

blood pressure of an applicant for life insurance, and that the examiner found no evidence of impairment of the heart, brain, stomach, lungs, etc., did not amount to a certification of health or a declaration that the applicant was a fit subject for insurance, such as would, under 209.07, estop the insurer from asserting to the contrary in the absence of fraud or deceit by the insured. *Jespersen v. Metropolitan Life Ins. Co.* 251 W 1, 27 NW (2d) 775.

See note to 209.06, citing *Gibson v. Prudential Ins. Co.* 274 W 277, 80 NW (2d) 233.

In order to qualify as a certificate of health or a declaration of fitness, the report of the medical examiner need not be couched in those precise terms, and no special verbiage is required to constitute the certificate or declaration contemplated. *Platke v. John Hancock Mut. Life Ins. Co.* 27 W (2d) 1, 133 NW (2d) 277.

209.07, Stats. 1965, estops a life or disability insurance company from setting up a defense otherwise available under 209.06 in those cases where its medical examiner issues a certificate of health or declares the applicant a fit subject for insurance unless such certificate or the statement is procured by or through fraud or deceit of the insured. *Kelly v. Madison Nat. Life Ins. Co.* 37 W (2d) 152, 154 NW (2d) 334.

209.07 applies only where the evaluations are broad enough in scope and content to constitute a certificate of health or a declaration of fitness for insurance. Given a certificate of health or declaration of fitness for insurance, an insurance company can defeat recovery on its life policy only if it can establish the fraud or deceit required by 209.07. *Powalka v. State Mut. Life Ass. Co.* 41 W (2d) 151, 163 NW (2d) 162.

Medical certificates of health and statutory estoppel. *Leifker*, 49 MLR 785.

209.09 History: 1913 c. 282; Stats. 1913 s. 1977a; 1919 c. 679 s. 6; 1919 c. 703 s. 26; Stats. 1919 s. 1977-4; 1923 c. 291 s. 3; Stats. 1923 s. 209.09; 1933 c. 487 s. 253.

209.12 History: 1893 c. 293; Stats. 1898 s. 1945b; 1923 c. 291 s. 3; Stats. 1923 s. 203.27; 1933 c. 487 s. 254; Stats. 1933 s. 209.12.

Ch. 293, Laws 1893, which provided that actions by receivers to collect "all claims due from policyholders within this state for premiums or assessments" should be brought within 6 months after it took effect, applied to claims existing or owing, whether payable at that time or not, and included claims on notes for assessments thereafter made and notified. *Wyman v. Kimberly-Clark Co.* 93 W 554, 67 NW 932.

A trustee appointed in another state and who exercised the functions devolved upon a receiver by the laws of this state was within ch. 293, Laws 1893. *Mansfield v. William Becker L. Co.* 93 W 656, 68 NW 411.

209.13 History: 1909 c. 460; Stats. 1911 s. 1941g; 1913 c. 529; 1923 c. 291 s. 3; Stats. 1923 s. 203.50; 1933 c. 487 s. 125, 255; Stats. 1933 s. 209.13; 1943 c. 275 s. 53.

An insurance corporation organized in 1869 without authority to write casualty insurance is not authorized to organize a subsidiary company to write casualty insurance

and to purchase all stock of such company and control and manage it. *Northwestern Nat. Ins. Co. v. Freedy*, 201 W 51, 227 NW 952.

209.14 History: 1915 c. 69; Stats. 1915 s. 4438j; 1925 c. 4; Stats. 1925 s. 343.412; 1943 c. 234; 1955 c. 696 s. 109; Stats. 1955 s. 209.14.

Foreign insurance companies doing business in this state without a license cannot be prosecuted unless service can be secured on an agent here. 4 Atty. Gen. 1024.

One who knowingly subscribes to false papers with the intent to deceive the commissioner of insurance violates 343.412, Stats. 1929; the offense is committed in the county where the papers are subscribed to and put into the mail. 19 Atty. Gen. 180.

CHAPTER 210.

State Insurance.

210.01 History: 1903 c. 68 s. 1; Supl. 1906 s. 1978a; 1911 c. 663 s. 397; 1923 c. 291 s. 3; Stats. 1923 s. 210.01; 1937 c. 158; 1947 c. 524.

210.02 History: 1903 c. 68 s. 2; Supl. 1906 s. 1978b; 1911 c. 663 s. 398; 1917 c. 482; 1923 c. 291 s. 3; Stats. 1923 s. 210.02; 1929 c. 117; 1937 c. 158; 1947 c. 524; 1951 c. 237, 734; 1955 c. 285; 1959 c. 659 s. 79; 1961 c. 191; 1963 c. 39, 224; 1967 c. 209; 1967 c. 291 s. 14; 1969 c. 55.

State buildings do not become insured automatically under secs. 1978a to 1978c, Stats. 1913, but are so insured only when and only to the extent to which they are certified to the state treasurer and valued by the insurance commissioner for the purpose of insurance. *State ex rel. Regents of Normal Schools v. Ekern*, 159 W 319, 150 NW 506.

Binder twine owned by the state and stored outside the state is insurable in the state insurance fund, and a premium for a policy thereon in a fire insurance company may not be paid out of state treasury. 3 Atty. Gen. 430.

Military equipment loaned to the state by the U.S. government may be insured in the state insurance fund. 5 Atty. Gen. 405.

The state has an insurable interest in office equipment furnished to income tax assessors by counties and such property may be insured in the state insurance fund. 19 Atty. Gen. 249.

State property may be insured against theft; but insurance against theft may not be combined with fire or tornado insurance. 19 Atty. Gen. 284.

210.03 History: 1903 c. 68 s. 3; Supl. 1906 s. 1978c; 1909 c. 113; 1913 c. 714; 1923 c. 291 s. 3; Stats. 1923 s. 210.03; 1927 c. 162; 1931 c. 67 s. 171; 1931 c. 385 s. 1; 1937 c. 158; 1947 c. 9 s. 31; 1947 c. 524; 1959 c. 659 s. 79; 1961 c. 191; 1965 c. 247; 1967 c. 209; 1969 c. 366 s. 117 (2) (b).

Money from the general fund is available to pay losses to counties and other municipalities insured in the state fire fund. 4 Atty. Gen. 1010.

Insurance carried by the state under provisions of ch. 210 does not cover loss or destruction of personal property or effects of an

employe or officer of the state. 17 Atty. Gen. 31.

210.04 History: 1911 c. 603; 1911 c. 664 s. 138; Stats. 1911 s. 1978f—5; 1913 c. 714; Stats. 1913 s. 1978d; 1917 c. 482; 1917 c. 501 s. 2; 1917 c. 677 s. 15; 1917 c. 678 s. 3; 1923 c. 291 s. 3; Stats. 1923 s. 210.04; 1929 c. 491 s. 3; 1937 c. 158; 1947 c. 9 s. 31; 1947 c. 180, 524; 1953 c. 540; 1955 c. 441; 1961 c. 316; 1969 c. 276 s. 598 (1).

No transfer from the state insurance fund, as an insurer, is authorized to pay fire department dues to cities and villages in which public buildings are insured in the state insurance fund. 3 Atty. Gen. 437.

The default spoken of in sec. 1978d (3), Stats. 1913, concerning the payment of premiums on the insurance of buildings by counties can take place only after the board has audited the bills. 3 Atty. Gen. 439.

The law permitting local municipalities to insure in the state fire fund is not in conflict with the constitution. 6 Atty. Gen. 188.

The city of Milwaukee, having legal title to an auditorium, may insure the entire value of the building in the state insurance fund regardless of the fact that a private corporation owns an equity in the building. 28 Atty. Gen. 687.

The county board is the only county agency which has authority to insure county property in the state insurance fund under 210.04, Stats. 1941. No part of the county property may be insured in such fund unless all of property owned by the county is so insured. No board or committee in charge of any county property may insure it with any privately managed insurance company after the county board has voted to insure in the state insurance fund, unless such vote is rescinded by the county board. 30 Atty. Gen. 405.

See note to 66.068, citing 31 Atty. Gen. 305.

Property of a municipal housing authority existing under 66.40 is not insurable in the state insurance fund. 37 Atty. Gen. 626.

A cotenant county having legal title and possession of 59.2% of a city-county building, having its property insured currently with the state insurance fund, cannot insure the full value of the building in the fund in its name for the benefit of cotenant where the city having 40.8% legal title and possession does not have its property insured with the state fund; status as "fiscal agent" does not qualify the county to extend existing policies, which cover the whole building, in the fund. 46 Atty. Gen. 107.

State insurance fund records are open to inspection and copying, but the commissioner of insurance is not obligated upon request therefor to compile and furnish a list of the policyholders thereof. 52 Atty. Gen. 8.

210.05 History: 1911 c. 577; 1911 c. 664 s. 127; Stats. 1911 s. 1989m; 1913 c. 291; 1923 c. 291 s. 3; Stats. 1923 s. 210.05; 1925 c. 168, 281, 368, 401; 1929 c. 491 s. 3; 1937 c. 90, 220; 1943 c. 248; 1947 c. 9 s. 31; 1951 c. 319 s. 219; 1953 c. 540; 1955 c. 354; 1957 c. 172; 1959 c. 659 s. 79; 1961 c. 354, 358; 1967 c. 43; 1969 c. 276 s. 598 (1); 1969 c. 366 s. 117 (2) (a).

The commissioner of insurance is bound to treat all applicants alike and determine in

each individual case whether the applicant qualifies as a standard risk, so as to be insurable within the statute; the commissioner is not authorized under his rule-making power to classify and exclude all Negroes as sub-standard risks because the average mortality rate of Negroes is higher than that of white persons, without absolute proof that the length of life of Negroes is shortened solely because of their color or race or some other inherent difference between them and white persons. *Lange v. Rancher*, 262 W 625, 56 NW (2d) 542.

The commissioner of insurance is the manager of the life insurance fund. He may permit applicants for insurance to withdraw applications before medical examination and the premiums advanced may be returned. 3 Atty. Gen. 435, 436.

The state treasurer is subject to the general rules as to trustees. 9 Atty. Gen. 49.

Officials in charge of the state life insurance fund are without authority to procure contracts of reinsurance upon insurance policies issued by the state. 9 Atty. Gen. 127.

210.20 History: 1967 c. 347; Stats. 1967 s. 210.20.

CHAPTER 211.

Employe Welfare Funds.

211.01 History: 1957 c. 552; Stats. 1957 s. 211.01.

211.02 History: 1957 c. 552; Stats. 1957 s. 211.02; 1969 c. 276.

211.03 History: 1957 c. 552; Stats. 1957 s. 211.03; 1961 c. 225.

National banks which accept appointments as trustees of employe welfare funds are subject to all of the regulatory provisions of ch. 211, Stats. 1957, including registration, reporting, and penalties. Trustees of the funds include only the person or persons in whom there is vested over-all management of the fund. 47 Atty. Gen. 136.

211.04 History: 1957 c. 552; Stats. 1957 s. 211.04; 1961 c. 225; 1967 c. 309.

211.05 History: 1957 c. 552; Stats. 1957 s. 211.05; 1961 c. 225.

211.06 History: 1957 c. 552; Stats. 1957 s. 211.06.

211.07 History: 1957 c. 552; Stats. 1957 s. 211.07; 1967 c. 43; 1969 c. 276 s. 597 (3).

211.08 History: 1957 c. 552; Stats. 1957 s. 211.08; 1959 c. 2; 1961 c. 225.

211.09 History: 1957 c. 552; Stats. 1957 s. 211.09.

211.10 History: 1957 c. 552; Stats. 1957 s. 211.10; 1959 c. 2.

211.11 History: 1957 c. 552; Stats. 1957 s. 211.11.

211.12 History: 1957 c. 552; Stats. 1957 s. 211.12; 1961 c. 225.

211.13 History: 1957 c. 552; Stats. 1957 s. 211.13.