

No. 67, S.]

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CHAPTER 152.

AN ACT to create sections 1970m, 1970n, and 1895m, relating to the liquidation of insolvent and delinquent insurance companies.

The people of the State of Wisconsin, represented in Senate and Assembly, do enact as follows:

SECTION 1. There are added to the statute three new sections to read: Section 1970m. 1. The commissioner of insurance may apply on a verified petition to the circuit court or the presiding judge thereof, in the county in which the home office of any domestic insurance company or fraternal or mutual benefit society is located, for the order mentioned in the following subsection, whenever such company or society:

- a. is insolvent; or
- b. has refused to submit its books, papers, accounts, or affairs to the reasonable inspection and examination of the commissioner, his deputy, or examiner; or
- c. has neglected or refused to obey an order of the commissioner to make good within the time prescribed by such order pursuant to law any deficiency, whenever its capital, if a stock company, or its reserve, if a mutual company, shall have become impaired; or
- d. has, by contract of reinsurance or otherwise, transferred or attempted to transfer its entire property or business, or entered into any transaction, the effect of which is to merge substantially its entire property or business in the property or business of any other company or society, without having first obtained the written approval of the commissioner; or
- e. is found, upon examination, to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public; or
- f. has wilfully violated its charter or articles of incorporation, or any law of the state; or
- g. any officer thereof has refused to be examined on oath touching its affairs.

2. a. On such application, an order may be made directing the company or society to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interests of its policyholders, creditors, stockholders, and the public may require.

b. The court may also, at any time after such application, issue an injunction restraining such company or society from the

transaction of its business or disposition of its property, and may authorize the commissioner to immediately enter into the possession of such property and the conduct of such business, until the further order of the court.

c. On the return of the order to show cause, and after a full hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such company or society, and retain such possession and conduct such business until on the application of the commissioner or of such company or society, it shall after a like hearing appear to the court that the ground for such order has been removed and that such company or society can properly and safely resume possession of its property and the conduct of its business.

3. If, on a like application and order to show cause, and after a full hearing, the court shall order the liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner, who may deal with the property and business of such company or society in his own name as commissioner, or in the name of the company or society, as the court may direct, and shall be vested by operation of law with title to all of the property, contract, and rights of action of such company or society, as of the date of the order so directing him to liquidate. The filing or recording of such order shall impart the same notice that a deed, bill of sale, or other evidence of title duly filed or recorded by such company or society would have imparted.

4. For the purpose of this section, the commissioner shall have power to appoint, under his hand and official seal, one or more special deputies as his agent or agents, and to employ such counsel, clerks, and assistants as may by him be deemed necessary. The commissioner, his deputy, examiner, and special deputies shall have power to compel the production of books, papers, and documents and to administer oaths and examine and take the testimony of any person with regard to the business affairs and condition of such company or society. The compensation of such special deputies, counsel, clerks, and assistants, and all expenses of taking possession of and conducting the business of liquidating any such company or society shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the funds or assets of such company or society.

5. For the purposes of this section, the commissioner shall have power, subject to the approval of the court, to make and prescribe such rules and regulations as to him shall seem proper.

6. The commissioner shall transmit to the legislature, in his annual report, the names of the companies or societies so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall acquaint the policy-holders, creditors, stockholders, and the public with his proceedings under this section; and to that end, the special deputy in charge of any such company or society, shall file annually with the commissioner, a report of the affairs of such company or society.

7. The provisions of this section shall extend to the promoters, organizers, trustees, or other persons having charge of the property or affairs of any domestic insurance company or fraternal or mutual benefit society proposed or attempted to be organized, including also any corporation organized or proposed to be organized to hold or control the stock or securities of any such insurance company, and to any property within the jurisdiction of the courts of this state belonging to any local or foreign company, society, or corporation, whether organized or proposed to be organized.

Section 1970n. As an alternative and in addition to the provisions of section 1970m, all the powers and authority conferred upon the commissioner of banking, by section 2022 or any amendment thereto as to banking corporations, are hereby conferred upon and extended to the commissioner of insurance as to all insurance companies and fraternal or mutual benefit societies.

Section 1895m. Unless the context of any statutes or law relating to insurance indicates otherwise, the following words and phrases shall be understood in the sense herein set forth and defined:

1. "Company" includes all corporations, associations, partnerships, or individuals engaged as principals in the business of insurance, except mutual benefit societies.

2. "Mutual benefit society" includes all fraternal and beneficiary corporations, societies, orders, or associations for the relief of members on the mutual or assessment plan.

SECTION 2. This act shall take effect and be in force from and after its passage and publication.

Approved May 12, 1911.