

No. 571, A.

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CHAPTER 344

AN ACT to amend 206.15, 206.41 (1) (a) and (5) (a) and 209.04 (1), (2) (b), (c) and (d); and to create 20.460 (77), 200.13 (16m), 208.21 and 209.05 of the statutes, relating to certificate of registration fee, maximum salaries payable by mutual life insurance companies, definition of insurance agents, and making an appropriation for agents' training and licensing.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 20.460 (77) of the statutes is created to read:

20.460 (77) APPROPRIATION FOR AGENTS' TRAINING AND LICENSING. All fees collected under s. 200.13 (16m) are appropriated to the commissioner of insurance for the preparation, printing and distribution of agents' qualification training manuals for the various lines of insurance and the administration of the agents' licensing program.

SECTION 2. 200.13 (16m) of the statutes is created to read:

200.13 (16m) For issuance of certificate of registration, \$5.

SECTION 3. 206.15 of the statutes is amended to read:

206.15 No domestic life insurance company transacting a mutual or participating business shall incur or expend in any one year for any salary, compensation or emolument to any officer, trustee, director or salaried employe of such company, either directly or indirectly, any sum in excess of \$25,000, unless in each case such greater sum * * * is fixed by * * * a three-fourths vote of the board of trustees or directors at any regular meeting thereof, or unless a greater maximum * * * has been fixed by a majority vote of the policyholders voting at any regular election of trustees or directors. Notice of the submission of such question shall be given by mail to each policyholder at the same time as the notice of election is required to be given.

SECTION 4. 206.41 (1) (a) and (5) (a) of the statutes are amended to read:

206.41 (1) (a) The term "life insurance agent" means any * * * natural person who acts * * * as an agent as defined in s. 209.05.

(5) (a) Each applicant for a license to act as a life insurance agent within this state shall pay an examination fee as required in s. 200.13 (17) and shall submit to a personal written examination to determine his competence with respect to life insurance and annuity contracts and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such fee or written examination shall be required of an applicant, * * * if a license had * * * been issued to such applicant within the * * * 5 years immediately preceding the date of filing his application unless during that period, renewal of his license was denied for cause.

SECTION 4m. 208.21 of the statutes is created to read:

208.21 LICENSING OF AGENTS. (1) Agents of mutual benefit societies shall be licensed in accordance with the procedure for licensing life insurance agents under s. 206.41, except that the examination requirements of said section shall not apply to any agent who is an agent of such a society immediately prior to the effective date of this section (1963).

(2) In this section "agent" means any authorized or acknowledged agent of a society who acts as such in the solicitation, negotiation or procurement or making of a life insurance, accident and health insurance or annuity contract, except that "agent" shall not include:

(a) Any regular salaried officer or employe of a licensed society who devotes substantially all of his services to activities other than the solicitation of insurance contracts from the public, and who receives for the solicitation of such contracts no commission or other compensation directly dependent upon the amount of business obtained; or

(b) Any agent or representative of a society who devotes, or intends to devote, less than 50 per cent of his time to the solicitation and procurement of insurance contracts for such society. Any person who in the preceding calendar year has solicited and procured life insurance contracts on behalf of any society in an amount of insurance in excess of \$50,000, or, in the case of any other kinds of insurance which the society might write, on the persons of more than 25 individuals and who has received or will receive a commission or other compensation therefor, shall be presumed to be devoting, or intending to devote, 50 per cent of his time to the solicitation or procurement of insurance contracts for such society.

SECTION 5. 209.04 (1) of the statutes is amended to read:

209.04 (1) The term "agent", as used in this section, means any natural person * * * *who acts as an agent as defined in s. 209.05*. It is unlawful for any person to act as an agent * * * unless he holds an agent's license and a certificate of registration issued by the commissioner except as hereinafter provided. * * *.

SECTION 6. 209.04 (2) (b), (c) and (d) of the statutes are amended to read:

209.04 (2) (b) Each applicant for a certificate of registration or agent's license (if no such certificate is required) shall pay an examination fee as required by s. 200.13 (17) and submit to a personal written examination to determine his competence with respect to the kind of insurance contracts he intends to solicit, negotiate or effect and his familiarity with the pertinent provisions of the laws of this state and passes the same to the satisfaction of the commissioner; except that no such examination or fee therefor shall be required of any person who makes application to solicit exclusively the kinds of insurance described in s. 203.32 (2) (b) 6 for domestic windstorm, cyclone and tornado insurance companies operating on an assessment plan or by any person who makes application to solicit, exclusively, the kind of insurance for which he held a license as a resident agent within the * * * 5 years immediately preceding the date of filing his application *unless during that period, renewal of his license was denied for cause*. The commissioner may, upon showing just cause, require any applicant having previously held a certificate of registration to submit to a written examination and pass the same for any certificate before effecting the renewal of such certificate. The commissioner shall require further examination of a certificate holder whenever such person indicates intent to solicit, negotiate or effect kinds of insurance for which he has not been licensed for any insurer within the last * * * 5 years. The commissioner shall establish rules with respect to the scope, frequency, grading of papers, announcements of the results of such written examinations and the times and places within the state where they shall be held. The commissioner shall cause examinations to be conducted throughout the state at places reasonably accessible to applicants at no less frequency than once each month. In advance of such examinations the commissioner shall cause notice to be given to all applicants. The commissioner is authorized to appoint representatives deemed competent who shall conduct the examination and to pay a fee to each person conducting the examinations as his deputy. The commissioner may appoint an advisory board to make recommendations to him with respect to the scope, type, frequency, grading of papers, announcement of results and generally the conduct of written examinations and the times and places within the state where they shall be held, the ways and means of passing upon and issuing certificates and licenses, and generally to aid and assist the commissioner in carrying out the law economically and in the interest of the insuring public, the companies and applicants. The advisory board shall consist of persons experienced in the insurance business.

(c) *Issuance or refusal of certificate of registration; fee*. If the commissioner is satisfied that the applicant for a certificate of registration is intending in good faith to act as an insurance agent, is trustworthy and worthy of a certificate, *the annual fee required by s. 200.13 (16m) for such certificate has been paid or tendered with the application*, and the applicant, if required, has passed a written examination, a certificate of registration shall be issued. If the applicant has not passed his written examination, the commissioner shall notify the applicant in writing that a certificate will not be issued for that reason.

(d) The certificate of registration shall remain in force for one year or until the death of the holder thereof, or until revocation in accordance with this section, whichever occurs first. The commissioner may promulgate rules permitting the issuance of certificates for periods other than annually for the purpose of assigning the applicant to a group of certificate holders having a common renewal date. Certificates may be renewed annually on the filing of an application containing such information as the commissioner deems necessary and payment of the fee required by s. 200.13 (16m).

SECTION 7. 209.05 of the statutes is created to read:

209.05 AGENT DEFINED. Every person who solicits, negotiates or effects insurance of any kind, including annuities, on behalf of any insurance company, nonprofit service plan as defined by s. 200.26, or person desiring insurance, or transmits an application for a policy of insurance or an annuity contract, other than for himself, to and from any such company, or who makes or proposes to make any contract for insurance or annuities, or who collects any premium, assessment, fees or dues for insurance or annuities or in any manner aids or assists in doing either, or in transacting any business of like nature for any insurance company, or nonprofit service plan as defined by s. 200.26 or advertises to do any such thing, or who makes or proposes to make, as guarantors or surety, any contract of guaranty or suretyship as a vocation and not merely incidental to any other legitimate business or activity of the guarantor or surety shall be held to be an agent of such insurer to all intents and purposes, unless it can be shown that he receives no compensation for such services. The term "agent" shall not include any regular salaried officer or employe of a licensed insurer or of a licensed insurance agent who does not solicit or accept applications from the public for any such contract. A regular salaried officer or employe of an insurer authorized to do business in this state shall not be deemed to be an "agent" by reason of rendering assistance to or on behalf of a licensed agent, provided that such salaried officer or employe devotes substantially all of his time to activities other than the solicitation of applications for insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained. The term "agent" shall not include the attorney in fact of a reciprocal or interinsurance exchange, nor the traveling salaried home office representatives of such an exchange operating on a salary basis and receiving no commissions, but shall include every person who solicits, negotiates or effects insurance on behalf of such an exchange as an appointed agent on a commission basis.

SECTION 8. This bill is declared to be an emergency bill, recommended by the governor, in accordance with the requirements of section 16.47 (2) of the statutes.

Approved September 19, 1963.