

No. 690, A.]

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CHAPTER 399.

AN ACT to amend 201.44 (1) and 201.53 (5); to repeal and recreate 206.41, and to create 20.55 (10) of the statutes, relating to qualifications and licensing of life insurance agents, providing a penalty and making an appropriation.

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

SECTION 1. 20.55 (10) of the statutes is created to read:

20.55 (10) ADMINISTRATION OF SECTION 206.41. For the period of May 1, 1950, to June 30, 1950, \$833 and annually, beginning July 1, 1950, \$5,000 for the administration of his functions under section 206.41.

SECTION 2. 201.44 (1) of the statutes is amended to read:

201.44 (1) No policy of insurance shall be solicited, issued or delivered in this state, except through an agent lawfully authorized as to the kind of insurance effected by such policy. * * * Under such regulations and restrictions as may be deemed necessary by the commissioner of insurance, licenses may be issued to nonresident agents, other than persons who represent the insured, who are licensed by the state in which they reside upon payment of an annual fee of \$10; but such agents shall not countersign any policy or contract of insurance.

SECTION 3. 201.53 (5) of the statutes is amended to read:

201.53 (5) Any agent may pay the whole or any part of his commission to: (a) An insurance agent * * * for writing the kind of insurance for which such commissions are paid; (b) a nonresident insurance agent licensed to transact business in this state; (c) or a lawfully authorized Wisconsin solicitor. Except as aforesaid, no agent shall pay any part of his commission to any person.

SECTION 4. 206.41 of the statutes is repealed and recreated to read:

206.41 QUALIFICATIONS AND LICENSING OF LIFE INSURANCE AGENTS. (1) LIFE INSURANCE AGENT DEFINED. (a) The term "life insurance agent" means any

authorized or acknowledged agent of an insurer, who acts as such in the solicitation of, negotiation for, or procurement or making of a life insurance or annuity contract; except that the term "life insurance agent" shall not include any regular salaried officer or employe of a licensed insurer, or of a licensed life insurance agent, who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employe of an insurer authorized to do business in this state shall not be deemed to be a "life insurance agent" by reason of rendering assistance to, or on behalf of a licensed life insurance agent, provided that such salaried officer or employe devotes substantially all of his time to activities other than the solicitation of applications for life insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

(b) Any person having attained the age of 21 years or more, and who is a citizen of the United States, may be licensed as a life insurance agent upon compliance with the provisions of this section.

(2) ACTING FOR UNAUTHORIZED COMPANIES PROHIBITED. (a) No person, partnership or corporation shall, within this state, solicit, procure, receive, or forward applications for life insurance or annuities, or issue or deliver policies for, or in any manner secure, help, or aid in the placing of any contract of life insurance or annuity for any person other than himself, directly or indirectly, with any insurer not authorized to do business in this state.

(b) Any person, partnership or corporation shall be liable, personally, for the full amount of any loss sustained on any contract of life insurance or annuity made by or through him or it, directly or indirectly, with any insurer not authorized to do business in this state.

(3) ACTING AS AGENT WITHOUT LICENSE PROHIBITED: NO COMMISSION TO BE PAID TO UNLICENSED PERSONS. (a) No person shall act as a life insurance agent within this state until he shall have procured a license as required by the laws of this state.

(b) No commission or other valuable consideration for services as a life insurance agent shall be paid directly or indirectly by an insurer or licensed life insurance agent to any person or persons other than a person holding a currently valid license to act as a life insurance agent as required by the laws of this state. Nor shall any person, partnership, or corporation other than a duly licensed life insurance agent accept any such commission or other valuable consideration, except that any duly licensed agent may direct that his commissions be paid to any partnership of which he is a member, employe, or agent, or to any corporation of which he is an officer, employe, or agent, if such corporation or partnership is engaged primarily in the insurance business; and except that the provisions of this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as a life insurance agent.

(4) APPLICATION FOR LICENSE. (a) Each applicant for a license to act as a life insurance agent within this state shall file with the commissioner of insurance his written application on forms furnished by the commissioner. The application shall be signed and duly sworn to by the applicant. The prescribed form shall require the applicant to state his full name; residence; age; occupation and place of business for 5 years preceding date of the application; whether applicant has ever held a license to solicit life, or any other insurance in any state; whether he has been refused, or has had suspended or revoked a license to solicit life, or any other insurance in any state; what insurance experience, if any, he has had; what instruction in life insurance and in the insurance laws of this state he has had or expects to have; whether any insurer or general agent claims applicant is indebted under an agency contract or otherwise, and if so, the name of the claimant, the nature of the claim and the applicant's defense thereto; whether applicant has had an agency contract canceled and, if so, when, by what company or general agent and the reasons therefor; whether applicant will devote all or part of his efforts to acting as a life insurance agent, and, if part only, how much time he will devote to such work, and in what other business or businesses he is engaged or employed; whether, if applicant is a married woman, her husband has ever applied for or held a license to solicit life, or any other insurance in any state and whether such license has been refused, suspended, or revoked; such other information and references as the commissioner in his discretion may require.

(b) The application shall include a notarized certificate signed by an officer or properly authorized representative of the insurer stating that the 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 a life insurance agent and that the insurer desires that the applicant be licensed as a life insurance agent to represent it in this state.

(e) The application filed by the insurer shall be accompanied by the annual license fee and, in the case of applicants required to take an examination as hereafter prescribed, by an examination fee in the amount of \$5. In the event an applicant fails to qualify for, or is refused a license, the annual license fee shall be credited to the insurer; the examination fee shall not be returned for any reason.

(5) EXAMINATION OF APPLICANT FOR LICENSE. (a) Each applicant for a license to act as a life insurance agent within this state shall submit to a personal written examination to determine his competence with respect to life insurance and annuity contracts and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such written examination shall be required of an applicant for renewal license, unless a license had not been issued to such applicant within 2 years preceding the date of filing his application.

(b) The commissioner shall establish rules and regulations with respect to the scope, type, frequency, grading of papers, and 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 from time to time at convenient points throughout the state as the need for such examinations may arise. In advance of such examination the commissioner shall cause notice to be given to all companies admitted to do business in the state. The commissioner is authorized to appoint a representative deemed by him to be competent, who shall conduct the examination in the commissioner's office or in any place designated by the commissioner in the state. The commissioner is authorized in his discretion to pay a fee to the person conducting the examination as his deputy.

(c) No person who shall have taken and failed to pass 2 examinations given pursuant to this section shall be entitled to take any further examination until after the expiration of 6 months from the date of the last examination in which he failed. An examination fee shall be paid for each and every examination.

(d) The commissioner shall appoint an advisory board consisting of not less than 6 nor more than 9 members to make recommendations to him with respect to the scope, type, frequency, grading of papers, announcement of results and generally the conduct of written examinations and the times and places within the state where they shall be held, the ways and means of passing upon and issuing licenses and generally to aid and assist the commissioner in carrying out the provisions of 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 of whom shall be officers or employes of Wisconsin domiciled life insurance companies, 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 thereof for the term of one year and thereafter all members of the board shall be appointed for 2 years. The members of the board shall serve without pay but, upon the authorization of the commissioner, shall be reimbursed for their reasonable expenses in attending meetings of the advisory board. The advisory board shall meet no less than 2 times in each calendar year. The commissioner shall be a member ex-officio of the advisory board.

(e) This subsection shall not apply to officers, employes or agents of credit unions organized under chapter 186, of persons holding permits under section 115.07 (4), nor of licensees under sections 115.09 or 218.01, nor to such permittees or licensees, 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,

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.

(6) ISSUANCE OR REFUSAL OF LICENSE. (a) If the commissioner is satisfied that the applicant is trustworthy and competent and the applicant, if required, has passed his written examination, a license shall be issued forthwith, limited to the insurer by whom the agent is to be appointed. If the applicant has not passed his written examination, or for any of the reasons set forth in subsection (12), the commissioner shall notify the applicant and the insurer in writing that a license will not be issued to him.

(7) NONRESIDENTS MAY BE LICENSED. (a) A person not resident in this state may be licensed as a life insurance agent upon compliance with the provisions of this section, if the state in which such person resides will accord the same privilege to a resident of this state.

(b) The commissioner is further authorized to enter into reciprocal agreements with the appropriate official of any other state waiving the written examination of any applicant resident in such other state, provided:

1. That a written examination is required of applicants for a life insurance agent's license in such other state;

2. That the appropriate official of such other state certifies that the applicant holds a currently valid license as a life insurance agent in such other state and either passed such written examination or was the holder of a life insurance agent's license prior to the time such written examination was required;

3. That the applicant has no place of business within this state;

4. That in such other state, a resident of this state is privileged to procure a life insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state.

(8) AGENT MAY BE LICENSED TO REPRESENT ADDITIONAL INSURERS. Any life insurance agent licensed in this state may apply to the commissioner, at any time while his license is in force, for an additional license or licenses authorizing him to act as a life insurance agent for an additional insurer or insurers. Such application shall be filed by the insurer and shall set forth each insurer which the applicant is then licensed to represent and shall include a certificate from the insurer that it desires to appoint the applicant as its agent; and such other information as the commissioner may require. Upon receipt of each such application, the commissioner may issue such additional license without examination of, or further investigation concerning the applicant.

(9) EXPIRATION AND RENEWAL OF AGENT'S LICENSE. (a) Each license issued to a life insurance agent shall expire on May 1 following the date of issue, unless prior thereto it is revoked or suspended by the commissioner or the authority of the agent to act for insurer is terminated.

(b) In the absence of a contrary ruling by the commissioner, license renewals may be issued from year to year upon request of the insurer, without further action on the part of the agent.

(c) Upon the filing of a request for renewal of license and payment of the required fees prior to its date of expiration, the current license shall continue in force until the renewal license is issued by the commissioner or until the commissioner has refused for cause to issue such renewal license, as provided in subsection (12), and has given notice of such refusal in writing to the insurer and the agent.

(10) COMPANY TO NOTIFY COMMISSIONER OF TERMINATION OF CONTRACT: COMMUNICATIONS PRIVILEGED. Every insurer shall, upon termination of the appointment of any life insurance agent, immediately file with the commissioner a statement of the facts relative to the termination of the appointment and the date and cause thereof. The commissioner shall thereupon terminate the license of such agent to represent such insurer in this state.

(11) REFUSAL, SUSPENSION, OR REVOCATION OF LICENSES. (a) A license may be refused, or a license duly issued may be suspended or revoked or the renewal thereof refused by the commissioner, if he finds that the applicant for, or holder of such license:

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

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

3. Has obtained, or attempted to obtain, such 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 a life insurance agent; or

6. Has been guilty of fraudulent or dishonest practices; or

7. Has materially misrepresented the terms and conditions of life 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 life 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 license, not for the purpose of holding himself out to the general public as a life insurance agent, but primarily for the purpose of soliciting, negotiating or procuring life insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, employees,

or debtors of a partnership, association, or corporation of which he or a member of his family is an officer, director, stockholder, partner, or employe.

10. Has discounted a note taken in payment of a premium before the issuance and delivery of the policy to the insured.

11. Has misrepresented the financial or other condition of a company.

(b) Whenever any license shall be refused (except for failure to pass a required written examination), or suspended or revoked, or the renewal thereof refused hereunder, the commissioner shall give notice by registered mail, to the applicant for, or holder of such license and the insurer whom he represents or who desires that he be licensed. Any insurer or applicant for license aggrieved by action of the commissioner hereunder may require a public hearing and request in writing a review of the commissioner's actions, by proceeding in accordance with chapter 227.

(e) No licensee whose license has been revoked hereunder shall be entitled to file another application for a license as a life insurance agent within one year from the effective date of such revocation or, if judicial review of such revocation is sought, within one year from the date of final court order or decree affirming such revocation. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation of his license shall not be deemed a bar to the issuance of a new license.

(12) JUDICIAL REVIEW OF ACTS OF COMMISSIONER. Any person aggrieved by an act of the commissioner under the provisions of this section may appeal therefrom within 30 days after receipt of notice thereof to any court of competent jurisdiction. Thereafter, such proceeding shall proceed as in the case of any other civil cause.

(13) PENALTY. Any person, partnership, association or corporation violating any of the provisions of this section shall, in addition to any other penalty provided by law be fined not more than \$500 or imprisoned not more than 6 months, or both, each such violation being a separate offense. In addition, if such offender holds a license as a life insurance agent, such license shall be suspended or revoked as hereinbefore provided.

(14) COMMISSIONER MAY ESTABLISH RULES AND REGULATIONS. The commissioner is authorized to establish, and from time to time amend reasonable rules and regulations concerning all matters included in this section.

(15) EFFECT OF LICENSE ON FOREIGN COMPANY. A foreign company shall be bound by the acts of its licensed agent within the scope of his apparent authority while his license remains in force.

(16) EFFECT OF PARTIAL INVALIDITY. Should any provision or section of this section be held to be unconstitutional or otherwise invalid for any reason, such holding shall not be construed as affecting the validity of any remaining portion of such section.

SECTION 5. This act shall take effect May 1, 1950.

Approved June 30, 1949.
