

## CHAPTER 200.\*

## INSURANCE DEPARTMENT.

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**200.01 Commissioner; qualifications, appointment, term.** (1) The governor, by and with the advice and consent of the senate, shall appoint a commissioner of insurance forthwith upon the taking effect of this act, and every four years thereafter. Such commissioner shall hold office for four years and until his successor is appointed and qualified.

(2) The person so appointed as such commissioner shall be known to possess a knowledge of the subject of insurance, and skill in matters pertaining thereto. No person appointed as such commissioner shall hold any other office under the laws of this or of any other state or of the United States. Such commissioner shall devote his entire time to the duties of the office, and shall not hold any position of trust or profit, engage in any occupation or business interfering with or inconsistent with his duties, or serve on or under any political committee or as manager of any political campaign for any candidate or party.

(3) All duties, rights, privileges, powers, compensation, and liabilities, now by law granted to or imposed upon the commissioner of insurance, are merged in and extended to the office of commissioner of insurance, hereby created, so that the office hereby created shall in all respects succeed to and stand in lieu of the former office of commissioner of insurance, which is abolished from and after the taking effect of the first appointment under this section. [1933 c. 487 s. 2]

**200.02 Commissioner; oath; bond; seal.** The commissioner shall take and file the official oath and execute and file the official bond in the penal sum of one hundred thousand dollars, with at least six individual sureties or a surety company, which bond shall be approved by the governor. The premiums for a surety bond shall be charged to the appropriation for the commissioner, but said charge shall not exceed two hundred fifty dollars per annum. The commissioner shall have an official seal. [1933 c. 487, s. 3, 4]

**Revisor's Note, 1933:** Only verbal changes are made. The last half of 200.02, except the last sentence, is covered by the next section where the general duties and powers of the commissioner are brought together. The last sentence of 200.02 is transferred to 200.04 for better arrangement. (Bill No. 50 S, s. 3)

**200.03 Commissioner; powers and duties generally.** (1) **OFFICE LOCATION.** The commissioner shall have his office in the capitol and shall be provided by the director of purchases with postage, stationery and office supplies and necessary printing.

(2) **SUPERVISION.** He shall enforce the laws relating to insurance and shall exercise such supervision and control over insurance companies doing business in this state as the law requires; and to that end, he may make reasonable rules and regulations for their enforcement; and he may, by himself and his subordinates, conduct investigations, examinations and hearings, and take testimony.

(3) **LICENSE COMPANIES.** He shall examine insurance companies applying for a license to transact business, and if the affairs or conditions of any company fully meet the requirements of law, he shall issue his certificate licensing such company to do business, otherwise he shall deny the application.

(4) **VISITATION, REVOCATION OF LICENSE.** He may in person or by agent visit the general office of any licensed foreign insurance company and examine its affairs and condi-

\*The absence of a revisor's note at the end of a section of this bill is to be understood as indicating that the section makes no change in the law. (Bill No. 50 S, s. 1—1933 c. 487)

tions, and may revoke its license for failure to comply with the law or refusal to allow such examination.

(5) **NOTICE OF REVOCATION OF LICENSE.** He shall upon revocation of the license of a company give notice thereof by mail to all its agents who have been furnished a copy of such license, and shall publish notice of the revocation in the official state paper.

(6) **AGENT'S SPECIAL LICENSE.** He may upon payment of fifty dollars in cities of the first class and fifteen dollars elsewhere issue to any agent authorized under section 209.04 permission, terminating on the last day of January thereafter and revocable at any time, to procure fire insurance policies from companies not licensed in this state, upon the condition specified in section 203.55.

(7) **FORMS FOR ANNUAL STATEMENTS.** He shall prepare forms for annual statements for various kinds of insurance companies and societies and shall furnish them with such statement blanks.

(9) **ATTEND CONVENTIONS.** He shall represent this state at the annual meeting of the insurance commissioners of the several states.

(10) **PAYMENTS, MONTHLY REPORTS, AUDITS.** He shall make daily payments to the state treasurer of all fees, dues and taxes received, and shall, on the first day of each month, report, in detail, the receipts of his department during the preceding month to the governor, secretary of state and state treasurer, together with the dates of such payments to the treasurer, and it shall be the duty of the governor, secretary of state and state treasurer to quarterly examine and audit the books and records of the department of insurance.

(11) **STATE FIRE MARSHAL.** He shall be ex officio state fire marshal, and as such shall keep an itemized statement of all expenses incurred by him in the discharge of his duties; and shall audit all claims and vouchers for such expenses before they are submitted to the secretary of state for payment.

(12) **FIRE MARSHAL'S REPORT.** He shall, as state fire marshal, annually submit to the governor as early as practicable, a detailed report of his official actions covering the preceding year, which report may be combined with his report on fire and marine insurance.

(13) **DEPUTY COMMISSIONER.** He shall appoint a deputy commissioner of insurance, who shall take and file the official oath and give to the commissioner such bond as he may require. Such deputy whenever detailed to special acts shall have the same power as the commissioner in all matters connected therewith; and in case of a vacancy in the office of commissioner or of the absence of the commissioner from the capitol, the deputy shall discharge the duties and exercise the powers of the commissioner.

(14) **CERTIFICATES OF AUTHORITY; OBSOLETE RECORDS.** He shall keep in his office a complete file of duplicates of all certificates of authority issued under section 209.04; but he may, at any time, destroy any such certificates which have been on file more than six years.

(15) **ATTORNEY FOR FOREIGN COMPANIES.** He is by law constituted the attorney for all insurance companies admitted to this state for the purpose of service of summons and all other legal processes upon such companies while licensed here and thereafter so long as there are any liabilities outstanding against them in this state.

(16) The service of such process shall be made by leaving duplicate copies thereof in the hands or office of the commissioner of insurance and paying to him for the use of the state a fee of two dollars for each company. A certificate by the commissioner of insurance showing such service and attached to the original or third copy of such process presented to him for that purpose shall be sufficient evidence thereof. [1933 c. 487 s. 4; 1933 c. 489 s. 1]

**Revisor's Note, 1933:** Scattered provisions are consolidated without any change in substance. The subsections of 200.03 are derived as follows:

- (1) is from 200.02
- (2) is from 200.02
- (3) is from 200.04 (4) and 201.15
- (4) is from 201.40 (3)
- (5) is from 201.41 (4)
- (6) is from 201.49 (1)
- (7) is from 201.50
- (9) is from 200.14 (last sentence)
- (10) is from 200.16
- (11) is from 200.24 (2) and 200.18
- (12) is from 200.26
- (13) is from 200.03
- (14) is from 200.28
- (15) is from 201.38 (2) (b)

New (13) provides for an emergency vacancy in the office of commissioner. At pres-

ent, there is no statute which says who should act pending the appointment of a successor in case the office becomes vacant. This is thought to have been an oversight. There is such a provision covering the office of fire marshal, 200.18. (Bill No. 50 S, s. 4)

The question of whether a reduction in premium of fire policy based on the deductible clause in the policy constitutes such a deviation that it is required to be filed with the insurance rating bureau was a subject within the jurisdiction of the insurance commissioner, and was not a proper matter for consideration in an action to enjoin the rating bureau from revoking the insurer's license and enforcing the fire insurance rating act against the insurer. *Northwestern Nat. Ins. Co. v. Mortenson*, 230 W 377, 284 NW 13.

**200.04 Reports, examinations, revocation of licenses, deposits, employes, expenses, collections, audit and payments.** (1) All reports required of any insurance company shall be made to the commissioner.

(2) He may require any licensed insurance company from time to time to report to him in such form as he requires, in relation to its condition and any matter connected with its transactions. When written charges are filed against any company alleging that any return or statement filed by it with the commissioner is false, or that its affairs are in an unsound condition, he shall, and he may at any time on his own motion, examine into its affairs and conditions, and for that purpose may appoint an examiner who shall not be an officer or the agent of or in any manner interested, except as a policyholder, in any insurance company, and it shall be the duty of the company examined, its officers and agents, to open its books for inspection.

(3) If it shall appear to the commissioner that any foreign company is in an unsound financial condition he may revoke its license; and he shall cause a notice of such revocation to be published in the official state paper, and mail a copy thereof to each licensed agent of the company, and such agents shall thereupon discontinue writing business for it.

(4) The commissioner may require from any insurance company and any mutual benefit society, before and from time to time during any examination, such deposit with the state treasurer as he shall deem necessary for the expenses of such examination. The actual cost shall be charged to the company or society and the balance shall be returned. If any other state shall charge a per diem fee for examination of companies of this state, the insurance companies of such other state shall be required to pay the same fee when examined by the insurance department of this state. [*Stats. 1931 s. 200.02, 200.04; 1933 c. 487 s. 4, 5*]

**Revisor's Note, 1933:** Subsection (4) of 200.04 is transferred to 200.03. The substance of (1), (2) and (3) is preserved. Subsection (5) is made (4) of the new section with-

out change in substance. Subsections (6) and (7) are covered by 14.71 and are omitted because they are duplications. (Bill No. 50 S, s. 5)

**200.05 Hearings; depositions; fees.** The fees for stenographic services in investigations, examinations and hearings shall not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the secretary of state, authorized by the certificate of the commissioner and shall be charged to the appropriation for the commissioner. [*1933 c. 487 s. 6*]

**Revisor's Note, 1933:** The authority to take testimony, subpoena witnesses and compel the production of papers and records, is given by 325.01 and new 200.03 (2). Authority to administer oaths is given by 326.01. The coercion of witnesses is covered by 325.12. Authority to employ stenogra-

phers is given by 14.71. The compensation of officers and the fees to witnesses are elsewhere provided for. Witness fees, see 325.05 (1). Authority to take depositions in such matters is given by 326.05. The authority of the commissioner is a duplication of 200.03 (2). (Bill No. 50 S, s. 6)

**200.06 Restoration of capital.** Any domestic insurance corporation which shall have been directed by the commissioner to make good its capital shall forthwith assess its stockholders the necessary amount therefor. In case any stockholder shall fail to pay, after notice given personally or by advertisement, in such time and manner as the commissioner shall prescribe, he shall return the certificate of stock held by him and in lieu thereof there shall be issued to him a new certificate, the face value of which shall equal the book value of the surrendered shares as ascertained by said commissioner, as near as may be, the corporation paying for the fractional parts of shares. The directors may issue new stock and dispose of the same to an amount sufficient to make up the original capital. In the event of losses accruing from risks taken after the expiration of the period limited by said commissioner for restoring the capital, and before such deficiency shall have been made up, the directors shall be individually liable therefor. The transfer of the stock of such corporation, made during the investigation, by the commissioner shall not release the transferor from his liability for losses which may have occurred previous to such transfer. [*1933 c. 487 s. 7*]

**200.07 Reduction of capital.** When the capital of any domestic insurance corporation is impaired to an amount exceeding twenty-five per cent thereof, and the commissioner shall be of the opinion that the interests of the public will not be prejudiced thereby, such corporation may, with his permission, reduce its capital and the par value of the shares thereof to such amount as he shall certify to be justified by the assets of such corporation; but no part of such assets shall be distributed to the stockholders, nor shall the capital stock be reduced to an amount less than the sum required by law for the organization of a corporation for the transaction of the same kind of business. Such a reduction of the capital must be authorized by a resolution adopted by a two-thirds vote of the board and signed by at least two-thirds of the directors and by its president. Upon the filing of a certified copy of such resolution, the commissioner shall execute a new certifi-

cate of incorporation to conform with such reduced capital, and the articles of organization shall be deemed to be amended in respect to the amount of its capital and of the par value of its shares so as to conform to such reduction. Such corporation may require the return of the certificate of stock held by each stockholder and in lieu thereof issue a new certificate for such number of shares as he may be entitled to. [1933 c. 487 s. 8]

**Revisor's Note, 1933:** The law is not in final form and belongs in the company's files. (Bill changed, except that a certified copy is filed in place of the original resolution. The original No. 50 S, s. 8)

**200.08 Insolvent or delinquent companies; proceedings against.** (1) When any domestic insurance company or fraternal or mutual benefit society is insolvent or has refused to submit its books, papers, accounts or affairs to reasonable inspection and examination, or has neglected or refused to obey an order of the commissioner to make good within the time prescribed any deficiency in its capital or its reserve, or has transferred or attempted to transfer its entire property or business, or entered into any transaction, the effect of which is to merge its property or business in the property or business of any other company or society, without having obtained the written approval of the commissioner, or is found to be in such condition that its further transaction of business will be hazardous to its policyholders, or to its creditors, or to the public, or has wilfully violated its charter or articles of incorporation, or any law of the state, or any officer thereof has refused to be examined on oath touching its affairs, the commissioner may apply by verified petition to the circuit court of the home county of the company or society for and the court may make an order directing the company or society to show cause why the commissioner should not take possession of its property and conduct its business, and for such other relief as the nature of the case and the interest of its policyholders, creditors, stockholders and the public may require.

(2) The court may also enjoin such company or society from the transaction of business or the disposition of its property, and may authorize the commissioner to immediately enter into the possession of such property and the conduct of such business, until the further order of the court.

(3) After hearing, the court shall either deny the application or direct the commissioner forthwith to take possession of the property and conduct the business of such company or society, and retain such possession and conduct such business until the court shall find and order that such company or society can properly and safely resume possession of its property and the conduct of its business.

(4) If, on a like application and order to show cause the court shall order the liquidation of the business of such corporation, such liquidation shall be made by and under the direction of the commissioner, who may deal with the property and business of such company or society in his name as commissioner or in the name of the company or society, as the court may direct, and shall be vested by operation of law with the title to all of the property, contracts and rights of action of such company or society as of the date of such order.

(5) The compensation of such special deputies, counsel, clerks and assistants, as the commissioner shall appoint to execute the orders of the court, and all expenses of taking possession of and conducting the business of liquidating such company or society, shall be fixed by the commissioner, subject to the approval of the court, and shall, on certificate of the commissioner, be paid out of the assets of such company or society.

(6) To carry out the purposes of this section, the commissioner shall have power, subject to the approval of the court, to make and prescribe such rules and regulations as to him shall seem proper.

(7) The commissioner shall state in his annual report the names of the companies or societies so taken possession of, whether the same have resumed business or have been liquidated, and such other facts as shall indicate his proceedings under this section.

(8) This section shall extend to the promotors, organizers, trustees or other persons having charge of the property or affairs of any domestic insurance company or fraternal or mutual benefit society proposed or attempted to be organized, including any corporation organized or proposed to be organized to hold or control the stock or securities of any such insurance company, and to any property within the jurisdiction of the courts of this state belonging to any foreign company or society. [1933 c. 487 s. 9]

**Note:** An assessment which is necessary and is based on a fair method of calculation and is equally applied and is substantially correct can be levied against members (policyholders and subscribers) of a mutual liability insurance company by the insurance commissioner liquidating the company. A second assessment of three times the amount needed to pay the balance of claims and expenses was valid where experience indicated that the assessment was necessary in order to realize the amount needed. An assessment against the workmen's compensation policyholders alone was proper (notwithstanding no assessment was made against public liability and automobile insurance policyholders) where all of the losses from operation were in the field of workmen's compensation policies, and the three lines of insurance were separately classified

and rated, and the surplus from public liability and automobile insurance had been used to discharge claims under workmen's compensation policies. In re Builders' Mutual Casualty Co., 229 W 365, 282 NW 44.

Commissioner of insurance, as receiver, may, upon order of court and to preserve assets, borrow and pledge assets as security. 20 Atty. Gen. 678.

**200.09 Insolvency; powers of commissioner.** All the powers and authority conferred upon the banking commission, by section 220.08 and any amendment thereto, are hereby conferred upon and extended to the commissioner of insurance as to all insurance companies and fraternal or mutual benefit societies. [1933 c. 487 s. 10]

**200.10 Enforce rights of policyholders.** When the commissioner shall be satisfied that any insurance company, or fraternal benefit society, whose license has expired or has been revoked, does or omits to do any act whereby the rights of policyholders of such company, society or insurer, who are citizens of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with such policyholders is adversely affected, or refuses or neglects to make the settlements with or payments to such policyholders, or any class of such policyholders fairly required under its contracts, or in any other respect fails to carry out the agreements in its contracts with all or any class of such policyholders, he may, with the written consent of the governor and attorney-general, made after such company, society or insurer shall have had notice of and opportunity for a hearing before the governor, attorney-general and commissioner, bring an action in the name of the state in behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney-general shall act as attorney for the state in such action and the expenses shall be borne as in other civil actions in behalf of the state. The company or society is required forthwith upon service of the complaint to file with the commissioner the names and addresses of all policyholders who are citizens of this state, or who hold contracts issued or delivered in this state, and who are affected by such action. A notice of such action shall be mailed by the commissioner to every such policyholder, or by the company, society or insurer, to every such policyholder, when the commissioner shall so order. Any policyholder affected by such action may intervene. A statement of every action so brought shall be made in the annual report of the commissioner. [1933 c. 487 s. 11]

**200.11 Orders, notice, court review.** (1) Notice of any order by the commissioner may be given personally to any company, society or person, or by sending a copy of such order by prepaid registered mail, and the mail service shall be complete upon the delivery or tender of the copy to such company, society, or person by the postal authorities, and may be proved by the receipt of the addressee on the form used by the postal authorities, or by their report thereon that tender or receipt has been refused.

(2) Within ten days after receiving written notice of any order of the commissioner and not thereafter, the company, society, or person affected thereby, by verified petition specifying the reasons therefor, may ask for a rehearing and review thereof before the commissioner, which hearing shall be had within ten days unless the petitioner shall request otherwise, and the final order shall be made within three days after the close of such hearing. All evidence presented on such hearing shall be preserved.

(3) (a) Any final order may be reviewed in the circuit court for Dane county, by an action against the commissioner commenced within ten days after notice of such final order.

(b) Such action shall be heard solely upon the evidence presented before the commissioner. But the plaintiff shall be entitled to a hearing before the commissioner, at which either party may present additional evidence upon which the commissioner may make such further order as the case may require.

(c) No such judicial review shall be had upon any order of the commissioner refusing a license to any foreign company or mutual benefit society to transact business in this state, where such company or society shall not on the date of the application for such license be lawfully transacting business in this state. [1933 c. 487 s. 12]

**Revisor's Note, 1933:** Sometimes addresses refuse mail; provision is made to cover proof of tender in such cases (Bill No. 50 S, s. 12)

**200.12** [Repealed by 1927 c. 124 s. 1]

**200.13 Fees; filing of charter, agents' licenses.** There shall be paid to the commissioner by every corporation the following fees:

(1) For filing the first declaration or statement, with a certified copy of charter, twenty-five dollars;

(2) For filing the annual statement of any insurance company or mutual benefit society, twenty-five dollars;

(3) For each certificate of authority issued to the agent of any company, one dollar. For each certificate of authority issued to a nonresident life insurance broker, ten dollars. A separate certificate shall be required for each company represented by an agent or broker and for each member of any firm;

(4) For every copy of a paper filed in his office, ten cents per folio; and for each name of a company or agent, one cent per name.

(5) For certifying and affixing his seal to any such copy or any other paper, fifty cents.

(6) Every insurance company of a foreign country applying for a license to do business in this state and required to make a deposit with the treasurer of this state shall pay as a fee therefor one dollar for each one thousand dollars of the required deposit, which fee shall include the sum required by subsection (1).

(7) In case corporations shall combine to effect insurance under a joint policy, each corporation shall pay the same fees as if each one wrote a separate policy. [1933 c. 236 s. 2; 1933 c. 487 s. 13; 1935 c. 130; 1937 c. 76]

**200.14 Law enforcement.** The commissioner shall notify every insurance company of its violation of any insurance law of this state and, in case of persistent violation thereof, he shall, if a domestic company, report the same to the attorney-general; and if it be a foreign company he shall revoke its authority to do business in this state; and upon satisfactory evidence to him of the violation of any of such provisions by any agent of any company he shall revoke the license of such agent. Said commissioner shall cause action to be brought to recover all forfeitures incurred by insurance companies or their agents. The attorney-general may compromise every such forfeiture. [1933 c. 487 s. 4, 14]

**Revisor's Note, 1933:** "This chapter" made 200.03 (9). The expenses of the attorney-general are elsewhere provided for. His power to compromise actions may conflict with 14.531, a later enactment. (Bill No. 50 S, chapter 288. The last sentence of 200.14 is s. 14)

**200.15 Commissioner's report.** (1) The commissioner shall preserve in permanent form a full record of his proceedings, including a concise statement of the condition of each insurance company visited, or examined by him; and shall, at the earliest practical date, make a report for each year to the governor of the general conduct and condition of all insurance companies doing business in this state, arranged in tabular form or in abstracts, in classes, according to the different kinds of insurance.

(2) (a) His report shall also contain a list of all insurance companies authorized to do business in this state during the year, with their names, locations, amounts of capital, dates of incorporation and of the commencement of business, and kind of insurance in which they are engaged respectively.

(b) A list of such companies as have ceased to do business in this state during such year and the reasons for the same; and of those admitted during the year and of those refused admission, and the reasons therefor.

(c) Any amendments to the statutes relating to insurance which in his judgment may be desirable, and such other information and comments in relation to insurance as he deems fit.

(d) The names and compensation of the persons employed by him, the whole amount of the expenses of his department, the amount of taxes and fees paid by each corporation and the date of payment of the same to the state treasurer.

(3) There shall be printed two thousand five hundred copies of his report; and said commissioner may, in his discretion, cause to be bound together or separately the portions relating to life, fire, casualty and surety insurance. [1933 c. 487 s. 15]

**200.16** [Renumbered section 200.03 sub. (10) by 1933 c. 487 s. 4]

**200.16 Destruction of records.** Whenever necessary to gain needed vault space, the commissioner of insurance may, from time to time at his discretion, turn over to the director of purchases for destruction, records in conformity with the time limit shown opposite each classification, to wit:

- (a) General correspondence, ten years.
- (b) Companies' annual statements, ten years.
- (c) Experience classification reports, ten years.
- (d) Agents', adjusters' and bureau licenses, six years.
- (e) Fire reports, six years.
- (f) Adjustment reports, six years.
- (g) Adjustment bureau criticisms and corrective orders, six years. [1937 c. 197]

**200.17 Fire department dues; lists of towns; payment.** (1) The commissioner shall annually forward to every company transacting fire insurance in this state a list of all cities, villages and towns entitled to fire department dues.

(2) Every company effecting fire insurance in any city, village or town entitled to any fire department dues shall, before the first day of March in each year, file with the commissioner a statement, showing the amount of premiums upon said insurance, and pay to

him the total amount of such fire department dues. Return premiums, as defined in section 76.30, may be deducted in determining the premium on which the fire department dues are computed.

(3) The commissioner shall, before the first day of May in each year, compile the fire department dues paid by all companies, and certify the proper amount for each city, village or town to the secretary of state; and such amount shall, upon being audited by the secretary of state, be paid by the state treasurer to the respective cities, villages and towns entitled to the same.

(4) The commissioner shall include in such compilation and certification of fire department dues the amount of two per centum on the premiums paid the state fire fund for the insurance of any public property, other than state, located within any city, village or town entitled to fire department dues, and the amount of such dues shall be included in the apportionment to such cities, villages and towns; the commissioner shall notify the state treasurer of the amount so certified and the state treasurer shall charge the amount to the state fire fund.

(5) The commissioner shall transmit to the treasurer of each city, village and town entitled to fire department dues, a statement of the amount of such dues payable to it; and he shall furnish to such treasurer, upon his request, a list of the companies paying such dues and the amount paid by each. [1933 c. 487 s. 16; 1941 c. 126]

**200.18** [Repealed by 1933 c. 487 s. 17]

**200.19 Fire causes; investigation; report.** (1) The chief of the fire department of every city and village, the mayor of every city, the president of every village in which no fire department exists, and every town clerk shall investigate or cause to be investigated the cause, origin and circumstances of every fire occurring in his city, village or town by which property has been destroyed or damaged when the damage exceeds twenty-five dollars, and shall report all fires of unknown origin and shall especially investigate as to whether such fire was the result of carelessness, accident or design.

(2) Such investigation shall be begun within two days of the occurrence of the fire, and the state fire marshal may supervise and direct such investigation whenever he deems it expedient.

(3) Such investigator shall forthwith notify the state fire marshal and shall within one week of the occurrence of the fire, furnish him a written statement of all the facts relating to the cause and origin of the fire, and such further information as may be called for by the blanks furnished by the state fire marshal.

(4) The state fire marshal shall keep a record of all fires occurring in the state, together with all facts, statistics and circumstances, which may be disclosed by the investigations, such statistics shall be at all times open to public inspection.

(5) The occupant or owner of any premises upon which any fire shall occur, shall immediately give written notice thereof, specifying the time, place, amount of damage, and cause so far as known, to the chief of the fire department where the property is located, or, if there be none, then to the state fire marshal at Madison. Such notice may be sent by mail. No proof of loss under any policy of insurance shall be made until such notice has been given by or in behalf of such occupant or owner. A form for such notice, approved by the state fire marshal, reciting this subsection, shall be attached to every policy of fire insurance issued in this state. [1933 c. 487 s. 18]

**200.20 Arson; prosecution; attorneys; duties.** (1) The state fire marshal shall, when in his opinion further investigation is necessary, take or cause to be taken the testimony on oath of all persons supposed to be cognizant of any facts or to have any means of knowledge in relation to the matter under investigation, and if he shall be of the opinion that there is evidence sufficient to charge any person with the crime of arson, he shall cause such person to be prosecuted, and shall furnish the prosecuting attorney the names of all witnesses and all the information obtained by him, including a copy of all testimony taken in the investigation.

(2) The attorney-general shall assist district attorneys in the prosecution of all arson cases in all courts and the expenses of the attorney-general or his assistants in preparation for and attendance upon such prosecutions shall be charged to the appropriation for the state fire marshal.

(3) The attorney-general and district attorney shall make such reports to the state fire marshal, of the proceedings and result of all prosecutions for arson as shall be required by him.

(4) The attorney-general may employ such assistants as may be necessary for carrying out the provisions of this section. Salaries, compensation and expenses of such assistants shall be charged to the appropriation for the state fire marshal. [1933 c. 487 s. 19]

**200.21 Fire marshal; inquisitions; inspections; seizure of evidence.** (1) The state fire marshal and his subordinates shall each have the power to conduct investigations

and hearings and take testimony regarding fires and the causes thereof, and compel the attendance of witnesses. The fees of witnesses shall be paid upon certificates signed by the officer before whom any witnesses shall have attended, and shall be charged to the appropriation for the state fire marshal.

(2) All investigations held by or under the direction of the state fire marshal, or his subordinates, may, in his discretion, be private, and persons other than those required to be present may be excluded from the place where such investigation is held, and witnesses may be kept apart from each other, and not allowed to communicate with each other until they have been examined.

(3) The state fire marshal and his subordinates may at all reasonable hours in performance of their duties enter upon and examine any building or premises where any fire has occurred and other buildings or premises near the same, and seize any evidence found as a result of such examination which in the opinion of the officer finding the same may be used in any criminal action which may result from such examination or otherwise, and retain it for a reasonable time or until it becomes an exhibit in the action. [1933 c. 487 s. 20; 1941 c. 109]

**Revisor's Note, 1933:** The power to subpoena and swear witnesses is given by 325.01 and 326.01. Subsection (3) is a duplication of 200.22. Perjury and false swearing are defined and punished by 346.01 and 346.02. Witness fees are fixed by 325.05 (1). (Bill No. 50 S, s. 20)

A book used by a deputy fire marshal in making notes of fire investigations is privileged and cannot be subpoenaed in an action

on a fire policy. Such privilege cannot be waived by the deputy but only by the fire marshal. *Gilbertson v. State*, 205 W 168, 236 NW 539.

The marshal or his deputy may not detain a witness in custody and confine him for the purpose of preventing him from communicating with others. *Geldon v. Finnegan*, 213 W 539, 252 NW 369.

**200.22 Entry of buildings generally.** The state fire marshal, his chief assistant and deputies, upon complaint of any person, or without any complaint previously entered, shall have a right at all reasonable hours, for the purpose of examination, to enter into and upon all buildings and premises within their jurisdiction. [1933 c. 487 s. 21]

**200.23 Officers' neglect of duty; penalty.** Any officer named in section 200.19, who neglects to comply with any of the requirements of sections 200.19 to 200.27, shall upon conviction be punished by a fine of not less than twenty-five dollars nor more than two hundred dollars for each neglect or violation. [1933 c. 487 s. 22]

**200.24 Salaries and fees.** All officers who shall perform any service at the request of the state fire marshal or his subordinates shall receive the same fees as officers in justice courts, and such fees shall be paid in the manner witnesses are paid under section 200.21, and charged to the appropriation for the state fire marshal. [1933 c. 487 s. 4, 23]

**200.25 Attendance on duty.** The state fire marshal or one of his chief subordinates shall be in the office of the fire marshal during all office hours. [1933 c. 487 s. 24]

**200.26** [Renumbered section 200.03 sub. (12) by 1933 c. 487 s. 4]

**200.27** [Repealed by 1933 c. 140 s. 1; 1933 c. 236 s. 1; 1933 c. 489 s. 2]

**200.28** [Renumbered section 200.03 sub. (14) by 1933 c. 487 s. 4]