

shall be exempt from proceedings for or the issuance of orders under sections 207.01 to 207.10, or from penalties under section 207.11 for the violation of orders under sections 207.08 by acts committed after the same shall have become final, or from penalties for the violation of court orders under sections 207.09 and 207.10 after the same shall be in effect. Any such individual may execute, acknowledge and file in the office of the commissioner a statement expressly waiving such immunity or privilege in respect to any transaction, matter or thing specified in such statement and thereupon the testimony of such person or such evidence in relation to such transaction, matter or thing may be received or produced before any judge or justice, court, tribunal, grand jury or otherwise, and if so received or produced such individual shall not be entitled to any immunity or privilege on account of any testimony he may so give or evidence so produced.

207.14 SEPARABILITY PROVISION. If any provision of section 207.01 to 207.13, or the application of such provision to any person or circumstances, shall be held invalid, the remainder of said sections, and the application of such provision to persons or circumstances other than those as to which it is held invalid, shall not be affected thereby.

SECTION 3. This act shall take effect October 1, 1947.

Approved August 5, 1947.

No. 266, A.]

[Published August 12, 1947.]

#### CHAPTER 521.

AN ACT to repeal 204.13 and 204.32; to amend 201.53 (2); to create 20.55 (9), 201.60 (3) and 204.37 to 204.55 of the statutes, relating to the regulation of rates for certain casualty insurance including fidelity, surety and guaranty bonds and for all other forms of motor vehicle insurance, and to rating organizations, providing penalties and making an appropriation.

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

SECTION 1. 20.55 (9) of the statutes is created to read:

20.55 (9) REGULATION OF INSURANCE RATES AND

PRACTICES. All moneys received by the commissioner of insurance under sections 204.37 to 204.55 shall be paid into the general fund, and there is appropriated therefrom to such commissioner \$25,000 for the fiscal year ending June 30, 1948 and annually beginning July 1, 1948, \$25,000 for the execution of his functions under said sections.

SECTION 2. 201.53 (2) of the statutes is amended to read:

201.53 (2) No insurance company, nor any officer, agent or employe thereof, shall pay, allow or give or offer to pay, allow or give, nor shall any person receive, any rebate of premium, or any special favor or advantage whatever in the dividends or other benefits to accrue, or any valuable consideration or inducement whatever not specified in the policy. *Any violation of this subsection that is a violation of section 204.52 shall be subject to the fine provided in section 204.53 in lieu of the penalty imposed by section 201.53 (9).*

SECTION 3. 201.60 (3) of the statutes is created to read:

201.60 (3) This section shall not apply with respect to the kinds of insurance which are subject to the provisions of sections 204.37 to 204.55 nor to organizations referred to in sections 204.42, 204.46 and 204.47.

SECTION 4. 204.13 of the statutes is repealed.

SECTION 5. 204.32 of the statutes is repealed.

SECTION 6. 204.37 to 204.55 of the statutes are created to read:

204.37 PURPOSE OF SECTIONS. The purpose of sections 204.37 to 204.55 is to promote the public welfare by regulating insurance rates made by rating organizations and by insurers to the end that they shall not be excessive, inadequate or unfairly discriminatory, and to authorize and regulate cooperative action among insurers in rate making and in other matters within the scope of said sections. Nothing in said sections is intended (1) to prohibit or discourage reasonable competition, or (2) to prohibit, or encourage except to the extent necessary to accomplish the aforementioned purpose, uniformity in insurance rates, rating systems, rating plans or practices. Said sections shall be liberally interpreted to carry into effect the provisions of this section.

204.38 SCOPE OF ACT. (1) Sections 204.37 to 204.55 apply to the kinds of insurance authorized by section 201.04 (5), (6),

(7), (8), (9), (10), (11), (13), (14), (15) and (17) on risks or operations in this state, except:

(a) Reinsurance, other than joint reinsurance to the extent stated in section 204.47;

(b) Insurance against loss of or damage to aircraft or against liability, arising out of the ownership, maintenance or use of aircraft;

(c) Insurance covering any part of the liability of an employer exempted from insuring his liability for compensation as provided in section 102.28.

(2) "Insurer" as used in sections 204.37 to 204.55 shall be deemed to include every company as defined in section 201.01, every surety corporation or company within the provisions of section 204.01, and every stock or mutual company, reciprocal, inter-insurance exchange, and Lloyd's association, which is authorized under any provision of the laws of this state to transact any of the kinds of insurance to which sections 204.37 to 204.55 apply.

(3) If any kind of insurance, subdivision or combination thereof, or type of coverage, subject to sections 204.37 to 204.55 is also subject to regulation by another rate regulatory act of this state, an insurer to which both acts are otherwise applicable shall file with the commissioner of insurance, hereinafter referred to as commissioner, a designation as to which rate regulatory act shall be applicable to it with respect to such kind of insurance, subdivision or combination thereof, or type of coverage.

204.39 MAKING OF RATES. (1) All rates shall be made in accordance with the following provisions:

(a) Due consideration shall be given to past and prospective loss experience within and outside this state, to catastrophe hazards, if any, to a reasonable margin for underwriting profit and contingencies, to dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers, to past and prospective expenses both countrywide and those specially applicable to this state, and to all other relevant factors within and outside this state;

(b) The systems of expense provisions included in the rates for use by any insurer or group of insurers may differ from those of other insurers or groups of insurers to reflect the requirements of the operating methods of any such insurer or group with

respect to any kind of insurance, or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(c) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks that can be demonstrated to have a probable effect upon losses or expenses;

(d) Rates shall not be excessive, inadequate or unfairly discriminatory.

(2) Except to the extent necessary to meet the provisions of subsection (1) (d), uniformity among insurers in any matters within the scope of this section is neither required nor prohibited.

204.40 RATE FILINGS. (1) Every insurer shall file with the commissioner every manual of classifications, rules and rates, every rating plan and every modification of any of the foregoing which it proposes to use. Every such filing shall state the proposed effective date thereof, and shall indicate the character and extent of the coverage contemplated. When a filing is not accompanied by the information upon which the insurer supports such filing, and the commissioner does not have sufficient information to determine whether such filing meets the requirements of sections 204.37 to 204.55, he shall require such insurer to furnish the information upon which it supports such filing, and in such event the waiting period as to a filing made by a rating organization shall commence as of the date such information is furnished. Such requirement to furnish information shall not extend the effective date as to a filing made by an insurer for a kind of insurance or subdivision thereof as to which such insurer is not a member of or subscriber to a rating organization. The information furnished in support of a filing may include (a) the experience or judgment of the insurer or rating organization making the filing, (b) its interpretation of any statistical data it relies upon, (c) the experience of other insurers or rating organizations, or (d) any other relevant factors. A filing and any supporting information shall be open to public inspection after the filing becomes effective.

(2) An insurer may satisfy its obligation to make such filings by becoming a member of, or a subscriber to, a licensed rating

organization which makes such filings, and by authorizing the commissioner to accept such filings on its behalf. Nothing contained in sections 204.37 to 204.55 shall be construed as requiring any insurer to become a member of or a subscriber to any rating organization.

(3) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of sections 204.37 to 204.55.

(4) Subject to the exception specified in subsection (5), each filing shall be on file for a waiting period of 15 days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed 15 days if he gives written notice within such waiting period to the insurer or rating organization which made the filing that he needs such additional time for the consideration of such filing. Upon written application by such insurer or rating organization, the commissioner may authorize a filing which he has reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing made by a rating organization shall be deemed to meet the requirements of sections 204.37 to 204.55 unless disapproved by the commissioner within the waiting period or any extension thereof. A filing made by an insurer for a kind of insurance or subdivision thereof as to which such insurer is not a member of or subscriber to a rating organization shall be deemed to meet the requirements of this act unless disapproved by the commissioner after notice and hearing and findings made in accordance with the requirements of section 204.41 (1)(b).

(5) Any special filing with respect to a surety or guaranty bond required by law or by court or executive order or by order, rule or regulation of a public body, not covered by a previous filing, shall become effective when filed and shall be deemed to meet the requirements of sections 204.37 to 204.55 until such time as the commissioner reviews the filing and so long thereafter as the filing remains in effect.

(6) Under such rules and regulations as he shall adopt the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks, the rates for which cannot practicably be filed before they are used. Such orders, rules and regulations shall be made known to insurers and rating organizations affected thereby. The commissioner

may make such examination as he may deem advisable to ascertain whether any rates affected by such order meet the standards set forth in section 204.39 (1) (d).

(7) Upon the written application of the insured, stating his reasons therefor filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(8) On and after January 1, 1948, no insurer shall make or issue a contract or policy except in accordance with filings which are in effect for said insurer as provided in sections 204.37 to 204.55 or in accordance with subsections (6) or (7).

204.41 DISAPPROVAL OF FILINGS. (1) (a) If within the waiting period or any extension thereof as provided in section 204.40 (4) the commissioner finds that a filing made by a rating organization does not meet the requirements of sections 204.37 to 204.55 he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respect he finds such filing fails to meet the requirements of said sections and stating that such filing shall not become effective.

(b) The commissioner may, in the case of a filing by an insurer for a kind of insurance or subdivision thereof as to which such insurer is not a member of or subscriber to a rating organization, disapprove such filing during the waiting period or any extension thereof, only after notice and hearing in accordance with the requirements of subsection (3) and only by order specifying in what respects he finds that such filing fails to meet the requirements of sections 204.37 to 204.55.

(2) If within 30 days after a special surety or guaranty filing subject to section 204.40 (5) has become effective the commissioner finds that such filing does not meet the requirements of sections 204.37 to 204.55 he shall send to the insurer or rating organization which made such filing written notice of disapproval of such filing specifying therein in what respects he finds that such filing fails to meet the requirements of said sections and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Said disapproval shall not affect any contract made or issued prior to the expiration of the period set forth in said notice.

(3) At any time subsequent to the applicable review period provided for in subsections (1) or (2), the commissioner may, as to any filing whether by a rating organization or by an in-

surer disapprove a filing on the ground that such filing does not meet the requirements of sections 204.37 to 204.55 but only after a hearing held upon not less than 10 days' written notice specifying the matters to be considered at such hearing to every insurer and rating organization which made such filing, and only by an order specifying in what respect he finds that such filing fails to meet the requirements of said sections, and stating when within a reasonable period thereafter such filing shall be deemed no longer effective. Copies of said order shall be sent to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(4) (a) Any person or organization aggrieved with respect to any filing which is in effect may make written application to the commissioner for a hearing thereon, provided, however, that the insurer or rating organization that made the filing shall not be authorized to proceed under this subsection. Such application shall specify the grounds to be relied upon by the applicant. If the commissioner shall find that the application is made in good faith, that the applicant would be so aggrieved if his grounds are established, and that such grounds otherwise justify holding such a hearing, he shall, within 30 days after receipt of such application, hold a hearing upon not less than 10 days' written notice to the applicant and to every insurer and rating organization which made such filing.

(b) If after such hearing the commissioner finds that the filing does not meet the requirements of sections 204.37 to 204.55, he shall issue an order specifying in what respects he finds that such filing fails to meet the requirements of said sections and stating when, within a reasonable period thereafter, such filing shall be deemed no longer effective. Copies of said order shall be sent to the applicant and to every such insurer and rating organization. Said order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order.

(5) No manual of classifications, rules, rating plans, or any modifications of any of the foregoing which establish standards for measuring variations in hazards or expense provisions, or both, and which has been filed pursuant to the requirements of section 204.40 shall be disapproved if the rates thereby produced meet the requirements of sections 204.37 to 204.55.

204.42 RATING ORGANIZATIONS. (1) A corporation, an unin-

corporated association, a partnership or an individual, whether located within or outside this state, may make application to the commissioner for license as a rating organization for such kinds of insurance or subdivisions thereof as are specified in its application and shall file therewith (a) a copy of its articles of agreement or association or its certificates of incorporation, and of its by-laws, rules and regulations governing the conduct of its business, (b) a list of its members and subscribers, (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process affecting such rating organization may be served and (d) a statement of its qualifications as a rating organization. If the commissioner finds that the applicant is competent, trustworthy and otherwise qualified to act as a rating organization and that its constitution, articles of agreement or association or certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business conform to the requirements of law, he shall issue a license specifying the kinds of insurance or subdivisions thereof for which the applicant is authorized to act as a rating organization. Every such application shall be granted or denied in whole or in part by the commissioner within 60 days of the date of its filing with him. Licenses issued pursuant to this section shall remain in effect for 3 years unless sooner suspended or revoked by the commissioner. The fee for said license shall be \$25. Licenses issued pursuant to this section may be suspended or revoked by the commissioner, after hearing upon notice, in the event the rating organization ceases to meet the requirements of this subsection. Every rating organization shall notify the commissioner promptly of every change in (a) its constitution, its articles of agreement or association or its certificate of incorporation, and its by-laws, rules and regulations governing the conduct of its business, (b) its list of members and subscribers and (c) the name and address of the resident of this state designated by it upon whom notices or orders of the commissioner or process affecting such rating organization may be served.

(2) Subject to rules and regulations which have been approved by the commissioner as reasonable, each rating organization shall permit any insurer not a member to be a subscriber to its rating services for any kind of insurance or subdivision thereof for which it is authorized to act as a rating organization. Notice of proposed changes in such rules and regulations shall



be given to subscribers. Each rating organization shall furnish its rating services without discrimination to its members and subscribers. The reasonableness of any rule or regulation in its application to subscribers or the refusal of any rating organization to admit an insurer as a subscriber shall, at the request of any subscriber or any such insurer, be reviewed by the commissioner at a hearing held upon at least 10 days' written notice to such rating organization and to such subscriber or insurer. If the commissioner finds that such rule or regulation is unreasonable in its application to subscribers he shall order that such rule or regulation shall not be applicable to subscribers. If the rating organization fails to grant or reject an insurer's application for subscribership within 30 days after it was made, the insurer may request a review by the commissioner as if the application had been rejected. If the commissioner finds that the insurer has been refused admittance to the rating organization as a subscriber without justification he shall order the rating organization to admit the insurer as a subscriber. If he finds that the action of the rating organization was justified he shall make an order affirming its action.

(3) No rating organization shall adopt any rule the effect of which would be to prohibit or regulate the payment of dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers.

(4) Co-operation among rating organizations or among rating organizations and insurers in rate making or in other matters within the scope of sections 204.37 to 204.55 is hereby authorized, provided the filings resulting from such co-operation are subject to all the provisions of said sections which are applicable to filings generally. The commissioner may review such co-operative activities and practices and if after a hearing he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of said sections, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of said sections and requiring the discontinuance of such activity or practice.

204.43 DEVIATIONS. Every member of or subscriber to a rating organization shall adhere to the filings made on its behalf by such organization except that any insurer may file with the commissioner and with the rating organization of which it is a member or to which it is a subscriber, a deviation from the rates or

any underwriting rule filed by such rating organization. Any such deviation from a rate shall be by uniform percentage decrease or increase applied to the premiums produced by the rating system so filed for a kind of insurance, or for a class of insurance which is found by the commissioner to be a proper rating unit for the application of such uniform percentage decrease or increase, or for a subdivision of a kind of insurance (1) comprised of a group of manual classifications which is treated as a separate unit for rate making purposes, or (2) for which separate expense provisions are included in the filings of the rating organization. Any such deviation shall not be such as to result in a rate which is excessive, inadequate or unfairly discriminatory. Such deviation shall not take effect for a period of 15 days after filing which waiting period may be extended for an additional period of 15 days by the commissioner if he gives written notice to the insurer and rating organization in accordance with the provisions of section 204.40 (4). Co-operation among insurers in the preparation, filing and use of deviations is hereby authorized. The commissioner may review such cooperative activities and practices and if, after hearing, held after notice to the insurer and rating organization involved in accordance with section 204.41 (3), he finds that any such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of sections 204.37 to 204.55, he may issue a written order specifying in what respects he finds that such filing fails to meet the requirements of said sections and requiring the discontinuance of such activity or practice within such reasonable period thereafter as shall be fixed by said order. Any such deviation shall be subject to disapproval by the commissioner if after notice to said insurer and rating organization and hearing in accordance with the provisions of section 204.41 (3) the commissioner shall find that such deviation does not meet the requirements of sections 204.37 to 204.55. Any such order of disapproval shall specify in what respects he finds that such deviation fails to meet the requirements of said sections. If such order is made after the expiration of the waiting period herein provided and any extension thereof made in accordance with this section, the order shall state when, within a reasonable period thereafter such filing shall be deemed no longer effective. Until an order of disapproval has become effective in accordance with the provisions of this section, such deviation shall be deemed to meet the requirements of sections

204.37 to 204.55. When said order of disapproval is made after the expiration of said waiting period or any extension thereof, said disapproval shall not affect any contract or policy made or issued prior to the expiration of the period set forth in said order. Such deviation shall be subject to the provisions of section 204.41 (4). In the event of an application for rehearing before the commissioner, he shall suspend his action in question pending the rehearing on such reasonable terms and conditions as he may impose. The action of the commissioner shall not become effective for a period of 10 days provided review proceedings are commenced within said period. The pendency of a review of any disapproval or other order of the commissioner made under the provisions of this section shall suspend such disapproval or order on such reasonable terms and conditions as may be imposed by the court. The aggrieved party shall make application to the court for an order fixing such terms and conditions within 10 days after commencement of such proceedings.

204.44 APPEAL BY MINORITY. (1) Any member of or subscriber to a rating organization may appeal to the commissioner from the action or decision of such rating organization in approving or rejecting any proposed change in or addition to the filings of such rating organization and the commissioner shall, after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization, issue an order approving the action or decision of such rating organization or directing it to give further consideration to such proposal, or if such appeal is from the action or decision of the rating organization in rejecting a proposed addition to its filings he may in the event he finds that such action or decision was unreasonable issue an order directing the rating organization to make an addition to its filings on behalf of its members and subscribers, in a manner consistent with his findings, within a reasonable time after the issuance of such order.

(2) If such appeal is based upon the failure of the rating organization to make a filing on behalf of such member or subscriber which is based on a system of expense provisions which differs, in accordance with the right granted in section 204.39 (1) (b) from the system of expense provisions included in a filing made by the rating organization, the commissioner shall, if he grants the appeal, order the rating organization to make the requested filing for use by the appellant. In deciding such

appeal the commissioner shall apply the standards set forth in section 204.39.

204.45 INFORMATION TO BE FURNISHED INSURED; HEARINGS AND APPEALS OF INSURED. (1) Every rating organization and every insurer which makes its own rates shall, within a reasonable time after receiving written request therefor and upon payment of such reasonable charge as it may make, furnish to any insured affected by a rate made by it, or to the authorized representative of such insured, all pertinent information as to such rate.

(2) Every rating organization and every insurer which makes its own rates shall provide within the state reasonable means whereby any person aggrieved by the application of its rating system may be heard in person or by his authorized representative on his written request to review the manner in which such rating system has been applied in connection with the insurance afforded him. If the rating organization or insurer fails to grant or reject such request within 30 days after it is made, the applicant may proceed in the same manner as if his application had been rejected. Any party affected by the action of such rating organization or such insurer on such request may, within 30 days after written notice of such action, appeal to the commissioner, who after a hearing held upon not less than 10 days' written notice to the appellant and to such rating organization or insurer may affirm or reverse such action.

204.46 ADVISORY ORGANIZATIONS. (1) Every group, association or other organization of insurers, whether located within or outside this state, which assists insurers which make their own filings or rating organization in rate making by the collection and furnishing of loss or expense statistics or by the submission of recommendations but which does not make filings under sections 204.37 to 204.55, shall be known as an advisory organization.

(2) Every advisory organization shall file with the commissioner (a) a copy of its constitution, its articles or agreement or association or its certificate of incorporation and of its by-laws, rules and regulations governing its activities, (b) a list of its members, (c) the name and address of a resident of this state upon whom notices or orders of the commissioner or process issued at his direction may be served, and (d) an agreement that the commissioner may examine such advisory organization in accordance with the provisions of section 204.48.

(3) If after a hearing the commissioner finds that the furnishing of such information or assistance involves any act or practice which is unfair or unreasonable or otherwise inconsistent with the provisions of sections 204.37 to 204.55 he may issue a written order specifying in what respects such act or practice is unfair or unreasonable or otherwise inconsistent with the provisions of said sections and requiring the discontinuance of such act or practice.

(4) No insurer which makes its own filings nor any rating organization shall support its filings by statistics or adopt rate making recommendations furnished to it by an advisory organization which has not complied with this section or with an order of the commissioner involving such statistics or recommendations issued under subsection (3). If the commissioner finds such insurer or rating organization to be in violation of this subsection he may issue an order requiring the discontinuance of such violation.

204.47 JOINT UNDERWRITING OR JOINT REINSURANCE. (1) Every group, association or other organization of insurers which engages in joint underwriting or joint reinsurance shall be subject to regulation with respect thereto as herein provided, subject however with respect to joint underwriting to all other provisions of sections 204.37 to 204.55 and with respect to joint reinsurance to sections 204.48 and 204.52 to 204.55.

(2) If after a hearing the commissioner finds that any activity or practice of any such group, association or other organization is unfair or unreasonable or otherwise inconsistent with the provisions of sections 204.37 to 204.55, he may issue a written order specifying in what respects such activity or practice is unfair or unreasonable or otherwise inconsistent with the provisions of said sections and requiring the discontinuance of such activity or practice.

204.48 EXAMINATIONS. The commissioner shall at least once in 5 years make or cause to be made an examination of each rating organization licensed in this state as provided in section 204.42, and he may as often as he may deem it expedient make or cause to be made an examination of each advisory organization referred to in section 204.46 and of each group, association or other organization referred to in section 204.47. The reasonable cost of any such examination shall be paid by the rating organization, advisory organization, or group, association or other organization examined upon presentation to it of a detailed

account of such cost. The officers, manager, agents and employes of such rating organization, advisory organization, or group, association or other organization may be examined at any time under oath and shall exhibit all books, records, accounts, documents, or agreements governing its method of operation. The commissioner shall furnish 2 copies of the examination report to the organization, group or association examined and shall notify such organization, group or association that it may, within 20 days thereafter, request a hearing on said report or any facts or recommendations therein. Before filing any such report for public inspection the commissioner shall grant a hearing to the organization, group or association examined. The report of any such examination when filed for public inspection shall be admissible in evidence in any action or proceeding brought by the commissioner against the organization, group or association examined, or its officers or agents, and shall be prima facie evidence of the facts stated therein. The commissioner may withhold the report of any such examination from public inspection for such time as he may deem proper. In lieu of any such examination the commissioner may accept the report of an examination made by the insurance supervisory official of another state, pursuant to the laws of such state.

204.49 RATE ADMINISTRATION. (1) RECORDING AND REPORTING OF LOSS AND EXPENSE EXPERIENCE. The commissioner shall promulgate reasonable rules and statistical plans, reasonably adapted to each of the rating systems on file with him which may be modified from time to time and which shall be used thereafter by each insurer in the recording and reporting of its loss and countrywide expense experience in order that the experience of all insurers may be made available at least annually in such form and detail as may be necessary to aid him in determining whether rating systems comply with the standards set forth in section 204.39. Such rules and plans may also provide for the recording and reporting of expense experience items which are specially applicable to this state and are not susceptible of determination by a prorating countrywide expense experience. In promulgating such rules and plans, the commissioner shall give due consideration to the rating systems on file with him and in order that such rules and plans may be as uniform as is practicable among the several states to the rules and to the form of the plans used for such rating

systems in other states. No insurer shall be required to record or report its loss experience on a classification basis that is inconsistent with the rating system filed by it. The commissioner may designate one or more rating organizations or other agencies to assist him in gathering such experience and making compilations thereof, and such compilations shall be made available subject to reasonable rules promulgated by the commissioner to insurers and rating organizations.

(2) **INTERCHANGE OF RATING PLAN DATA.** Reasonable rules and plans may be promulgated by the commissioner for the interchange of data necessary for the application of rating plans.

(3) **CONSULTATION WITH OTHER STATES.** In order to further uniform administration of rate regulatory laws, the commissioner and every insurer and rating organization may exchange information and experience data with insurance supervisory officials, insurers and rating organizations in other states and may consult with them with respect to rate making and the application of rating.

(4) **RULES AND REGULATIONS.** The commissioner may make reasonable rules and regulations in conformity with and necessary to enforce the provisions of sections 204.37 to 204.55.

**204.50 FALSE OR MISLEADING INFORMATION.** No person or organization shall wilfully withhold information from or knowingly give false or misleading information to the commissioner, any statistical agency designated by the commissioner, any rating organization, or any insurer, which will affect the rates or premiums chargeable under sections 204.37 to 204.55. A violation of this section shall subject the one guilty of such violation to the penalties provided in section 204.53.

**204.51 ASSIGNED RISKS.** Agreements may be made among insurers with respect to the equitable apportionment among them of insurance which may be afforded applicants who are in good faith entitled to but who are unable to procure such insurance through ordinary methods and such insurers may agree among themselves on the use of reasonable rate modifications for such insurance, such agreements and rate modifications to be subject to the approval of the commissioner.

**204.52 REBATES PROHIBITED.** (1) No agent shall knowingly charge, demand or receive a premium for any policy of insurance except in accordance with the provisions of sections 204.37 to 204.55. No insurer or employe thereof, and no agent shall

pay, allow, or give, or offer to pay, allow, or give, directly or indirectly, as an inducement to insurance, or after insurance has been effected, any rebate, discount, abatement, credit or reduction of the premium named in a policy of insurance, or any special favor or advantage in the dividends or other benefits to accrue thereon, or any valuable consideration or inducement whatever, not specified in the policy of insurance, except to the extent provided for in applicable filing. No insured named in a policy of insurance nor any employe of such insured shall knowingly receive or accept, directly or indirectly, any such rebate, discount, abatement, credit or reduction of premium, or any such special favor or advantage or valuable consideration or inducement. Nothing in this section shall be construed as prohibiting the payment of commissions or other compensation to duly licensed agents nor as prohibiting any insurer from allowing or returning to its participating policyholders, members or subscribers, dividends, savings or unabsorbed premium deposits.

(2) As used in this section the word "insurance" includes suretyship and the word "policy" includes bond.

**204.53 PENALTIES.** (1) Any person or organization violating any provision of sections 204.37 to 204.55 shall be fined not more than \$50 for each such violation, but if such violation is found to be wilful, said person or organization may be fined not more than \$500 for each such violation. Such fines may be in addition to any other penalty by law.

(2) The commissioner may suspend the license of any rating organization or insurer which fails to comply with an order of the commissioner within the time limited by such order or any extension thereof which the commissioner may grant. The commissioner shall not suspend the license of any rating organization or insurer for failure to comply with an order until the time prescribed for an appeal therefrom has expired or if an appeal has been taken until such order has been affirmed. The commissioner may determine when a suspension of license shall become effective and it shall remain in effect for the period fixed by him unless he modifies or rescinds such suspension or until the order upon which such suspension is based is modified, rescinded or reversed.

(3) No license shall be suspended or revoked except upon a written order of the commissioner, stating his findings, made after hearing held upon not less than 10 days' written notice to such person or organization specifying the alleged violation.



204.54 HEARING PROCEDURE AND JUDICIAL REVIEW. (1) Any insurer or rating organization aggrieved by any order or decision of the commissioner under sections 204.37 to 204.55 made without a hearing, may within 30 days after notice of such order or decision to the insurer or organization make written request to the commissioner for a hearing thereon. The commissioner shall hear such party or parties within 20 days after receipt of such request and shall give not less than 10 days' written notice of the time and place of the hearing. Within 10 days after such hearing the commissioner shall affirm, reverse or modify his previous action, specifying his reasons therefor. Pending such hearing and decision thereon the commissioner may suspend or postpone the effective date of his previous action.

(2) Any approval, disapproval, order or decision of the commissioner under sections 204.37 to 204.55 made after a hearing shall be subject to review at the instance of any party in interest in the manner provided in chapter 227.

(3) The procedure in the conduct of hearings and making of approvals, disapprovals and any other orders by the commissioner under the provisions of sections 204.37 to 204.55 and the review thereof in court shall be governed by the provisions of chapter 227 of the statutes, except as far as they may be inconsistent with specific provisions of said sections. No application for rehearing or any rehearing shall be a condition precedent to review in court of any approval, disapproval or other order of the commissioner made under the provisions of said sections. In event of an application for rehearing before the commissioner, he shall stay his action in question pending the rehearing upon such reasonable terms and conditions as he may impose. The action of the commissioner shall not become effective for a period of 10 days provided review proceedings are commenced within said period. The pendency of a review of any disapproval or other order of the commissioner made under the provisions of said sections 204.37 to 204.55 shall suspend such disapproval or order on such reasonable terms and conditions as may be imposed by the court. The aggrieved party shall make application to the court for an order fixing such terms and conditions within 10 days after the commencement of such proceedings.

204.55 SEPARABILITY OF PROVISIONS. If any provision of sections 204.37 to 204.55 or the application of such provision to any person or circumstances, shall be held invalid, the remainder

of said sections and the application of such provision to persons or circumstances other than those as to which it is held invalid shall not be affected thereby.

SECTION 7. This act shall take effect October 1, 1947.

Approved August 5, 1947.

No. 515, A.]

[Published August 12, 1947.

### CHAPTER 522.

AN ACT to create 136.19 to 136.36 of the statutes, relating to business opportunity brokers, providing penalties, and making an appropriation.

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

136.19 to 136.36 of the statutes are created to read:

136.19 DEFINITIONS. Unless the context otherwise requires, as used in sections 136.19 to 136.36:

- (1) "Board" means the Wisconsin real estate brokers' board.
- (2) "Business opportunity broker" means any person, firm or corporation, not excluded by subsection (3).

(a) Who for another, and for commission, money or other thing of value, sells, exchanges, buys or rents, or offers or attempts to negotiate a sale, exchange, purchase or rental of any business, its good will, inventory, fixtures or an interest therein; or

(b) Who is engaged wholly or in part in the business of selling business opportunities or good will of an existing business or who is engaged wholly or in part in the business of buying and selling, exchanging or renting of any business, its good will, inventory, fixtures or an interest therein.

(3) The term "business opportunity broker" does not include:

(a) Receivers, trustees, administrators, executors, guardians, or other persons, appointed by or acting under the judgment or order of any court; or,

(b) Public officers while performing their official duties; or,

(c) Any bank, trust company, building and loan association, or any land mortgage or farm loan association organized under the laws of this state or of the United States, when engaged in