

No. 573, A.

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CHAPTER 301

AN ACT to repeal 206.41 (11), (13) and (14); to renumber 206.41 (15); to amend 206.41 (3) (a); and to repeal and recreate 206.41 (4) to (10) of the statutes, relating to the licensing of life insurance agents.

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

SECTION 1. 206.41 (3) (a) of the statutes is amended to read:

206.41 (3) (a) No person shall act as a life insurance agent within this state until he * * * has procured a *certificate of registration and a license* as required by * * * law.

SECTION 2. 206.41 (4) to (10) of the statutes are repealed and recreated to read:

206.41 (4) APPLICATION; EXAMINATION; CERTIFICATE OF REGISTRATION. (a) *Application*. Every natural person desiring to act as a life insurance agent for an authorized insurer in this state on or after June 1, 1964, shall apply to the commissioner for a certificate of registration as hereinafter prescribed. The applicant for such certificate shall submit to the commissioner his written application therefor and shall make a sworn statement on forms to be prepared by the commissioner giving his name, marital status, birth date, residence, place of business and occupation for the 5-year period immediately preceding the date of such application, and his contemplated insurance business address for the year to follow if a certificate is granted; whether he will devote all or part of his efforts to acting as an insurance agent, and, if part only, how much time he will devote to such work and in what business he is engaged or employed; whether he intends to comply with s. 201.53 (3) with reference to compensation for effecting insurance upon his own property or other risk; whether he has been refused or has had suspended or revoked a license to solicit insurance applications by the commissioner or other proper supervising officials of any state; what instruction in insurance, if any, he has had or expects to have; what insurance experience, if any, he has had; whether any insurer or general agent claims he is indebted to it or him under any agency contract or otherwise, and, if so, the name of the claimant, the nature of the claim and his defense thereto, if any; whether he has had an agency contract canceled and, if so, when, by what insurer or general agent and the reason for such action; whether, if married, his or her spouse has ever applied for or held a license to solicit insurance in this state and whether

any such license has been refused, suspended or revoked; and such other information and references as the commissioner requires. Each agent shall promptly report to the commissioner any change in his business address.

(b) *Examination.* 1. 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 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 unless a license had not been issued to such applicant within the 2 years immediately preceding the date of filing his application. 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 2 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. Upon giving the commissioner 3 days' notice in writing of his intention to apply, any applicant shall be permitted to take the examination on any business day by appearing at the office of the commissioner in person. 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 may appoint representatives to conduct the examination and may pay a fee to each such representative.

2. No person who has taken and failed to pass 2 examinations given pursuant to this section shall be entitled to take any further examination until 6 months after the date of the last examination in which he failed. An examination fee as required by s. 200.13 (17) shall be paid for each examination.

3. The commissioner shall appoint an advisory board consisting of not less than 6 nor more than 9 members to make recommendations 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 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 life insurance business, one-third shall be general agents or managers, and one-third licensed life insurance agents of whom one shall be an agent who solicits industrial life insurance. Two-thirds of the first advisory board shall be appointed for the term of 2 years and one-third for the term of one year and thereafter all members of the board shall be appointed for 2 years. The advisory board shall meet no less than 2 times in each calendar year.

4. The examination provided for under this subsection need not be taken by persons licensed for credit life insurance under sub. (5) (c).

(c) *Issuance or refusal of certificate of registration; fee.* If the commissioner is satisfied that the applicant 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 (15) 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.

(d) *Expiration and renewal of certificate.* 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 (15) (e).

(5) APPLICATION AND FEE FOR AGENT'S LICENSE. (a) *Application.* Each applicant for a license to act as a life insurance agent for an authorized insurer in this state shall apply to the commissioner through the insurer for a license on forms prepared by the commissioner, which application shall include a notarized certificate signed by an officer or properly authorized representative of each insurer stating that the respective insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and intends to hold himself out in good faith to the general public as an insurance agent and that the respective insurer desires that the applicant be licensed as an agent to represent it in this state. The application for a license to act as an agent after June 1, 1964, shall include a sworn statement by the applicant that he holds a currently valid certificate of registration as required by this section unless exempt from such requirement by par. (d).

(b) *Issuance of license; fee.* If the commissioner is satisfied that the applicant is intending in good faith to act as an insurance agent, is trustworthy and worthy of a license and is a resident of this state, unless application is for a nonresident agent's license, the annual fee required by s. 200.13 (15) for such license has been paid or tendered with the application and the applicant, if required, has passed a written examination and holds a currently valid certificate of registration, a license shall be issued forthwith, limited to the insurer by whom the agent is to be appointed.

(c) *Limited credit life insurance license.* The commissioner may issue licenses permitting the sale of credit life insurance only. Such licenses shall be designed and printed so that they can be clearly distinguished from other licenses issued under this section. For the purposes of this paragraph credit life insurance is nonrenewable, nonconvertible, term insurance. Such insurance may be sold under this paragraph only when:

1. The insurance is written upon the life of the debtor, and all or a portion of the insurance is payable to the creditor in satisfaction of the debt; and

2. The term of the insurance does not substantially exceed the term of the obligation; and

3. The amount of the insurance does not substantially exceed the amount of the original obligation.

(d) *Nonresident agents.* 1. A person not a resident in this state may be licensed as an agent upon compliance with this section if the state in which such person resides will accord the same privilege to a resident of this state.

2. The commissioner may enter into reciprocal agreements with the appropriate official of any other state waiving the written examination, certificate of registration and fees therefor of any applicant resident in such other state, provided that if a written examination is required for the kind of insurance for which the applicant wishes to be licensed in this state, such other state also requires a written examination as a prerequisite for a license for the same kind of insurance and that such other state does not require a certificate of registration or similar form from residents of this state and that the appropriate official of such other state certifies on a form

prepared by the commissioner that the applicant holds a currently valid license in such other state for the kind of insurance for which he makes application to be licensed in this state and either passed such written examination or was a holder of a license to act as an agent for such kind of insurance prior to the time such written examination was required.

(e) *Possession of licenses.* Each insurer shall forward the original copy of every license to the agent named thereon to act for such insurer and each agent shall retain possession of such license while it is in effect and shall return same to the company for which it was issued at such time as his appointment is terminated by that company for the line of insurance shown on such license.

(f) *License term.* The fee shall continue the license in force until the following November 1 unless sooner revoked or terminated or until the holder thereof fails to maintain in force a certificate of registration as required herein.

(g) *Expiration and renewal of agent's license.* 1. Each license issued to a life insurance agent shall expire on November 1 following the date of issue.

2. License renewals may be effected from year to year without further action on the part of the agent provided that annually, prior to November 1 of each year, the insurer submits to the commissioner a list of all agents appointed by it to act within the state together with the required annual license fees as provided in s. 200.13 (15). Such list shall show the name, license numbers, kinds of licenses and birth date for each agent whose license is to remain in effect. The commissioner may require such list to include the residence address and business address of each agent. No license shall be renewed after June 1, 1964, for any agent who does not hold a currently valid certificate of registration at the time said renewal is to be effected.

(6) **AUTHORITY UNDER LICENSE; STATEMENT ON TERMINATION.** Any license issued to an agent shall authorize him to act as such agent during the time for which the company appointing him is authorized to do an insurance business in this state and during the time for which the agent's license fee has been paid, a certificate of registration is maintained in force (if such certificate is required) and such agent is a bona fide resident of this state (if the license is for a resident agent). Every insurer shall, upon termination of the appointment of any insurance agent, promptly return such license, if available to such insurer, to the commissioner and immediately file with the commissioner a statement of the facts relative to the termination of the appointment and the date. The commissioner shall thereupon terminate the license of such agent to represent such insurer in this state.

(7) **CORPORATIONS AND PARTNERSHIPS EXCLUDED AS AGENTS.** No corporation or partnership shall be licensed as an agent of any insurance company.

(8) **PENALTY.** Any person violating this section may be fined not more than \$500 for each offense.

(9) **EXCHANGE OF BUSINESS.** Nothing in this section shall be construed to prevent the proper exchange of business between lawfully licensed resident agents of this state.

(10) **REFUSAL, SUSPENSION OR REVOCATION OF LICENSE OR CERTIFICATE OF REGISTRATION.** (a) *Grounds.* A certificate of registration or license may be refused, suspended or revoked or the renewal thereof refused by the commissioner, if he finds that the applicant for, or holder:

1. Has wilfully violated any provisions of the insurance laws of this state; or

2. Has intentionally made a material misstatement in the application for such certificate or license; or

3. Has obtained, or attempted to obtain, such certificate or license by fraud or misrepresentation; or
4. Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or
5. Has otherwise demonstrated lack of trustworthiness or competence to act as an insurance agent; or
6. Has been guilty of fraudulent or dishonest practices; or
7. Has materially misrepresented the terms and conditions of insurance policies or contracts; or
8. Has made or issued, or caused to be made or issued, any statement misrepresenting or making misleading comparisons regarding the terms or conditions of any insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or
9. Has obtained or attempted to obtain such certificate or license, not for the purpose of holding himself out to the general public as an insurance agent, but primarily for the purpose of soliciting, negotiating or procuring insurance contracts under which he or members of his family are insured, or under which are insured the officers, directors, stockholders, partners or employes of a partnership, association or corporation of which he or a member of his family is an officer, director, stockholder, partner or employe except that the soliciting of credit life insurance by an officer or employe of a bank organized under ch. 221, a permittee under s. 115.07 (4), a licensee under s. 115.09 or 218.01, or a national bank shall not constitute grounds under this section for refusal of such license; or
10. Has discounted a note taken in payment of a premium before the issuance and delivery of the policy to the insured; or
11. Has misrepresented the financial or other condition of the company; or
12. Has violated any of the provisions of s. 134.10 or 134.11.

(b) *Unauthorized insurance.* The certificate of registration or license of any agent who does any unauthorized act of an insurance business as set forth in s. 201.42 (2) shall be suspended for a period of not less than 90 days and such agent shall not be permitted to do business until all liability for such violation is discharged. Whenever the commissioner receives notice of an unauthorized act of an insurance business he shall forthwith make an inspection of the books and records of such agent and upon his refusal to permit such inspection the commissioner shall revoke his license.

(c) *Commissioner's notice; procedure.* 1. Whenever the issuance of any certificate or license is refused (except for failure to pass a written examination) the commissioner shall give notice to the applicant and the insurer who desires that he be licensed, stating the reason such certificate or license is refused. Whenever any certificate or license is to be suspended or revoked or the renewal thereof is to be refused hereunder, the commissioner shall give notice to the holder and the insurer whom he represents expressing intent to suspend, revoke or refuse renewal thereof and stating the reason therefor at least 20 days prior to the effective date of such action. Such suspension, revocation or nonrenewal shall take effect on such specified date unless an aggrieved party proceeds as hereinafter provided.

2. Any insurer, agent or applicant for a certificate or license aggrieved by action of the commissioner hereunder may request in writing within 10 days after receipt of the notice hereinbefore mentioned a reconsideration by the commissioner of his action and shall state in such request the reason such action should not be taken. The commissioner shall reaffirm or reverse his action within 10 days after the receipt of such request. Failure by the commissioner to act within the appointed time shall serve to continue the certificate or license in force beyond the date established for such refused

renewal, suspension or revocation but shall not preclude the establishment of a new effective date for such action.

3. Nothing contained herein shall preclude any right of an aggrieved party to require a public hearing and request in writing a review of the commissioner's action by proceeding in accordance with ch. 227 nor any right of the commissioner to call a public hearing under said chapter. Any certificate or license which is in force at the time such hearing is requested or called and which is the subject of such hearing shall remain in force during the time that proceedings under ch. 227 or any judicial review thereof is pending.

4. All notices, requests and decisions hereinbefore mentioned shall be transmitted by giving a copy of such notice, request or decision personally to the addressee or by sending a copy of such notice, request or decision by prepaid registered mail and the mail service shall be complete upon the delivery or tender of the copy to such addressee by the postal authorities, and may be proved by the receipt of the addressee on the form used by the postal authorities or by their report thereon that tender or receipt has been refused.

(d) *Application subsequent to revocation, refusal of renewal, or suspension.* 1. No person whose certificate or license has been revoked or the renewal thereof refused hereunder shall be entitled to file another application for a license within 2 years from the effective date of such revocation or refused renewal or if judicial review of such revocation or refused renewal is sought, within 2 years from the date of final court order or decree affirming such revocation or refusal of renewal. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation or refused renewal of his license shall not be deemed a bar to the issuance of a new license.

2. No agent whose license has been suspended shall be entitled to file another application for a license during such period of suspension.

SECTION 3. 206.41 (11), (13) and (14) of the statutes are repealed.

SECTION 4. 206.41 (15) of the statutes is renumbered 206.41 (11).

Approved August 29, 1963.
