

CHAPTER 601

ADMINISTRATION OF THE INSURANCE LAWS

	SUBCHAPTER I		POWERS AND DUTIES OF COMMISSIONER
	GENERAL PROVISIONS		
601.01	Title and purposes.	601.41	General duties and powers.
601.02	Definitions	601.42	Reports and replies
	SUBCHAPTER II	601.43	Examinations and alternatives.
	OFFICE OF THE COMMISSIONER OF INSURANCE	601.44	Conducting examinations.
601.11	Personnel.	601.45	Examination costs.
601.12	Legal services.	601.46	Commissioner's records and reports
601.13	Financial services; deposits	601.47	Publications
601.14	Supporting services	601.48	Participation in organizations.
601.15	Oath.	601.49	Access to records.
601.16	Official seal and signature.		SUBCHAPTER V
601.17	Bond.		PROCEDURES AND ENFORCEMENT
601.18	Delegation.	601.61	Auxiliary procedural powers
601.19	Organization of the office	601.62	Hearings
601.20	Advisory councils and committees	601.63	Notice and effective date of orders
	SUBCHAPTER III	601.64	Enforcement procedure
	FINANCING THE INSURANCE OFFICE	601.71	Enforcement of policyholder rights.
601.31	Fees.	601.72	Service of process through state officer.
601.32	Supervision of industry, supplementary fee	601.73	Procedure for service of process through state officer.
	SUBCHAPTER IV		

SUBCHAPTER I

GENERAL PROVISIONS

601.01 Title and purposes. (1) **SHORT TITLE.** This chapter may be cited as the "Administration of the Insurance Laws Act".

(2) **CONSTRUCTION.** The insurance laws shall be liberally construed to achieve the purposes stated in sub. (3), which shall constitute an aid and guide to interpretation but not an independent source of power.

(3) **PURPOSES.** The purposes of the insurance laws shall be:

(a) To ensure the solidity of all insurers doing business in this state;

(b) To ensure that policyholders, claimants and insurers are treated fairly and equitably;

(c) To ensure that the state has an adequate and healthy insurance market, characterized by competitive conditions and the exercise of initiative;

(d) To provide for an office that is expert in the field of insurance, and able to enforce the insurance laws;

(e) To encourage full cooperation of the office with other regulatory bodies, both of this and other states and of the federal government;

(f) To improve and thereby preserve state regulation of insurance;

(g) To maintain freedom of contract and freedom of enterprise so far as consistent with the other purposes of the law;

(h) To encourage self-regulation of the insurance enterprise;

(i) To encourage loss prevention as an aspect of the operation of the insurance enterprise;

(j) To keep the public informed on insurance matters; and

(k) To achieve the other purposes stated in the insurance laws.

History: 1971 c. 260

601.02 Definitions. In this chapter, unless the context indicates otherwise:

(1) "Adjuster" means any person who represents an insurer or an insured in negotiations for the settlement of a claim against the insurer arising out of the coverage provided by an insurance policy.

(3) "Agent" means the same as in s. 209.047.

History: 1971 c. 260.

SUBCHAPTER II

OFFICE OF THE COMMISSIONER OF INSURANCE

601.11 Personnel. (1) **DEPUTY COMMISSIONER.** (a) *Appointment.* The deputy commissioner shall be appointed under the classified service and shall be subject to s. 15.73.

(b) *Acting commissioner.* When the office of commissioner is vacant, or when the commissioner is unable to perform his duties because of mental or physical disability, the deputy commissioner shall be acting commissioner. The deputy commissioner shall have such other

601.11 ADMINISTRATION OF THE INSURANCE LAWS

3964

duties and powers as the commissioner delegates and assigns to him.

(2) OTHER PERSONNEL. Except for those employed under s. 601.14 (2) or otherwise specifically exempted, all personnel including staff attorneys shall be appointed under the classified service.

601.12 Legal services. (1) **LEGAL SERVICES.** One or more assistant attorneys general shall devote substantially full time to the legal work of the office. One shall be designated the assistant attorney general in charge of insurance regulatory matters. The attorney general shall allocate personnel on a full-time, part-time or temporary basis as the legal needs of the office demand.

(2) ENFORCEMENT. Upon request of the commissioner, the attorney general shall proceed in any federal or state court or agency to recover any tax or fee related to insurance payable under the laws of this state and not paid when due, and any penalty or forfeiture authorized by the insurance laws. Upon request of the commissioner, the attorney general or, in a proper case, the district attorney of any county, shall aid in any investigation, hearing or other procedure under the insurance laws and shall institute, prosecute and defend proceedings relating to the enforcement or interpretation of the insurance laws, including any proceeding to which the state, or the insurance commissioner or any employe of the office, in his official capacity, shall be a party or in which he shall be interested.

601.13 Financial services; deposits. (1) **RECEIPT OF DEPOSITS.** Subject to the approval of the commissioner, the state treasurer shall accept deposits from insurers and other licensees of the office as follows:

(a) Deposits required or permitted by the laws of this state;

(b) Deposits of domestic insurers or of alien insurers domiciled in this state if required by the laws of other states as prerequisite to authority to do an insurance business in other states; and

(c) Deposits resulting from application of any retaliatory provisions.

(2) TERMS OF DEPOSIT. Unless otherwise provided by the law requiring or permitting the deposit, each deposit shall be held in trust: first, for the claimants under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (4); and thereafter, for all other creditors in the order of priority established by s. 645.68. No claim shall be made against the deposit of an alien insurer unless the claim arises out of a transaction in the United States.

(3) SECURITIES ELIGIBLE. All deposits may consist of any bonds, notes or other evidence of

indebtedness which are permitted investments for life insurers under s. 206.34 (1) (a), (b), (bm), (bn) and (j) of the 1969 statutes. Each security must be approved by the commissioner, must be subject to disposition by the state treasurer, and must not be available to any other person except as expressly provided by law.

(4) VALUATION. Securities held on deposit shall be valued as provided by the insurance laws for valuation of such investments of life insurers, or at market, whichever is lower.

(5) RECEIPT, INSPECTION AND RECORD. The state treasurer shall deliver to the depositor a receipt for all securities deposited and shall permit the depositor to inspect its securities at any reasonable time. On application of the depositor the treasurer shall issue a certificate of the deposit as required by any law of the United States or of any other state or foreign country or by the order of any court of competent jurisdiction. The treasurer and the commissioner shall each keep a permanent record of securities deposited and of any substitutions or withdrawals and shall compare records at least annually.

(6) TRANSFER OF SECURITIES. No transfer of a deposited security, whether voluntary or by operation of law, shall be valid unless approved in writing by the commissioner and countersigned by the treasurer.

(7) NOT SUBJECT TO LEVY. No judgment creditor or other person shall levy upon any deposit held under this section.

(8) INTEREST AND SUBSTITUTIONS. Subject to s. 14.58 (13), a depositor shall, while solvent and complying with the laws of this state, be entitled:

(a) To receive interest and cash dividends accruing on the securities held on deposit for its account; and

(b) To substitute for deposited securities other eligible securities, as expressly approved by the commissioner.

(9) VOLUNTARY EXCESS DEPOSIT. A depositor may deposit eligible securities in excess of requirements to absorb fluctuations in value and to facilitate substitution of securities.

(10) RELEASE OF DEPOSIT. Upon approval of the commissioner, any deposit or part thereof shall be released upon the depositor's request to the extent permitted by law.

(11) ADVANCE DEPOSIT OF FEES. With the approval of the commissioner, any person required to pay fees or assessments to the state through the commissioner may make a deposit with the treasurer from which the fees or assessments shall be paid on order of the commissioner not less than twice each year. Upon request by the depositor, any balance remaining may be returned on the certificate of

the commissioner that all fees and assessments have been paid to date.

History: 1971 c. 40 s. 93; 1971 c. 260 s. 92 (6).

601.14 Supporting services. (1) **OFFICES.** The department of administration shall provide suitable premises for the offices of the commissioner of insurance:

(a) In the city of Madison; and

(b) Elsewhere, if approved by the governor as necessary for the efficient operation of the office.

(2) **MATERIALS, SUPPLIES, EQUIPMENT AND CONTRACTUAL SERVICES.** The department of administration shall provide the office with all materials, supplies, equipment and contractual services necessary for its efficient operation, including reasonable library facilities and books. Part-time or temporary services of professionals and experts shall be provided by the department of administration upon the recommendation of the commissioner, and may be provided without regard to the restrictions of subch. II of ch. 16.

History: 1971 c. 307

601.15 Oath. The deputy commissioner shall take and file the official oath.

601.16 Official seal and signature. (1) **SEAL.** The commissioner need not have nor use an official seal. Any statutory or common law requirement that an official seal be affixed shall be satisfied by the signature of the commissioner.

(2) **SIGNATURES.** Any signature of the commissioner may be in facsimile unless specifically required to be handwritten.

601.17 Bond. (1) **BLANKET BOND.** The commissioner shall procure a blanket bond conforming to s. 19.01 (2) covering the commissioner and each employe of his office in the sum of \$100,000, applying separately to each covered person. The premium for the bond shall be allocated to the several appropriations under s. 20.145.

(2) **QUALIFICATIONS OF SURETY.** The bond shall be underwritten by an insurer authorized to transact surety business in this state and shall be approved by the governor.

601.18 Delegation. Any power, duty or function vested in the commissioner by law may be exercised, discharged or performed by any employe of the office acting in the commissioner's name and by his delegated authority. Any person whose own course of action in good faith depends upon proof of the validity of an asserted delegation is not obligated to act until he is shown a written delegation with a handwritten signature of the commissioner or deputy commissioner.

601.19 Organization of the office. The commissioner shall publish periodically in the Wisconsin administrative code an up-to-date chart and explanation of the organization of his office, making clear the allocation of responsibility and authority among the staff.

601.20 Advisory councils and committees. The commissioner may create advisory councils and committees under s. 15.04 (3) to assist him in dealing with regulatory problems. He may appoint members and may provide by rule for the creation, governance, duties and termination of any council or committee he establishes.

SUBCHAPTER III

FINANCING THE INSURANCE OFFICE

601.31 Fees. The following fees, unless revised by the commissioner as provided in s. 601.32, shall be paid to the commissioner:

(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 and nondomestic insurers, \$100;

(b) Rate service organizations, \$100; and

(c) Motor clubs, \$100.

(2) For issuing a certificate of authority:

(a) Domestic and nondomestic insurers, \$100;

(b) Rate service organizations, \$100; and

(c) Motor clubs, \$100.

(3) Annually for continuation of certificate of authority:

(a) Domestic and nondomestic insurers, \$25;

(b) Rate service organizations, \$100; and

(c) 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 amendments to the articles of a nondomestic insurer, \$10. If the amendment is filed more than 60 days after it has become effective in its domiciliary state, the corporation shall pay to the commissioner a penalty of \$25.

601.31 ADMINISTRATION OF THE INSURANCE LAWS

3966

(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 nondomestic insurer, 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 nondomestic insurer, \$25.

(11) For filing an application by a nondomestic insurer 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, \$2;

(b) Nonresident agent, \$10;

(c) Agents authorized to place business under s. 618.41, \$100.

(d) Adjusters of insurance, \$2.

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

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

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

(18) For service of process on the commissioner, \$5.

(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: 1971 c. 40 s. 93; 1971 c. 125, 260, 307.

601.32 Supervision of industry, supplementary fee. (1) If the moneys credited to s. 20.145 (1) (g) under other sections of the statutes prove inadequate for the office's supervision of insurance industry program, the commissioner may on or after January 1, 1968, increase any or all of the fees imposed by s. 601.31, or may annually on June 1, beginning June 1, 1968, levy a special assessment on all domestic insurance companies as defined in s. 601.31 (26), or both, for the general program operation of that program.

(2) Any special assessment shall be in addition to all other taxes, fees, dues and charges and shall not exceed for any such company a maximum of 25 cents per \$1,000 of gross premiums received by it during the preceding calendar year on direct insurance in this state, less:

(a) Returned premiums and cancellations; and

(b) One per cent of the sum of the taxes, fees and dues paid by such company under chs. 76 and 212 and s. 200.17 for said calendar year.

(3) Any assessment made by the commissioner which is less than the maximum shall be prorated among said companies in the same proportion as if it were a maximum assessment.

Any such assessment shall be paid to the commissioner on or before July 31 of each year.

(4) The commissioner may omit the levy of any assessment which would be smaller than the cost of processing and collecting it.

SUBCHAPTER IV

POWERS AND DUTIES OF COMMISSIONER

601.41 General duties and powers. (1) **DUTIES.** The commissioner shall administer and enforce the insurance laws. He shall act as promptly as possible under the circumstances on all matters placed before him.

(2) **POWERS.** The commissioner shall have all powers specifically granted to him, or reasonably implied in order to enable him to perform the duties imposed on him by sub. (1).

(3) **RULES.** The commissioner shall have rule-making authority under s. 227.014 (2).

(4) **ENFORCEMENT PROCEEDINGS.** (a) The commissioner shall issue such prohibitory, mandatory and other orders as are necessary to secure compliance with the law.

(b) On request of any person who would be affected by an order under par. (a), the commissioner may issue a declaratory order to clarify the person's rights or duties.

(5) **INFORMAL HEARINGS AND PUBLIC MEETINGS.** The commissioner may at any time hold informal hearings and public meetings, whether or not called hearings, for the purposes of investigation, the ascertainment of public sentiment, or informing the public. No effective rule or order may result from the hearing unless the requirements of ch. 227 are satisfied.

601.42 Reports and replies. (1) **REPORTS.** The commissioner may require from any person subject to regulation under the insurance laws:

(a) Statements, reports, answers to questionnaires and other information, and evidence thereof, in whatever reasonable form he designates, and at such reasonable intervals as he may choose, or from time to time;

(b) Full explanation of the programming of any data storage or communication system in use; and

(c) That information from any books, records, electronic data processing systems, computers or any other information storage system be made available to him at any reasonable time and in any reasonable manner.

(2) **FORMS.** The commissioner may prescribe forms for the reports under sub. (1) and specify who shall execute or certify such reports. The forms shall be consistent, so far as practicable, with those prescribed by other jurisdictions.

(3) **ACCOUNTING METHODS.** The commissioner may prescribe reasonable minimum standards and techniques of accounting and data handling to ensure that timely and reliable information will exist and will be available to him.

(4) **REPLIES.** Any officer, manager or general agent of any insurer authorized to do or doing an insurance business in this state, any person controlling or having a contract under which he has a right to control such an insurer, whether exclusively or otherwise, any person with executive authority over or in charge of any segment of such an insurer's affairs, and any insurance agent or other person licensed under the insurance laws shall reply promptly in writing or in other designated form, to any written inquiry from the commissioner requesting a reply.

(5) **VERIFICATION.** The commissioner may require that any communication made to him under this section be verified.

(6) **IMMUNITY.** In the absence of actual malice, no communication to the commissioner required by law or by the commissioner shall subject the person making it to an action for damages for defamation.

601.43 Examinations and alternatives.

(1) **POWER TO EXAMINE.** (a) *Insurers and other licensees.* Whenever he deems it necessary in order to inform himself about any matter related to the enforcement of the insurance laws, the commissioner may examine the affairs and condition of any licensee under the insurance laws or applicant for a license, of any person or organization of persons doing or in process of organizing to do an insurance business in this state, and of any advisory organization serving any of the foregoing in this state.

(b) *Collateral examinations.* So far as reasonably necessary for an examination under par. (a), the commissioner may examine the accounts, records, documents or evidences of transactions, so far as they relate to the examinee, of any officer, manager, general agent, employe, person who has executive authority over or is in charge of any segment of the examinee's affairs, person controlling or having a contract under which he has the right to control the examinee whether exclusively or with others, person who is under the control of the examinee, or any person who is under the control of a person who controls or has a right to control the examinee whether exclusively or with others.

(c) *Availability of records.* On demand every examinee under par. (a) shall make available to the commissioner for examination any of its own accounts, records, documents or evidences of transactions and any of those of the persons

listed in par. (b). Failure to do so shall be deemed to be concealment of records under s. 645.41 (8), except that if the examinee is unable to obtain accounts, records, documents or evidences of transactions, failure shall not be deemed concealment if the examinee terminates immediately the relationship with the other person.

(2) DUTY TO EXAMINE. (a) *Insurers and rate service organizations.* The commissioner shall examine every domestic insurer and every licensed rate service organization at intervals to be established by rule.

(b) *On request.* Whenever he is requested by verified petition signed by 25 persons interested as shareholders, policyholders or creditors of an insurer alleging that there are grounds for formal delinquency proceedings, the commissioner shall forthwith examine the insurer as to any matter alleged in the petition. Whenever he is requested to do so by the board of directors of a domestic insurer, the commissioner shall examine the insurer as soon as reasonably possible.

(c) *Specific requirements.* The commissioner shall examine insurers as otherwise required by law.

(3) AUDITS OR ACTUARIAL EVALUATIONS. In lieu of all or part of an examination under subs. (1) and (2), or in addition to it, the commissioner may order an independent audit by certified public accountants or actuarial evaluation by actuaries approved by him of any person subject to the examination requirement. Any accountant or actuary selected shall be subject to rules respecting conflicts of interest promulgated by the commissioner. Any audit or evaluation under this section shall be subject to s. 601.44, so far as appropriate.

(4) ALTERNATIVES TO EXAMINATION. In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or actuarial evaluation by actuaries approved by him, or the report of an examination made by the insurance department of another state.

(5) PURPOSE AND SCOPE OF EXAMINATION. An examination may but need not cover comprehensively all aspects of the examinee's affairs and condition. The commissioner shall determine the exact nature and scope of each examination, and in doing so shall take into account all relevant factors, including but not limited to the length of time the examinee has been doing business, the length of time he has been licensed in this state, the nature of the business being examined, the nature of the accounting records available and the nature of examinations performed elsewhere. The examination of an alien insurer shall be limited to

insurance transactions and assets in the United States unless the commissioner orders otherwise after finding that extraordinary circumstances necessitate a broader examination.

601.44 Conducting examinations. (1) **ORDER OF EXAMINATION.** For each examination under s. 601.43, the commissioner shall issue an order stating the scope of the examination and designating the examiner in charge. Upon demand a copy of the order shall be exhibited to the examinee.

(2) ACCESS TO EXAMINEE. Any examiner authorized by the commissioner shall, so far as necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents or property of the examinee and to those of persons under s. 601.43 (1) (b) so far as they relate to the affairs of the examinee.

(3) COOPERATION. The officers, employees and agents of the examinee and of persons under s. 601.43 (1) (b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination. No person shall obstruct or interfere with the examination in any way other than by legal process.

(4) CORRECTION OF BOOKS. If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, he may employ experts to rewrite, post or balance them at the expense of the examinee.

(5) REPORT ON EXAMINATION. The examiner in charge of an examination shall make a proposed report of the examination which shall include such information and analysis as is ordered in sub. (1), together with the examiner's recommendations. Preparation of the proposed report may include conferences with the examinee or his representatives at the option of the examiner in charge. The proposed report shall remain confidential until filed under sub. (6).

(6) ADOPTION AND FILING OF EXAMINATION REPORT. The commissioner shall serve a copy of the proposed report upon the examinee. Within 20 days after service, the examinee may serve upon the commissioner a written demand for a hearing on the contents of the report. If a hearing is demanded, the commissioner shall give notice and hold a hearing under ch. 227, except that on demand by the examinee the hearing shall be private. Within 60 days after the hearing or if no hearing is demanded then within 60 days after the last day on which the examinee might have demanded a hearing, the commissioner shall

adopt the report with any necessary modifications and file it for public inspection, or he shall order a new examination.

(7) **COPY FOR EXAMINEE.** The commissioner shall forward a copy of the examination report to the examinee immediately upon adoption, except that if the proposed report is adopted without change, the commissioner need only so notify the examinee.

(8) **COPIES FOR BOARD.** The examinee shall forthwith furnish copies of the adopted report to each member of its board of directors or other governing board.

(9) **COPIES FOR OTHER PERSONS.** The commissioner may furnish, without cost or at a price to be determined by him, a copy of the adopted report to the insurance commissioner of each state in the United States and of each foreign jurisdiction in which the examinee is authorized to do business, and to any other interested person in this state or elsewhere.

(10) **REPORT AS EVIDENCE.** In any proceeding by or against the examinee or any officer or agent thereof the examination report as adopted by the commissioner shall be admissible as evidence of the facts stated therein. In any proceeding commenced under ch. 645, the examination report whether adopted by the commissioner or not shall be admissible as evidence of the facts stated therein. In any proceeding by or against the examinee, the facts asserted in any report properly admitted in evidence shall be presumed to be true in the absence of contrary evidence.

601.45 Examination costs. (1) **COSTS TO BE PAID BY EXAMINEE.** The reasonable costs of an examination under ss. 601.43 and 601.44 shall be paid by the examinee except as provided in sub. (4). The costs shall include the salary and expenses of each examiner and any other expenses which may be directly apportioned to the examination.

(2) **DUTY TO PAY.** The amount payable under sub. (1) shall become due 10 days after the examinee has been served a detailed account of the costs.

(3) **DEPOSIT.** The commissioner may require any examinee, before or from time to time during an examination to deposit with the state treasurer such deposits as the commissioner deems necessary to pay the costs of the examination. Any deposit and any payment made under subs. (1) and (2) shall be credited to the appropriation under s. 20.145 (1) (g).

(4) **EXEMPTIONS.** On the examinee's request or on his own motion, the commissioner may pay all or part of the costs of an examination from the appropriation under s. 20.145 (1) (g), whenever he finds that because of the frequency of

examinations or other factors, imposition of the costs would place an unreasonable burden on the examinee. The commissioner shall include in his annual report information about any instance in which he applied this subsection.

(5) **RETALIATION.** Deposits and payments under this section shall not be deemed to be a tax or license fee within the meaning of any statute. If any other state charges a per diem fee for examination of examinees domiciled in this state, any examinee domiciled in that other state shall be required to pay the same fee when examined by the insurance office of this state.

601.46 Commissioner's records and reports. (1) **RECORD MAINTENANCE.** The commissioner shall maintain the records required by law and those necessary to provide for the continued effective operation of the office, to constitute an adequate and proper recording of its activities and to protect the rights of the people of this state. The records shall be preserved in the office except as provided in s. 16.80.

(2) **RECORD OF PROCEEDINGS AND ACTIVITIES.** The commissioner shall maintain a permanent record of his proceedings and important activities, including a concise statement of the condition of each insurer visited or examined by him, and including a record of all certificates of authority and licenses issued by him.

(3) **ANNUAL REPORTS.** Prior to September 1 of each year, the commissioner shall make a report to the governor and to the legislature which shall include, for the preceding calendar year:

(a) The chart and explanation prepared under s. 601.19;

(b) A general review of the insurance business in this state, including a report on emerging regulatory problems, developments and trends;

(c) Recommendations for legislation;

(d) A statement describing all legal proceedings instituted by or against him, including those commenced under ss. 601.64 and 601.71;

(e) A summary of the complaints made to or processed by the office about insurers, agents and others connected with insurance, and information about their disposition;

(f) A summary of the complaints made to the office about the office, and a report on the disposition thereof;

(g) A summary of rules promulgated and circular letters distributed;

(h) A list of all insurers authorized to do business in this state during the year, with appropriate and useful information concerning

them; including a list of insurers organized, admitted, merged or withdrawn;

(i) A list of all revocations of licenses or certificates of authority and the reasons therefor;

(j) The information required to be included by s. 645.09;

(k) A list of examination reports adopted and filed, and to the extent that the commissioner deems it useful, summaries of and excerpts from such reports, except that no summaries or excerpts shall be published that might be misleading because taken out of context;

(m) The changes made in the insurance laws;

(n) A summary of receipts and expenses, including the information required to be included by s. 601.45 (4);

(p) The kind and amount of insurance carried in all state insurance funds under chs. 604 to 608 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; and

(q) Such other information on the general conduct and condition of insurers doing business in this state as the commissioner or the governor deems necessary or as is prescribed by law.

(4) **PUBLIC INSPECTION.** All records and reports shall be open to public inspection unless specifically otherwise provided by statute or by rule.

(5) **COPIES OF RECORDS.** The commissioner shall provide to any person on request certified or uncertified copies of any record in the department that is open to public inspection.

History: 1971 c. 40 ss. 82, 93; 1973 c. 117

601.47 Publications. (1) **GENERAL.** The commissioner may prepare books, pamphlets and other publications relating to insurance and sell them in the manner and at the prices he determines. The cost of publication and distribution may be paid from the appropriation under s. 20.145 (1) (g).

(2) **ANNUAL REPORT.** The commissioner shall have printed in a form to be determined by him the report required in s. 601.46 (3), in number sufficient to meet all requests for copies. He shall distribute copies upon request to any person who pays the reasonable price thereof determined under sub. (1).

(3) **FREE DISTRIBUTION.** The commissioner may furnish free copies of the publications prepared under subs. (1) and (2) to public officers and libraries in this state and elsewhere. The cost of free distribution shall be charged to the appropriation under s. 20.145 (1) (g).

History: 1971 c. 125

601.48 Participation in organizations. (1) **NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS.** The commissioner and his office shall maintain close relations with the commissioners of other states and shall participate in the activities and affairs of the national association of insurance commissioners and other organizations so far as it will, in his judgment, enhance the purposes of the insurance laws. The actual and necessary expenses incurred thereby shall be reimbursed out of the appropriation under s. 20.145 (1) (g).

(2) **CONSULTATION IN REGULATION.** The commissioner may exchange information and data and consult with other persons in order to improve and carry out insurance regulation.

601.49 Access to records. The commissioner shall have access to the records of any agency of the state government or of any political subdivision thereof which he may wish to consult in discharging his duties.

SUBCHAPTER V

PROCEDURES AND ENFORCEMENT

601.61 Auxiliary procedural powers. The commissioner may administer oaths, take testimony, issue subpoenas and take depositions in connection with any hearing, meeting, examination, investigation or other proceeding that he may conduct.

601.62 Hearings. (1) **HEARING REQUIRED.** Whenever the insurance laws expressly so provide, the commissioner shall hold a hearing before issuing an order.

(2) **SPECIAL INSURANCE HEARINGS.** Chapter 227 shall apply to all hearings under the insurance laws, except those for which special procedures are prescribed.

(3) **ADJUDICATORY HEARINGS.** In addition to the requirements of ch. 227, the following provisions shall apply:

(a) *Subsequent hearings.* Whenever an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 20 days after receiving notice of the order. Failure to demand a hearing within the period prescribed therefor shall constitute waiver of a hearing. The demand shall be in writing and shall be served on the commissioner by delivering a copy to the commissioner or by leaving it at his office. The commissioner shall thereupon hold a hearing not less than 10 nor more than 30 days after service of the demand.

(b) *Rehearing.* When an order is issued after a hearing, any person aggrieved by the order may request a rehearing within 20 days after notice of

the order. The commissioner may hold a rehearing pursuant to the request not less than 10 nor more than 30 days after the request.

(c) *Reduction and extension of periods.* Upon request of the person demanding the hearing or of any other aggrieved person, the commissioner may reduce or extend the period prescribed by par. (a) or (b) for holding a hearing.

(4) **FEES IN INVESTIGATIONS AND HEARINGS.** 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, interpreters 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 under s. 20.145 (1) (g).

601.63 Notice and effective date of orders. (1) **NOTICE TO PERSON ADDRESSED BY ORDER.** Notice of any order by the commissioner shall be served under s. 227.14.

(2) **NOTIFICATION TO AGENTS OF REVOCATION OF CERTIFICATE OF AUTHORITY OF INSURER.** Upon issuance of any order limiting, suspending or revoking an insurer's authority to do business in this state, the commissioner shall notify by mail all agents of the insurer of whom he has record. He shall also publish a class 1 notice of the order under ch. 985.

(3) **DELAY OF EFFECTIVE DATE.** Except as provided in sub. (4) or as expressly provided otherwise by statute, all orders of the commissioner shall take effect 10 days after notice under sub. (1) or at a later date specified in the order.

(4) **SUSPENSION OF ORDER.** Whenever a hearing is demanded under s. 601.62 (3) (a) or a rehearing is requested under s. 601.62 (3) (b), the commissioner may suspend the order or any part thereof until after the hearing or rehearing. If he refuses to suspend the order, any person aggrieved thereby may seek a court order under ch. 268 to restrain enforcement of the order until after the hearing or rehearing.

(5) **ACTIONS SUBJECT TO APPROVAL OR DISAPPROVAL.** (a) *Required approval.* Whenever the law requires the commissioner's approval for a certain action, the action shall not become effective until expressly approved. The approval shall be deemed refused if the commissioner does not act within 60 days after receiving the application for approval.

(b) *Reserved disapproval.* Whenever the law provides that a certain action shall not become effective if disapproved by the commissioner within a certain period, the action may be made effective prior to the expiration of the period by

being affirmatively approved by the commissioner.

(c) *Specific provisions.* Paragraphs (a) and (b) shall not apply to the extent that the law specifically provides otherwise.

History: 1971 c. 40 s. 93

601.64 Enforcement procedure. (1) **INJUNCTIONS.** Whenever a person fails to comply with an order issued under s. 601.41 (4), the commissioner may, in the name of the state, commence an action to obtain an order under ch. 268 directing the person to comply with the commissioner's order, and restraining him from further violation thereof. The commissioner may, whenever he deems it advisable, seek an injunction under ch. 268 as an alternative to issuing an order under s. 601.41 (4).

(2) **COMPULSIVE FORFEITURES.** If a person does not comply with an order issued under s. 601.41 (4) within 2 weeks after the commissioner has given him notice of his intention to proceed under this subsection, the commissioner may commence an action for a forfeiture in such sum as the court considers just, but not exceeding \$5,000 for each day that the violation continues after the commencement of the action until judgment is rendered. No forfeiture shall be imposed under this subsection if at the time the action was commenced the person was in compliance with the order. For purposes of this subsection, no forfeiture shall be imposed for any violation of an order occurring while any proceeding for judicial review of the order was pending, unless the court in which the proceeding was pending certifies that the claim of invalidity or nonapplicability of the order was frivolous or a sham. If after judgment is rendered the person still does not comply with the order, the commissioner may commence a new action for a forfeiture, and may continue commencing actions until the person complies. The proceeds of all actions under this subsection, after deduction of the expenses of collection, shall be paid into the common school fund of the state.

(3) **FORFEITURES AND CIVIL PENALTIES.** (a) *Restitutory forfeiture.* Whoever violates an effective order issued under s. 601.41 (4) or any insurance statute or rule shall forfeit to the state twice the amount of any profit gained from the violation, in addition to any other forfeiture or penalty imposed.

(b) *Forfeiture for violation of order.* Whoever violates an order issued under s. 601.41 (4) which is effective under s. 601.63 shall forfeit to the state not more than \$1,000 for each violation. Each day that the violation continues shall be deemed a separate offense.

(c) *Forfeiture for violation of statute or rule.* Whoever violates an insurance statute or rule

601.64 ADMINISTRATION OF THE INSURANCE LAWS

3972

shall forfeit to the state not more than \$1,000 for each violation. If the statute or rule imposes a duty to make a periodic or recurring report to the commissioner, each week of delay in complying with the duty shall constitute a new violation.

(d) *Procedure.* The commissioner may demand and accept any forfeiture imposed under this subsection, which shall be paid into the common school fund. At his discretion he may cause action to be commenced to recover the forfeiture in an amount to be determined by the court. Before an action is commenced, the commissioner may compromise the forfeiture; after the action is commenced, the attorney general may compromise the forfeiture.

(4) **CRIMINAL PENALTY.** Whoever intentionally violates or intentionally permits any person over whom he has authority to violate or intentionally aids any person in violating any insurance statute or rule of this state or any effective order issued under s. 601.41 (4) may, unless a specific penalty is provided elsewhere in the statutes, be fined not more than \$10,000 if a corporation or if a natural person be fined not more than \$5,000 or imprisoned for not to exceed 3 years or both. Intent has the meaning expressed under s. 939.23.

(5) **REVOCATION, SUSPENSION AND LIMITATION OF LICENSES.** Whenever a licensee of the office other than an insurer persistently or substantially violates the insurance law or an order of the commissioner under s. 601.41 (4), or if the licensee's methods and practices in the conduct of his business endanger, or his financial resources are inadequate to safeguard, the legitimate interests of his customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend, limit or refuse to renew the license.

History: 1971 c. 260.

Legislative council note, 1971: The amendment [of sub (5)] removes nondomestic insurers from the purview of this section. Revocation of a nondomestic insurer's license is now governed by s. 618.37. [Bill 469-S]

601.71 Enforcement of policyholder rights. When the commissioner is satisfied that any foreign or alien insurer which no longer has a certificate of authority in this state does or omits to do any act whereby the rights of policyholders who are residents 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 those policyholders is impaired, he may, with the agreement of the attorney general, bring an action in the name of the state on behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in the action and the expenses shall be borne as in other civil actions in behalf of the state.

Upon service of the complaint the insurer shall file with the commissioner the names and addresses of all policyholders so situated. A notice of the action shall be mailed to every such policyholder either by the commissioner or by the insurer, as the commissioner determines. Any policyholder affected by the action may intervene.

601.72 Service of process through state officer.

(1) **GENERAL.** The commissioner is by law constituted attorney, except in cases in which the proceeding is to be brought by the state, in which event the secretary of state is by law constituted attorney, to receive service of summons, notices, orders, pleadings and all other legal processes relating to any court or administrative agency in this state:

(a) *Authorized insurers.* For all insurers authorized to do business in this state, while authorized to do business in this state, and thereafter in any proceeding arising from or related to any transaction having any connection with this state;

(b) *Surplus lines insurers.* For all insurers as to any proceeding arising out of any contract that is permitted by s. 618.41, or out of any certificate, cover note or other confirmation of such insurance; and

(c) *Unauthorized insurers.* For all unauthorized insurers or other persons doing an unauthorized insurance business in this state as to any proceeding arising out of the unauthorized transaction.

(2) **APPOINTMENT OF ATTORNEY.** Every licensed insurer by applying for and receiving a certificate of authority, every surplus lines insurer by entering into a contract subject to the surplus lines law, and every unauthorized insurer by doing an insurance business in this state, shall be deemed to have irrevocably appointed the commissioner and secretary of state as his attorneys in accordance with sub. (1).

(3) **OTHERS AFFECTED.** The commissioner and secretary of state shall also be attorneys for the executors, administrators or personal representatives, receivers, trustees or other successors in interest of the persons specified in sub. (1).

(4) **FEES.** Litigants serving process on the commissioner under this section shall pay the fees specified in s. 601.31 (18).

(5) **ORDINARY MEANS OF SERVICE.** The right to substituted service under this section shall not limit the right to serve summons, notice, orders, pleadings, demands or other process upon any person in any manner provided by law.

History: 1971 c. 260.

601.73 Procedure for service of process through state officer. (1) REQUIREMENTS FOR EFFECTIVE SERVICE. Service upon the commissioner or secretary of state under s. 601.72 shall be service on the principal, if:

(a) Two copies of the process are left in the hands or office of the commissioner or secretary of state respectively;

(b) The commissioner or secretary of state mails a copy of the process to the person served according to sub. (2) (b).

(c) The serving party files with the clerk of the court or agency in which the matter is pending his or his attorney's affidavit showing compliance with pars. (a) and (b) within 10 days after sending notice under par. (b), or within such further time as the court or agency allows.

(2) COMMISSIONER'S ACTION. (a) *Records.* The commissioner and secretary of state shall

give receipts for and keep records of all process served through them.

(b) *Process mailed.* The commissioner or secretary of state shall send to the person served immediately at his last known principal place of business or residence or post-office address one copy of any process received by certified mail and shall retain the other copy for his files.

(c) *Default judgment.* No plaintiff or complainant shall be entitled to a judgment by default in any proceeding in which process is served under ss. 601.72 and 601.73 until the expiration of 20 days from the date of mailing of the process under par. (b).

(3) PROOF OF SERVICE. A certificate by the commissioner or the secretary of state, showing service made upon him, and attached to a copy of the process presented to him for that purpose shall be sufficient evidence of the service.

History: 1971 c. 189