.

200.20 Duties of state fire marshal, attorney general and district attorneys in regard to fires of incendiary origin. (1) The state fire marshal shall, when in his opinion investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to any case of damage to property by fire or explosives, and if he is of the opinion that there is evidence sufficient to charge any person with a crime under ss. 941.11, 943.01, 943.02, 943.03 or 943.04 or with an attempt to commit any of those crimes, he shall cause such person to be prosecuted, and shall furnish the prosecuting attorney the names of all witnesses and all the information obtained by him, including a copy of all testimony taken in the investigation.

(1m) The state fire marshal shall assign one deputy fire marshal exclusively to fire marshal duties for counties having a population of 500,000 or more.

(2) The attorney general shall at the request of the state fire marshal assist district attorneys in the prosecution of all cases referred to in sub. (1) in all courts and the expenses of the attorney general or his assistants in preparation for and attendance upon such prosecutions shall be charged to the appropriation for the state fire marshal.

(3) The attorney general and district attorney shall make such reports to the state fire marshal of the proceedings and result of all such prosecutions as shall be required by him.

(4) The attorney general may employ such assistants as may be necessary for carrying out the provisions of this section. Salaries, compensation and expenses of such assistants shall be charged to the appropriation for the state fire marshal.

200.21 Fire marshal; inquisitions; inspections; seizure of evidence. (1) The state fire marshal and his subordinates shall each have the power to conduct investigations and hearings and take testimony regarding fires and the causes thereof, and compel the attendance of witnesses. The fees of witnesses shall be paid upon certificates signed by the officer before whom any witnesses shall have attended, and shall be charged to the appropriation for the state fire marshal.

(2) All investigations held by or under the direction of the state fire marshal, or his subordinates, may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept apart from each other, and not allowed to communicate with each other until they have been examined.

(3) The state fire marshal and his subordinates may at all reasonable hours in

performance of their duties enter upon and examine any building or premises where any fire has occurred and other buildings or premises near the same, and seize any evidence found as a result of such examination which in the opinion of the officer finding the same may be used in any criminal action which may result from such examination or otherwise, and retain it for a reasonable time or until it becomes an exhibit in the action.

200.22 Entry of buildings generally. The state fire marshal, his chief assistant and deputies, upon complaint of any person, or without any complaint previously entered, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction.

200.23 Officers' neglect of duty; penalty. Any officer named in s. 200.19 who neglects to comply with any of the requirements of ss. 200.19 to 200.25 shall be fined not less than \$25 nor more than \$200 for each neglect or violation.

200.24 Salaries and fees. All officers who shall perform any service at the request of the state fire marshal or his subordinates shall receive the same fees as officers in justice courts, and such fees shall be paid in the manner witnesses are paid under section 200.21, and charged to the appropriation for the state fire marshal.

200.25 Attendance on duty. The state fire marshal or one of his chief subordinates shall be in the office of the fire marshal during all office hours.

200.26 Nonprofit service plans. (1) **DEFINITION.** As used in this section unless the context clearly implies otherwise: "Organization" means any society, organization or corporation, operating a plan of sickness care as permitted by ch. 148, or hospital service as permitted by s. 182.032; but when any such plan is operated by any division or agency of any such society, organization or corporation then the term "organization" means only such division or agency.

(2) **FILING; GENERAL.** Any organization subject to this section shall file with the insurance commissioner the following information verified by 2 principal officers of such organization:

(a) A written declaration defining the organization and structure and area of operation of each existing or proposed plan for sickness care as permitted by ch. 148, or for hospital service as permitted by s. 182.032, and any amendments thereto.

(b) The bylaws, if any, of the organization immediately responsible for such plan and all amendments thereto.

(c) Each form of contract or contractual agreement executed or proposed to be executed by and between the organization and any physicians, hospital, public party or others embodying the terms under which sickness care as permitted by ch. 148 or hospital service as permitted by s. 182.032 is to be furnished to subscribers to the plan.

(d) A financial statement of the organization, which shall include the amount of each contribution paid or agreed to be paid to the organization for working capital, the name of each contributor and the terms of each contribution. Any plan in existence on November 6, 1959 shall file such information as to its financial condition and capital as the commissioner requires.

(3) **ANNUAL STATEMENTS.** Every such organization shall annually, on or before March 1, file in the office of the commissioner, a statement verified by at least 2 principal officers of such organization showing its true condition as of the December 31 next preceding. Said statement shall be in such form and shall contain such information as the commissioner prescribes.

(4) **3-YEAR EXAMINATION.** The commissioner by himself or his subordinates shall, not less than once in 3 years, examine into the affairs of such organization and shall make a report in writing, which report, after such hearing as such organization may request, shall be filed in his office.

(5) **REPORTS.** (a) The commissioner may also require any such organization from time to time to report to him in such form as he requires, in relation to its condition and any matter connected with its transactions.

(b) The commissioner may require from any such organization, before and from time to time during any examination, such deposit with the state treasurer as he deems necessary to cover the cost of such examination. The commissioner shall determine the cost of each examination made, which shall include the salary and expenses of each examiner or other employe of the insurance department whose services are required in connection with such examination or any report thereof, and any other expenses which may be directly apportioned. Deposits or payments made for such examinations shall be credited to the

appropriation under s. 20.460 (40). Any such deposits or payments shall not be deemed to be a tax or license fee within the meaning of any statute.

(c) The fees for stenographic services in investigations, examinations and hearings shall not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the department of administration, authorized by the certificate of the commissioner and shall be charged to the appropriation for the commissioner.

(6) FILING OF CONTRACT FORMS. (a) All forms of contracts, riders, endorsements, applications, notices of proposed contracts or other instruments which such organization proposes to issue as part of a contract shall be filed with the commissioner for approval, with a statement of the rate to be charged therefor or the effect such attached paper will have upon the rate, but the rate shall not be a ground for withholding approval unless the rate is unfairly discriminatory. Rates for contracts may reflect a differential attributable to the number of persons covered, actuarial experience or plan of operation under which the contracts are issued without being considered unfairly discriminatory. Contracts filed for approval under this subsection shall not include those referred to in sub. (2) (c).

(b) No such contract shall be issued, nor shall any application, rider or endorsement be used in connection therewith until the expiration of 30 days after it has been so filed unless the commissioner shall sooner give his written approval thereto.

(c) The commissioner may within 30 days after the filing of any such form disapprove such form if it contains a provision which is unjust, unfair, inequitable, misleading, deceptive or encourages misrepresentation of such contract. If the commissioner notifies such organization that the form does not comply with this subsection, it is unlawful thereafter for such organization to issue or use such form. In such notice the commissioner shall specify the reason for his disapproval and state that a hearing will be granted within 20 days after request in writing by the organization.

(d) The commissioner may at any time, after a hearing on not less than 20 days' written notice to such organization, withdraw his approval of any such form on any of such grounds. It is unlawful for such organization to issue such form or use it after the effective date of such withdrawal of approval.

(e) Notice of all hearings shall specify the matters to be considered, and each decision affirming disapproval or directing withdrawal of approval shall be in writing and shall specify the reasons.

(7) SUBJECT TO INSURANCE LAWS FOR CERTAIN PURPOSES. Such organizations and their agents, plans and contracts shall be subject to the provisions of s. 200.13 relating to fees, s. 201.045 relating to licensing, s. 201.25 relating to investments, ch. 207 relating to unfair methods of competition and unfair or deceptive acts or practices and s. 200.03 (18) relating to powers of the commissioner of insurance, to the same extent and in the same manner as if such organizations were domestic insurance corporations and to s. 209.04 (11) relating to agents. Such organizations shall also be subject to s. 201.18 (1) relating to premium reserves except that where risks are written for more than one month and the premium or fee is paid on a monthly basis, the reserve shall be computed at 50 per cent of the monthly premium or fee received each month. Any investments made by a corporation organized under s. 182.032 prior to November 6, 1959 and which investments at the time they were made complied with ss. 206.34 and 206.35 shall not be deemed a violation of this subsection and such investments may at the option of such corporation be retained without being deemed a violation of this subsection.

(8) DIRECT PAYMENT. Any contract may provide that all or any portion of any benefits provided by any such contract may, at the option of the organization, be paid directly to the party rendering such services.

(9) DISSOLUTION. In the event of dissolution of any such organization, the distribution of its assets shall be made as provided for in ch. 181.

(10) SUPERVISION AND RULE-MAKING POWER. The commissioner shall enforce the provisions of this section and shall exercise such supervision and control over such organizations as the law requires; and to that end, he may make reasonable rules for their enforcement.

(11) PENALTIES. (a) Any person violating any provision of sub. (3) shall be subject to the penalty provision of s. 201.50 (2).

(b) Any person violating sub. (6) shall be subject to the penalty provision of s. 204.31 (8).

(c) Any person violating any provision referred to in sub. (7) shall be subject to the penalty sections applicable to those provisions.

(12) JUDICIAL REVIEW. Hearings shall be noticed and conducted and any final order of the commissioner may be reviewed as provided in ch. 227.

(13) EFFECTIVE DATE. This section shall take effect as provided in s. 990.05 but those portions of sub. (6) relating to approval of contracts shall take effect November 1, 1961, and those portions of sub. (7) relating to agents shall take effect November 1, 1960.

History: 1961 c. 562, 624.