

CHAPTER 210

STATE INSURANCE

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210.01 Powers annulled. No officer or agent of this state, and no person or persons having charge of any public buildings or property of the state, shall pay out any public moneys or funds on account of any insurance against loss by fire, windstorm or any other loss or damage from any cause to property, (excepting liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the state of Wisconsin or located in buildings owned or controlled by the state of Wisconsin; insurance against loss to live stock due to disease or accident but including fire and extended cover insurance on live stock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities;) or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any property of any kind whatever belonging to the state or property for which the state of Wisconsin is legally liable except in the manner hereinafter provided.

210.02 State insurance fund; state property. (1) The commissioner of insurance shall provide for the insurance by the state of all state property and property for which the state is liable subject to damage or destruction by fire, windstorm or any other loss or damage from any cause to property (excepting public liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the state or located in buildings owned or controlled by the state; insurance against loss to livestock due to disease or accident but including fire and extended cover insurance on livestock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities) for an amount equal to at least 90% of the actual cash value of such property, in the following manner: The person or board having charge of any public property shall furnish the commissioner a list of all such property with its insurable value; the commissioner shall

compute the premium based upon the rates fixed by actuarial or rating bureaus operating in this state. For this purpose, the commissioner is authorized to have the state insurance fund be a member or subscriber to said actuarial or rating bureaus. He shall then ascertain the amount of insurance in force upon all state property. He shall submit to the department of administration a statement of the amount of required insurance on such property and the amount payable therefor, computed at such deviation from the aforesaid rates as the commissioner determines. The amount due for insurance shall be paid to a separate fund which shall be kept by the state treasurer and known as the "state insurance fund". The commissioner of insurance may, with the approval of the governor, purchase such reinsurance as the commissioner deems necessary to protect the surplus of the fund or to properly distribute the risk. No such reinsurance shall be effected when the net risk carried by the state insurance fund does not equal or exceed \$2,000,000, nor where the rate for assuming a proportionate amount of the insurance on other than state property exceeds that received by the state insurance fund. The commissioner of insurance shall collect such reinsurance upon any loss and pay the same into the state insurance fund.

(2) Any policy insuring against loss by fire shall conform so far as practicable to the "Standard Policy" annexed to s. 203.01. Policies may be written on an annual or term basis at the option of the person or board having charge of any public property.

(3) (a) All state activities funded by segregated or program revenue appropriations shall pay premiums on property, buildings and contents to the extent that the property is assigned to or used by these activities. Payment shall be made from the program appropriations which fund the operating expenses of the activities. Premiums shall not be paid on property, buildings and contents to the extent that the property is assigned to or used by a state function funded by general purpose revenues.

(b) If an activity is funded by more than one source of funds, the cost of premiums on property associated with the activity shall be distributed among the sources of funds in proportion to their shares of the operating expenses in the budget of the current fiscal year.

(c) If an activity is partially funded by federal funds, or gifts, and federal law, regulation, or contractual agreement or terms of the gift prohibits the expenditures of federal funds or gifts for insurance premiums, the state source of funding of the activity shall be responsible for payment of premiums on all property used by the activity in accordance with par. (a). If there is no state contribution to the funding of an activity and federal funds or gift funds may not be used to pay premiums, no premiums shall be paid on property associated with that activity.

(d) If property, buildings and contents are used by 2 or more activities, responsibility for premiums shall be distributed among the activities on the basis of their proportionate usage of the property. This determination may be in terms of time, space or other factors judged reasonable by the commissioner.

(e) The exemption of an activity from the payment of premiums pursuant to this section shall in no way affect the coverage of that activity's property by the state insurance fund.

(4) In providing builders' risk insurance, the state insurance fund shall not have any right of recovery against any contractor or subcontractor for loss occurring to the covered property where the insured has waived in writing, prior to a loss, any right of recovery against such contractor or subcontractor for loss occurring to the property described in the policy.

History: 1971 c. 125, 211.

210.03 Loss; commissioner to adjust; transfer of funds.

(1) (a) In case of a loss under policies issued covering state property, the commissioner of insurance shall within a reasonable time ascertain and fix the amount of such damage and forthwith file with the state treasurer and the department of administration a statement of the same. Losses of \$50 or less in any one occurrence shall not be paid, but shall be charged to the proper appropriation for the department in which such loss occurs.

(b) If in case of any loss or damage of any property owned by any county, city, village, town, vocational, technical, and adult education district or school district or library board, insured in the state insurance fund, there arises any difference of opinion between the local authorities and the commissioner of insurance as

to the amount of the loss or damage incurred, such loss or damage, upon the demand of the local authorities shall be determined by appraisal, the local authorities and the commissioner of insurance each selecting a competent and disinterested appraiser and notifying the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and if they do not agree upon such umpire within 15 days, then on request of the local authorities or the commissioner, such umpire shall be selected by a judge of a court of record in the county in which the property covered is located. The appraisers shall then appraise the loss and damage stating separately actual cash value and loss or damage to each item; and failing to agree, shall submit their differences only, to the umpire. An award in writing, so itemized, of any 2 when filed with the commissioner shall determine the amount of actual cash value and loss or damage. Each appraiser shall be paid by the party selecting him and other expenses of appraisal and umpire shall be paid by the parties equally.

(2) (a) When the amount of loss has been fixed and determined by the commissioner of insurance and certified to the department of administration, the department of administration, in the case of a loss on state property, shall issue a warrant as a transfer of the amount fixed as damages from the state insurance fund and credited to the proper fund of the officer, department or independent agency, in whose control the property belongs, and to be disbursed by the state treasurer in such manner as other state funds for the use of said officer, department or independent agency are paid out. In no case may the loss payment from the insurance fund exceed \$1,000,000 for any single incident to any state building and its contents.

(b) In the event of a loss exceeding \$1,000,000 on property assigned to or controlled by more than one state agency, the commissioner shall prorate the loss payment among the agencies in the same proportion as the loss to each agency bears to the total loss.

(3) Any loss under a policy held by a county, city, village, town, school district, vocational, technical and adult education district or library board in the state insurance fund shall be adjusted by the commissioner within a reasonable time and upon being determined, he shall certify such amount of loss to the department of administration which shall thereupon issue a warrant therefor on the state insurance fund payable to the treasurer of the county, city, vil-

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lage, town, school district, vocational, technical and adult education district or library board entitled to such damages.

(4) (a) If at the time of any loss there is not in the state insurance fund an amount equal to such loss, as determined in sub. (2) or (3), the department of administration shall draw a warrant payable from the general fund, and the state treasurer shall promptly pay such warrant, and the commissioner shall thereafter order such reimbursement of the general fund from the state insurance fund as he deems proper, on which order the department of administration shall issue warrants for such transfer.

(b) If the state has entered into contractual agreements which require insurance coverage on specific items of state property, the general fund is liable for any loss over and above the maximum amount the state insurance fund is authorized to pay.

(5) Upon the request of the commissioner, the attorney general may proceed in the courts of this or any other state or in any other jurisdiction to recover from the responsible party, other than the insured, for any loss or damage to any property covered by a policy of insurance issued in accordance with this chapter. Any funds recovered shall be paid into the state insurance fund.

(8) The commissioner shall maintain separate records of the accounts and balances applicable for state property and the accounts and balances applicable for other than state property.

History: 1971 c. 125, 154, 211.

210.04 State insurance fund; other than state property. (1) No vocational, technical and adult education district board, county, town or village board or common council, and no officer or agent of any vocational, technical and adult education district, county, city, town or village having charge of any property of any county, city, town or village, and no city council, village, town, school or library board having charge of any property of a school district, or property of a library board shall contract for or pay out any money or funds for insurance, against fire or any other loss or damage from any cause to property, or in the use of or income from property, (excepting public liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the insured or located in buildings owned or controlled by the insured; insurance

against loss to livestock due to disease or accident but including fire and extended coverage insurance on livestock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities;) on and after a vote of such board or council to insure under this section, except as is certified by the commissioner to be necessary and except the insurance on such personal property as the governing board by resolution determines to insure in insurance companies licensed to transact business in this state. A certified copy of each such resolution shall be filed with the commissioner. Policies may be extended to include property for which the board or council is legally liable.

(2) After such decision by the board or council, the clerk thereof shall report to the commissioner each policy of insurance which shall then be in force upon any property of the vocational, technical and adult education district, county, city, village, town or school district whether under the control of such board or council or any other board, officer or agent, stating the property covered by such policy, the date of the issue and the expiration thereof, the amount and rate of insurance and premium thereon.

(3) After such decision by the board or council, the insurance on all property of any such vocational, technical and adult education district, county, city, town, village, school district or library board shall be provided for, and adjustment of losses made by the commissioner as provided by ss. 210.02 and 210.03 for the insurance of property of the state, except that the premium shall be certified by the commissioner to the clerk of the vocational, technical and adult education district, town, village, city, county, school district or library board. Upon receipt of such certification of premium due, the amount of the premium so certified shall on or before 60 days from the date of such certification or on or before 60 days from effective date of policy or indorsement, whichever is later, be paid into the state treasury for the benefit of the "state insurance fund", in default of which the same shall become a special charge against such vocational, technical and adult education district, town, village, city, county or school district, and be included in the next apportionment or certification of state taxes and charged and collected as other special charges are collected, with interest at the rate of 5% per annum from the above specified date. In case of instalment method of payment or deferring of payment as prescribed in s. 74.26, interest shall be computed from effective date of policy or indorsement or date of certifi-

cation, whichever is later, to March 22 of year following certification as a state special charge. If any board or council so orders, the amount of insurance upon the whole or any part of the property under its control shall be fixed at such per cent or sum less than the 90% specified in s. 210.02 as is fixed by such board or council and insurance may be written on an annual or term basis at the option of the board or council. All policies now in force in the "state insurance fund" may be continued as if written subsequent to August 14, 1947.

(4) Provided, that policies in force on said date of the passage of a resolution to insure in the "state insurance fund", shall remain in force until expiration or cancellation as provided in such policies; and that said clerk shall give notice to the commissioner of each such cancellation, and the state insurance hereby provided for shall take effect from such cancellation.

(5) For carrying out the provisions of ss. 210.01 to 210.03, and this section, the commissioner, with the approval of the governor, may employ such assistants as necessary, and fix their compensation, which compensation, together with the expenses of such assistants and of the commissioner and his employes and the expenses of conducting the "state insurance fund," shall be paid out of the state insurance fund on the certificate of the commissioner, audited by the department of administration. The commissioner of insurance shall make such inspection and report upon all property insured as may be required, in addition to the report specified in s. 601.46 (3).

(6) On January 1 of each year the state treasurer shall credit the state insurance fund with interest on the average amount in such fund for the preceding 12 months at the average rate of interest earned by the state upon its bank deposits during that period. If said fund is indebted to the general fund of the state such fund shall be charged, at the end of each calendar year, with interest on such indebtedness at the average rate earned by the state upon its bank deposits during the period of such indebtedness and such sum shall be credited to the general fund, provided that the investment board may cause such funds to be invested in the securities authorized in s. 201.25 of the 1969 statutes.

(7) Any vocational, technical and adult education district, county, city, village, town, school district or library board may terminate its insurance in the "state insurance fund" by a majority vote of its board or council, and upon certifying such action to the commissioner, the

insurance remaining in force in that fund shall terminate upon expiration of the policy contract except that the board or council may order the insurance canceled on a date other than the expiration date of said insurance. In case of removal or sale of property, the board or council may request the commissioner to cancel the insurance on said property without terminating its entire insurance in the "state insurance fund".

History: 1971 c. 40 s. 93; 1971 c. 154; 1971 c. 260 s. 92 (3).

210.05 State life insurance. (1) **LIFE FUND.** There is established a "life fund" to be administered by the state without liability on the part of the state, beyond the amount of the fund, for the purpose of granting life insurance, with or without total and permanent disability waiver of premium benefits, and annuities to persons who, at the time of the granting of such insurance and annuities, are within the state.

(2) **MANAGEMENT.** The state treasurer shall be ex officio treasurer and custodian of the life fund, and all other matters in relation thereto shall be under the supervision of the commissioner of insurance. Each shall give such bond therefor as may be required and approved by the governor and secretary of state, which shall be filed with his official bond. The investment board shall cause the moneys in the life fund to be invested and reinvested in the securities authorized in s. 206.34 of the 1969 statutes, and may sell and dispose of such securities as may be necessary in the management of such fund. In making such investments, preference shall be given to applications for loans to farmers and co-operative associations.

(3) **FORMS AND DATA.** The commissioner of insurance shall prepare and file in his office forms of applications and policies, schedules of premiums, reserve, and other data and forms for carrying out this section.

(4) **PREMIUM BASIS.** The premiums for life insurance in the life fund shall be based upon a mortality table and interest rate set by the commissioner, with additions for extra hazards and the usual additional extra benefits provided by riders, all to be calculated in accordance with approved actuarial principles.

(7) **APPLICATION AND EXAMINATION.** The first application shall be transmitted to the commissioner, together with the premium for 3 months, or multiples thereof providing such remittance is not less than the amount of the medical examination fee. The commissioner and the department of health and social services shall pass upon all applications for insur-

ance, and no life insurance shall be granted without a personal medical examination to be made at the direction of the department of health and social services, for which the local examiner shall receive a medical examination fee, the amount of which is to be determined by the commissioner, except that the commissioner may issue policies without medical examination within such limits and subject to such conditions as established by the commissioner. If the application is rejected, the deposit shall be returned, less one-half the fee paid for the medical examination. No examination shall be required on application for annuities. If the application is accepted, the premium shall be paid into the life fund and a policy shall be issued, signed by the commissioner and the state treasurer, reciting that the same shall be payable out of the life fund without further liability on the part of the state.

(8) **PAYMENTS.** The commissioner shall provide the insured with notices to be used in the payment of premiums and interest.

(9) **SURPLUS DISTRIBUTION.** Not less than 10 per cent of the net profits for each year shall be contributed to surplus to meet losses from unexpected or great mortality or depreciation in securities or otherwise, except that such contribution shall be sufficient to maintain a ratio of surplus to admitted assets of not less than 7 per cent, and discontinued if such ratio exceeds 10 per cent. The balance of net profits shall be distributed annually among the policyholders.

(10) **LOANS; REPAYMENT.** Loans may be made on a policy to an amount, which together with interest to be fixed by the commissioner but not to exceed 6 per cent per annum, shall not exceed the reserve on the next policy anniversary on the basis of the premiums then paid. Any premium not paid when due shall be charged as a loan. When the unpaid loan and interest equals the reserve, the policy shall terminate, but before that time the whole or any part of a loan may be repaid.

(11) **CASH SURRENDER.** The reserve, less unpaid loans and interest, shall be payable upon written request and surrender of the policy, the commissioner reserving the right to delay payment up to 6 months from the date of receipt of the notice.

(12) **LOSSES.** The losses and other payments required to be made out of the life fund, including deposits for premiums upon applications which shall be rejected, shall be audited by the department of administration upon the adjustment, order and certificate of the commissioner of insurance and be paid by the trea-

surer out of the life fund, and annuities shall be paid in like manner.

(13) **EXPENSES; FEES; COMMISSIONS.** (a) There shall be audited by the department of administration, in accordance with s. 16.53 and upon the certificate of the commissioner of insurance, and paid by the state treasurer out of the expense element of the life fund the compensation of all personnel employed by the commissioner to administer the life fund, a fee, to be determined by the commissioner, to the medical examiner for each medical examination, the actual expense of inspection reports, and the actual expense upon the adjustment of any loss or the defense or prosecution of any action. The compensation certified by the commissioner of insurance due employes of the state paid a fixed salary shall, instead of being paid to such employes, be transferred into the general fund of the state.

(c) Any fees or expenses to which any person shall be entitled under the provisions of s. 210.05 shall, after having been paid into the state treasury, be audited by the department of administration upon the certificate of the commissioner of insurance, and be paid by the treasurer out of the life fund.

(d) There shall be transferred to the general fund from the life fund, annually, a fee equal to 2% of premiums collected less returned premiums and cancellations for general services rendered by state administrative and legislative agencies not otherwise charged to such fund.

(14) **POLICIES; AMOUNT.** Policies of life insurance may be issued upon being approved by the commissioner and the department of health and social services; but no policy or policies shall be issued on any one risk exceeding \$10,000, but this amendment (1961) shall not affect outstanding policies in excess of \$10,000.

(16) **COMBINATION POLICIES.** Life insurance and an annuity or annuities may be combined and may be granted in the same policy.

(17) **ACCOUNTS; AUDIT; REPORTS.** The accounts of the life fund shall be kept by the commissioner of insurance and shall be audited in the same manner as the accounts of state officers. Valuations and reports shall be made annually, conforming to the reports required of life insurance companies by the laws of this state, but, except as specifically provided, the other provisions of the laws relating to insurance shall not apply to the life fund.

(18) **REGULATIONS.** The commissioner of insurance shall make such reasonable rules and regulations for the granting of life insurance and annuities, as shall be necessary to carry out the provisions of this section.

(19) **MILITARY SERVICE.** The Life Fund of the State of Wisconsin shall be deemed an insurer under Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (Public No. 861-76th Congress) and amendments thereto or reenactment thereof, and the commissioner of insurance is hereby directed to assent to modifications required with respect to any policy certified for benefits as therein provided, any provision of the statutes to the contrary notwithstanding. This subsection shall remain in force concurrently with said act of Congress and amendments thereto or reenactments thereof.

History: 1971 c. 260 s. 92 (4).

210.20 Wisconsin indemnity fund. (1) **PURPOSE.** The legislature declares that it is a subject of concern that many residents of this state are living in congested urban areas in substandard housing and quite often in areas of deteriorating neighborhoods. The legislature recognizes that adequate multiple unit and other housing can and should be provided by private capital under our free enterprise system and in accordance with sound investment practices. The legislature finds that the flow of private investment capital into such housing can be stimulated by a system wherein qualified lending institutions may be indemnified for losses incurred as a result of nonpayment of principal, interest, or other sums agreed to be paid under the terms of any note or bond or other evidence of indebtedness. In furtherance of such state interest, there is established a Wisconsin indemnity fund.

(2) **AUTHORITY.** The Wisconsin indemnity fund may reinsure licensed insurance companies in respect to insurance policies guaranteeing loans made to finance the construction of multiple unit housing in congested urban areas and other areas designated for construction intended to replace substandard and deteriorated housing.

(3) **ADMINISTRATION.** The commissioner of insurance shall manage and supervise the Wisconsin indemnity fund except that the state treasurer shall be ex officio treasurer and custodian of the fund. The investment board shall, in consultation with the commissioner of insurance, invest the moneys of such fund in a manner generally consistent with s. 201.25 of the 1969 statutes and may sell and dispose of such securities as may be necessary in the management of the fund. The department of adminis-

tration shall audit in accordance with s. 16.53 and, upon the certification of the commissioner of insurance, the state treasurer shall pay such losses or other payments required to be made under the reinsurance authorized, the compensation of all personnel employed by the commissioner of insurance to administer the fund and such other expenses as are necessary and incidental to the operation of the fund. All premiums, loss recoveries and any other amounts received in the operation of the fund shall be paid into the state treasury for the account of the Wisconsin indemnity fund.

(4) **UNDERWRITING.** It is the intent of the legislature that the insurance company issuing the insurance policy shall be primarily responsible for the underwriting selection of qualified lenders and borrowers, the servicing of such insurance policies and for the adjustment of losses and operations in connection therewith. The commissioner of insurance may reject the reinsurance of any insurance risk if, in his judgment, the lender, the borrower, adequacy of community zoning and planning ordinances or other underwriting factors are such as to create an insurance risk not reasonably reinsurable by the Wisconsin indemnity fund.

(5) **LIMITATION OF COVERAGE.** The insurance company shall assume the risk of loss for not less than the first 20% of each insured loan and the reinsurance to be afforded by the Wisconsin indemnity fund shall not exceed the amount of loss remaining.

(6) **PREMIUM BASIS.** The reinsurance premium to be charged shall be determined by the commissioner of insurance in accordance with the best available rate making and actuarial information and shall be adequate to provide for the insurance risk assumed.

(7) **ACCOUNTS, AUDIT, REPORTS.** The accounts and records of the Wisconsin indemnity fund shall be kept by the commissioner of insurance and shall be audited in the same manner as the accounts of state officers. Reports shall be made annually conforming to the reports required of other similar insurance companies but, except as specifically provided, no other law relating to insurance shall apply to the Wisconsin indemnity fund.

(8) **RULES.** The commissioner of insurance shall make such reasonable rules as are necessary to carry out the purpose of the Wisconsin indemnity fund.

History: 1971 c. 164 s. 90; 1971 c. 260 s. 92 (3).