

No. 371, S.]

[Published July 13, 1949.

**CHAPTER 436.**

AN ACT to repeal 201.59 (6) and 203.55; to repeal and recreate 76.33 and 200.03 (6); to amend 201.62 (2); and to create 201.63 of the statutes, relating to surplus lines insurance and providing a penalty.

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

SECTION 1. 76.33 of the statutes is repealed and recreated to read:

76.33 UNLICENSED INSURANCE COMPANIES; REPORTS BY INSURED. Any company not licensed to do business in this state which shall transact an insurance business in this state shall pay to the commissioner of insurance before March 1 next succeeding, a tax of 3 per cent on the amount of the gross premiums received for direct insurance, less return premiums and cancellations on direct insurance on risks in this state, which tax shall be in lieu of all taxes and fire department dues. In default of any such company in the payment of such tax the insured shall pay the tax. Every person paying more than \$100 premiums to any one such company in any year shall report the same in writing to the commissioner of insurance before March 1 next succeeding. If the tax prescribed by this section is not paid before March 1 next succeeding the date of premium payment, the tax shall be increased by a penalty of 25 per cent and by the amount of an additional penalty computed at the rate of one per cent per month or any part thereof from the date such payment was due to the date paid.

SECTION 2. 200.03 (6) of the statutes is repealed and recreated to read:

200.03 (6) AGENT'S SURPLUS LINES LICENSE. He may upon payment of \$50 in cities of the first class and \$15 elsewhere issue a surplus lines license, which shall be revocable at any time, to any agent authorized under section 209.04 upon the conditions prescribed in section 201.63.

SECTION 3. 201.59 (6) of the statutes is repealed.

SECTION 4. 201.62 (2) of the statutes is amended to read:

201.62 (2) If such insurance has been effected in any company not authorized to do business in this state, \* \* \* *the provisions of section 76.33 shall apply to such insurance but if such owner carried his own insurance, the commissioner shall collect from such property owner an amount equal to 2 per cent of the annual premium which authorized insurance companies would have charged for insuring such property and may maintain a civil action therefor in the name of the state, and when recovered it shall be payable as fire department dues as provided in section 201.59 to the respective cities, villages and towns entitled to the same.*

SECTION 5. 201.63 of the statutes is created to read:

201.63 SURPLUS LINES INSURANCE. (1) The commissioner of insurance may issue a surplus lines license to any agent authorized under section 209.04 which shall grant such agent authority to procure the kinds of insurance provided for under section 201.04 (1), (2), (5), (12) and (15) from companies not licensed in this state under the conditions prescribed in this section. Every license issued pursuant to this section shall be for a term expiring on January 31 next following the date of issuance and may be renewed for ensuing periods of 12 months. Before any such license shall be issued and before each renewal thereof a written application shall be filed by the applicant in such form as the commissioner may prescribe and the fee provided therefor by section 200.03 (6) shall be paid.

(2) Before any insurance shall be procured in an unlicensed company the agent shall make an affidavit which shall be promptly filed with the commissioner, that he is after diligent effort unable to procure, from any licensed insurer or insurers, the full amount of insurance required to protect the interest of the insured.

(3) The agent procuring policies in any unlicensed company shall keep a separate account thereof, open at all times to the inspection of the commissioner, showing the company's name; the amount and kind of such insurance; the gross premiums thereon; the return premiums on cancellations; the effective date of the policy and the term thereof.

(4) Such agent shall, before March 1 in each year, make a report to the commissioner for the preceding calendar year on the form prescribed by him, of the facts required by subsection (3) and further showing that the amount of insurance procured from such unauthorized insurer or insurers is only the excess over the amount so procurable from licensed insurers and pay to the commissioner the state tax provided by section 76.33.

(5) Such agent shall execute and deliver to the commissioner a bond in the penal sum of \$1,000 with such sureties as the commissioner shall approve, conditioned that the agent will comply with all the requirements of this section.

(6) In default of the payment of said tax, the commissioner may sue for the same.

(7) Any violation of this section shall subject the agent to a revocation of his license.

SECTION 6. 203.55 of the statutes is repealed.

Approved July 7, 1949.

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