

CHAPTER 210.

STATE INSURANCE.

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210.01 Powers annulled. No officer or agent of this state, and no person or persons having charge of any public buildings or property of the state, shall pay out any public moneys or funds on account of any insurance against loss by fire, windstorm or any other loss or damage from any cause to property, (excepting liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the state of Wisconsin or located in buildings owned or controlled by the state of Wisconsin; insurance against loss to live stock due to disease or accident but including fire and extended cover insurance on live stock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities;) or shall in any manner contract for or incur any indebtedness against the state on account of any such insurance upon any property of any kind whatever belonging to the state or property for which the state of Wisconsin is legally liable except in the manner hereinafter provided.

210.02 State insurance fund; state property. (1) The commissioner of insurance of the state shall provide for the insurance by the state of all state property and property for which the state of Wisconsin is liable subject to damage or destruction by fire, windstorm or any other loss or damage from any cause to property (excepting public liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the state of Wisconsin or located in buildings owned or controlled by the state of Wisconsin; insurance against loss to live stock due to disease or accident but including fire and extended cover insurance on live stock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities) for an amount equal to at least 90 per cent of the actual cash value of such property, in the following manner: The person, persons or board having charge of any public property shall furnish the commissioner a list of all such property with its insurable value; the commissioner shall compute the premium based upon the rates fixed by actuarial or rating bureaus operating in this state. For this purpose, the commissioner is authorized to have the state insurance fund be a member or subscriber to said actuarial or rating bureaus. He shall then ascertain the amount of insurance in force upon all state property and provide for such additional insurance as is necessary to cover at least 90 per cent of the actual cash value of the property in the following manner: He shall submit to the person, persons or board having charge of any public property a statement of the amount of required insurance on such property and the amount payable therefor, computed at such deviation from the aforesaid rates as the commissioner may determine; the said person, persons or board shall forthwith order the director of budget and accounts to pay the amount due for insurance from the proper fund or appropriation to a separate fund which shall be kept by the state treasurer and known as the "state insurance fund". The commissioner of insurance may with the approval of the governor purchase such reinsurance as may in the opinion of said commissioner be necessary to properly distribute the risk; provided no such reinsurance shall be effected when the net risk carried by the "state insurance fund" shall not equal or exceed \$100,000, nor where the rate for assuming a proportional amount of the risk shall exceed that received by the "state insurance fund". The commissioner of insurance shall collect such reinsurance upon any loss and pay the same into the "state insurance fund."

(2) Any policy insuring against loss by fire shall conform so far as practicable to the "Standard Policy" in section 203.01. Policies may be written on an annual or term basis at the option of the person, persons or board having charge of any public property.

(3) On July 1, 1955 an amount of 5 million dollars shall be transferred from the state insurance fund to the state general fund.

History: 1951 c. 237, 734; 1955 c. 235.

210.03 Loss; commissioner to adjust; transfer of funds. (1) (a) In case of a loss under policies issued covering state property, the commissioner of insurance shall within

a reasonable time ascertain and fix the amount of such damage and forthwith file with the state treasurer and the director of budget and accounts a statement of the same.

(b) If in case of any loss or damage of any property owned by any county, city, village, town or school district or library board, insured in the state insurance fund, there shall arise any difference of opinion between the local authorities and the commissioner of insurance as to the amount of the loss or damage incurred, such loss or damage, upon the demand of the local authorities shall be determined by appraisement, the local authorities and the commissioner of insurance each selecting a competent and disinterested appraiser and notifying the other of the appraiser selected within 20 days of such demand. The appraisers shall first select a competent and disinterested umpire; and if they do not agree upon such umpire within 15 days, then on request of the local authorities or the commissioner, such umpire shall be selected by a judge of a court of record in the county in which the property covered is located. The appraisers shall then appraise the loss and damage stating separately actual cash value and loss or damage to each item; and failing to agree, shall submit their differences only, to the umpire. An award in writing, so itemized, of any 2 when filed with the commissioner of insurance shall determine the amount of actual cash value and loss or damage. Each appraiser shall be paid by the party selecting him and other expenses of appraisal and umpire shall be paid by the parties equally.

(2) When the amount of loss has been fixed and determined by the commissioner of insurance and certified to the director of budget and accounts the director of budget and accounts, in the case of a loss on state property, shall issue a warrant in the amount fixed by the commissioner of insurance as a transfer of the amount fixed as damages from the "state insurance fund" and credited to the proper fund of the officer, state department of public welfare, board of trustees, or other agents in whose control said buildings or property belongs, and to be disbursed by the state treasurer in such manner as other state funds for the use of said officer, department, board or agent are paid out, and any loss under a policy held by a county, city, village, town, school district, or library board in the "state insurance fund" shall be adjusted by the commissioner of insurance within a reasonable time and upon being determined, he shall certify such amount of loss to the director of budget and accounts, who shall thereupon issue a warrant therefor on the "state insurance fund" payable to the treasurer of the county, city, village, town, school district or library board entitled to such damages; and if at the time of any such loss, there shall not be in the "state insurance fund" an amount equal to such loss, the director of budget and accounts shall notwithstanding this fact, draw his warrant payable from the general fund, and the state treasurer shall promptly pay such warrant out of any moneys in his hands in the manner above provided, and the commissioner shall thereafter from time to time order such reimbursement of the general fund from the "state insurance fund" as he shall deem proper, on which order the director of budget and accounts shall issue his warrants for such transfer.

210.04 State insurance fund; other than state property. (1) No county, town or village board or common council, and no officer or agent of any county, city, town or village having charge of any property of any county, city, town or village, and no city council, village, town, school or library board having charge of any property of a school district, or property of a library board shall contract for or pay out any money or funds for insurance, against fire or any other loss or damage from any cause to property, or in the use of or income from property, (excepting public liability and property damage insurance; aircraft insurance; loss by explosion, rupture or bursting of steam boilers, steam pipes, steam turbines, steam engines, flywheels owned, operated or controlled by the insured or located in buildings owned or controlled by the insured; insurance against loss to live stock due to disease or accident but including fire and extended coverage insurance on live stock; insurance on accounts, bills, currency, deeds, evidences of debt, money or securities;) on and after a vote of such board or council to insure under this section, except as may be certified by the commissioner of insurance to be necessary and except the insurance on such personal property as the governing board may by resolution determine to insure in insurance companies licensed to transact business in this state. A certified copy of each such resolution shall be filed with the commissioner of insurance. Policies may be extended to include property for which the said board or council is legally liable.

(2) After such decision by such board or council, the clerk thereof shall report to the commissioner of insurance each policy of insurance which shall then be in force upon any property of the county, city, village, town or school district whether under the control of such board or council or any other board, officer or agent, stating the property covered by such policy, the date of the issue and the expiration thereof, the amount and rate of insurance and premium thereon.

(3) After such decision by such board or council, the insurance on all property of

any such county, city, town, village school district or library board shall be provided for, and adjustment of losses made by the commissioner of insurance, in the manner provided by sections 210.02 and 210.03 for the insurance of property of the state, except that the premium shall be certified by the commissioner to the clerk of the town, village, city, county school district or library board. Upon receipt of such certification of premium due, the amount of the premium so certified shall on or before 60 days from the date of such certification or on or before 60 days from effective date of policy or indorsement, whichever is the later, be paid into the state treasury for the benefit of the "state insurance fund", in default of which the same shall become a special charge against such town, village, city, county or school district, and be included in the next apportionment or certification of state taxes and charged and collected as other special charges are collected, with interest at the rate of 5 per cent per annum from the above specified date. In case of instalment method of payment or deferring of payment as prescribed in section 74.26, interest shall be computed from effective date of policy or indorsement or date of certification, whichever is the later, to March 22 of year following certification as a state special charge. If any board or council shall so order, the amount of insurance upon the whole or any part of the property under its control shall be fixed at such per cent or sum less than the 90 per cent specified in section 210.02 as may be fixed by such board or council and insurance may be written on an annual or term basis at the option of said board or council. All policies now in force in the "state insurance fund" may be continued as if written subsequent to August 14, 1947.

(4) Provided, that policies in force on said date of the passage of a resolution to insure in the "state insurance fund", shall remain in force until expiration or cancellation as provided in such policies; and that said clerk shall give notice to the commissioner of each such cancellation, and the state insurance hereby provided for shall take effect from such cancellation.

(5) For carrying out the provisions of sections 210.01 to 210.03, and this section, the commissioner, with the approval of the governor, may employ such assistants as necessary, and fix their compensation, which compensation, together with the expenses of such assistants and of the commissioner and his employes and the expenses of conducting the "state insurance fund," shall be paid out of the state insurance fund on the certificate of the commissioner, audited by the director of budget and accounts. The commissioner of insurance shall make such inspection and report upon all property insured as may be required, in addition to the report specified in section 200.15.

(6) On January 1 of each year the state treasurer shall credit the state insurance fund with interest on the average amount in such fund for the preceding 12 months at the average rate of interest earned by the state upon its bank deposits during that period. If said fund is indebted to the general fund of the state such fund shall be charged, at the end of each calendar year, with interest on such indebtedness at the average rate earned by the state upon its bank deposits during the period of such indebtedness and such sum shall be credited to the general fund, provided that the state of Wisconsin investment board may cause such funds to be invested in the securities authorized in s. 201.25.

(7) Any county, city, village, town, school district or library board may terminate its insurance in the "state insurance fund" by a majority vote of its board or council, and upon certifying such action to the commissioner of insurance, the insurance remaining in force in that fund shall terminate upon expiration of the policy contract except that said board or council may order the insurance canceled on a date other than the expiration date of said insurance. In case of removal or sale of property, said board or council may request the commissioner of insurance to cancel the insurance on said property without terminating its entire insurance in the "state insurance fund".

History: 1953 c. 540; 1955 c. 441.

Co-tenant county having legal title and possession of 59.2 per cent of city-county building, having its property insured currently with state insurance fund, cannot insure full value of building in fund in its name for benefit of co-tenant where city having 40.8 per cent legal title and possession does not have its property insured with state fund; status as "fiscal agent" does not qualify county to extend existing policies, which cover whole building, in fund. 46 Atty. Gen. 107.

210.05 State life insurance. (1) **LIFE FUND.** There is established a "life fund" to be administered by the state without liability on the part of the state, beyond the amount of the fund, for the purpose of granting life insurance, with or without total and permanent disability waiver of premium benefits, and annuities to persons who, at the time of the granting of such insurance and annuities, are within the state or residents thereof.

(2) **MANAGEMENT.** The state treasurer shall be ex officio treasurer and custodian of the life fund, and all other matters in relation thereto shall be under the supervision of the commissioner of insurance. Each shall give such bond therefor as may be required and approved by the governor and secretary of state, which shall be filed with his official bond. The state of Wisconsin investment board shall cause the moneys in the life fund to

be invested and reinvested in the securities authorized in s. 206.34, and may sell and dispose of such securities as may be necessary in the management of such fund. In making such investments, preference shall be given to applications for loans to farmers and co-operative associations.

(3) FORMS AND DATA. Within 2 years from July 8, 1911, the commissioner of insurance shall prepare and file in his office forms of applications and policies, schedules of premiums, tables of costs of insurance and reserve, and other data and forms for carrying out the provisions of this section.

(4) PREMIUM BASIS. The premiums for life insurance in the life fund shall be based upon the American Experience Table of Mortality with additions for extra hazards, and for total and permanent disability waiver of premium benefits and with interest at three per cent per annum, to which shall be added for expenses and contingencies two dollars per year per thousand dollars of insurance, and an amount distributed equally through each of the possible premium payments, the present value of which shall be equal to one-sixth of the present value of the costs of insurance on the basis aforesaid.

(7) APPLICATION AND EXAMINATION. The application shall be transmitted to the commissioner of insurance, together with the premium for 3 months, or multiples thereof. The commissioner of insurance and the state board of health shall pass upon all applications for insurance, and no life insurance shall be granted without a personal medical examination to be made at the direction of the state board of health, for which the local examiner shall receive a medical examination fee the amount of which is to be determined by the commissioner of insurance. If the application be rejected, the deposit shall be returned, less the fee paid for the medical examination. No examination shall be required on application for annuities. If the application be accepted, the premium shall be paid into the life fund and a policy shall be issued, to be signed by the commissioner of insurance and the state treasurer, reciting that the same shall be payable out of the life fund without further liability on the part of the state.

(8) PAYMENTS. The commissioner of insurance shall provide the insured with blanks to be used in the payment of premiums, and such premiums may be paid to the treasurer of any city, village, town or county, or to any state depository, who shall receipt for and remit the same to the commissioner of insurance. The bond of every such treasurer and state depository shall include a liability for all premiums and other money received for the life fund.

(9) SURPLUS DISTRIBUTION. Not less than ten per cent of the net profits for each year shall be contributed to surplus to meet losses from unexpected or great mortality or depreciation in securities or otherwise, except that such contribution shall be sufficient to maintain a ratio of surplus to admitted assets of not less than seven per cent, and may be discontinued or decreased in the event that such ratio exceeds fifteen per cent. The balance of net profits shall be distributed annually among the policyholders.

(10) LOANS; REPAYMENT. Loans may be made on a policy to an amount, which together with interest at six per cent per annum, shall not exceed the reserve on the next policy anniversary on the basis of the premiums then paid. Any premium not paid when due shall be charged as a loan. When the unpaid loan and interest equals the reserve, the policy shall terminate, but before that time the whole or any part of a loan may be repaid.

(11) CASH SURRENDER. The reserve, less unpaid loans and interest, shall be payable in cash on the anniversary of the policy after six months' advance notice to the commissioner in writing and the surrender of the policy.

(12) LOSSES. The losses and other payments required to be made out of the life fund, including deposits for premiums upon applications which shall be rejected, shall be audited by the director of budget and accounts upon the adjustment, order and certificate of the commissioner of insurance and be paid by the treasurer out of the life fund, and annuities shall be paid in like manner.

(13) EXPENSES; FEES; COMMISSIONS. (a) There shall be audited by the director of budget and accounts, in accordance with s. 15.18 and upon the certificate of the commissioner of insurance, and paid by the state treasurer out of the expense element of the life fund the compensation of all personnel employed by the commissioner to administer the life fund, a fee, to be determined by the commissioner, to the medical examiner for each medical examination and the actual expense upon the adjustment of any loss or the defense or prosecution of any action. The compensation certified by the commissioner of insurance due employes of the state paid a fixed salary shall, instead of being paid to such employes, be transferred into the general fund of the state.

(b) There shall be retained by any person insured paying direct, or by any other person transmitting any application for insurance or any annuity, or collecting and trans-

mitting any premium, a fee of twenty-five cents for each application and a fee of one per cent on the amount of the premium. Any such other person transmitting an application or premium shall be held to be the agent of the insured.

(c) Any fees or expenses to which any person shall be entitled under the provisions of section 210.05 shall, after having been paid into the state treasury, be audited by the director of budget and accounts upon the certificate of the commissioner of insurance, and be paid by the treasurer out of the life fund.

(14) **POLICIES; AMOUNT.** Policies of life insurance may be issued upon being approved by the commissioner of insurance and the state board of health; but no policy or policies shall be issued on any one risk exceeding in amount one-half of one per cent of the total amount of insurance in force.

(16) **COMBINATION POLICIES.** Life insurance and an annuity or annuities may be combined and may be granted in the same policy.

(17) **ACCOUNTS; AUDIT; REPORTS.** The accounts of the life fund shall be kept by the commissioner of insurance and shall be audited in the same manner as the accounts of state officers. Valuations and reports shall be made annually, conforming to the reports required of life insurance companies by the laws of this state, but, except as specifically provided, the other provisions of the laws relating to insurance shall not apply to the life fund.

(18) **REGULATIONS.** The commissioner of insurance shall make such reasonable rules and regulations for the granting of life insurance and annuities, as shall be necessary to carry out the provisions of this section.

(19) **MILITARY SERVICE.** The Life Fund of the State of Wisconsin shall be deemed an insurer under Article IV of the Soldiers' and Sailors' Civil Relief Act of 1940 (Public No. 861 - 76th Congress) and amendments thereto or reenactment thereof, and the commissioner of insurance is hereby directed to assent to modifications required with respect to any policy certified for benefits as therein provided, any provision of the statutes to the contrary notwithstanding. This subsection shall remain in force concurrently with said act of Congress and amendments thereto or reenactments thereof.

History: 1951 c. 319 s. 219; 1953 c. 540; 1955 c. 354; 1957 c. 172.

The commissioner is bound to treat all applicants alike and determine in each individual case whether the applicant qualifies as a standard risk, so as to be insurable within the statute; the commissioner is not authorized under his rule-making power to classify and exclude all Negroes as substandard risks because the average mor-

tality rate of Negroes is higher than that of white persons, without absolute proof that the length of life of Negroes is shortened solely because of their color or race or some other inherent difference between them and white persons. *Lange v. Rancher*, 262 W 625, 56 NW (2d) 542.