

CHAPTER 206.

LIFE INSURANCE.

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206.01 Life insurance; definitions. In any statute relating to life insurance, unless the context indicates otherwise, the following words and phrases shall be understood in the sense herein set forth and defined:

(1) The "amount at risk," in any policy year, is the difference between the sum insured in such policy year and the terminal reserve for such policy year.

(2) "Beneficiary," is the person in whose favor a policy is written.

(3) "Company," includes all corporations, associations, partnerships or individuals, engaged as principals in the business of life insurance, except fraternal benefit societies, as defined in section 208.01.

(4) "Deposit," is the terminal reserve on a policy, discounted to the beginning of the policy year at the rate of interest assumed.

(5) "Foreign company," is any company not organized or incorporated under the laws of this state.

(6) "Insured," is the person upon whose life the contract of insurance is written.

(7) "Mortality charge," is the provision at the beginning of the policy year for the mortality on account of such policy year, according to the table of mortality adopted and the rate of interest assumed.

(8) "Policy," is the contract issued by the company to the insured.

(9) "Policy anniversary," is any anniversary of the date of the policy, unless otherwise specified in the policy.

(10) "Policy year," is the year beginning with the date of the policy or any anniversary thereof, unless otherwise specified in the policy.

(11) "Premium," is the payment stipulated in the policy to be made by the insured to the company during any one policy year.

(12) The "reserve," at any time within the policy year is the deposit for such year improved at the assumed rate of interest to said time, together with the proportional unused part of the mortality charge for such year.

(13) The "sum insured," in any policy year is the value of the guaranteed payments and benefits stipulated to be made or granted if the policy should mature within such year.

(14) The "terminal reserve," is the reserve at the end of the policy year, and is the sum sufficient, with the net premiums coming due, to provide for the future mortality charges, and to mature the policy according to its terms, all computed upon the table of mortality adopted and the rate of interest assumed.

206.02 Life companies. (1) **WHO MAY FORM.** Residents of this state, not less than nine, may form a life insurance corporation either with or without capital stock.

(2) **ARTICLES OF ORGANIZATION.** They shall sign and file in the office of the commissioner articles of organization stating: (a) That they associate for the purpose of forming a corporation to transact the business of insuring lives of persons, stating the kind of insurance; (b) the name of the corporation and the place where the principal office shall be located; (c) the capital stock, if any, the number of shares thereof and the amount of each share; (d) the designation of the general officers, and the number of directors, which shall not be less than seven; (e) the manner of electing directors, filling vacancies, and their terms of office; (f) the termination of its fiscal year; and (g) such other provisions, not inconsistent with law, as they may deem proper to be inserted therein.

(3) **CONDITIONS PRECEDENT TO DOING BUSINESS.** No such corporation shall transact any business of insurance until all the following conditions shall be complied with:

(a) If organized without capital stock, until at least 200 persons shall have subscribed for not less than \$1,000 of insurance each, and passed a prescribed medical examination, and shall have each paid one full annual premium in cash upon the insurance subscribed for, amounting in the aggregate to at least \$20,000. Or, in lieu of such subscriptions, the company holds a special guaranty fund of at least \$100,000 in cash or invested as prescribed in section 206.34, to be used for no purpose other than the payment of death losses, until the largest policy in force, deducting reinsurance thereon in authorized companies, shall not exceed one-half of one per cent of the total insurance in force, deducting all reinsurance. The corporation may borrow sufficient to provide the guaranty fund and an additional sum to defray the expenses of organization not exceeding \$10,000. The loan agreement shall provide that the principal and interest shall only be repaid from assets in excess of all other liabilities. The agreement shall also provide for interest at not exceeding 8 per cent per annum and, after the release of the special guaranty fund, for payment of the principal in the discretion of the board of directors or at the times fixed in said agreement. Solicitation of such subscriptions may be made by agents holding a certificate of authority issued by the commissioner. Every application for such insurance shall state that the issuance of the policy is contingent upon the completion of the organization of the company.

(b) There shall have been paid to the commissioner in case of a nonstock corporation, and in case of a stock corporation, the fee required by s. 200.13 (2) (a), prior to the issuing of the certificate of authority.

(c) A certificate shall have been made and filed by the commissioner setting forth that such corporation has complied with all the provisions of the law and is authorized to transact the business of life insurance.

(d) Every domestic stock life insurance company, as a condition precedent to license or relicense to transact business, shall file with the department of insurance a complete record of its stockholders, shares of stock and transfers (the form of such record to be prescribed by the commissioner), which record shall be subject only to official or judicial inspection, and no transfer of shares of stock shall release the stockholder of record from personal liability until notice of such transfer has been filed with the commissioner and such transfer entered in such record in the department of insurance.

(4) **RIGHT TO VOTE, HOLD OFFICE.** No holder of any certificates of stock issued in exchange or transfer of shares, or for any new shares, shall be allowed to vote or be elected a director or other officer, who must be a stockholder, until entry of the transfer, exchange or new issue of such stock certificates in the stockholders' record in the department is acknowledged by the commissioner.

(5) **VACANCIES IN BOARD, HOW FILLED.** All vacancies on the board of directors of any such life insurance company caused by or due to any sale, transfer or exchange of shares or certificates of the capital stock shall be filled by election at the regular meeting of the stockholders, or at a special meeting called for such purpose, of which special meeting not less than twenty days' notice shall be given to each stockholder and a copy of the call filed with the commissioner not less than fifteen days prior to the date of such election.

(6) **PROXY VOTING.** A proxy to vote stock shall be valid only if the appointee shall continuously have been a stockholder of record for a period of one year immediately prior to the date of his appointment as proxy.

(7) **SALE OF COMPANY, CONTROL.** Whenever a majority but not all of the shares of the capital stock of a company are sold, the commissioner shall examine into the conditions and details of such transaction, and shall not authorize the recording of such transfer until all requirements of law have been complied with and the interests of the policyholders properly safeguarded; and whenever such sale involves the transfer or reinsurance of the business of the company, the policyholders of the company shall first be given an opportunity by a direct vote, under the supervision of the commissioner, to mutualize the company by the purchase of the shares of the capital stock by the company at the same price, before any transfer of shares of the capital stock shall be recorded by the commissioner, or a reinsurance of the business of the company permitted.

(8) **PENALTY.** Upon failure of any company to comply with the provisions of this section, the commissioner shall refuse to license or relicense it and shall revoke the license of the company, and such noncompliance shall subject the directors, and the stockholders of record of the stock transferred or exchanged or issued in violation of these provisions, to personal liability for any losses sustained by the company or its policyholders by reason of any violation of this section.

(9) **AMENDING ARTICLES; CHAPTER 182 OTHERWISE APPLIES.** (a) The articles of organization of a mutual life insurance corporation may be amended by a vote of three-fourths of the policyholders who vote at a general election, or by such a vote of their delegates or representatives in the case of corporations of the nature specified in section 206.04 (3).

(b) A copy of the proposed amendment shall be filed with the secretary and in the office of the commissioner and when approved by the commissioner, shall be mailed by the secretary or assistant secretary of the corporation with notice of time and place of meeting to each policyholder not less than 20 days prior to such meeting.

(c) Otherwise ch. 180 or 181 shall apply to life insurance corporations so far as the same is consistent with the provisions of the law relating specifically to life insurance companies.

(10) **ORGANIZATION OF NONSTOCK COMPANIES.** The signers of the articles of a non-stock corporation shall, subject to the approval of the commissioner, fix the time and place for the first meeting for the election of officers, which time and place shall be specified in the certificate of authority to do business, and shall give written notice thereof by mail to each subscriber for insurance at least twenty days prior to such meeting.

(11) **LICENSE AND FEES, CONDITIONS PRECEDENT.** No life insurance corporation shall do business in this state, nor shall any person act as its agent in receiving or procuring applications for life insurance except as provided in sub. (3), or in any manner aid in transacting such business for any such corporation until it has first procured a license therefor from said commissioner and have paid the license fee required by s. 76.34 and the fees required by s. 200.13.

History: 1961 c. 562.

206.03 Disability insurance. Any domestic life insurance company authorized by its charter or articles to write disability insurance may issue policies therefor either independently of or in conjunction with its life or endowment insurance policies. Any foreign life insurance company may be licensed to transact such business, if authorized so to do by its charter or articles of organization and by the state in which it is incorporated.

206.04 Mutuals, elections, electors, eligibility, vacancies, proxies. (1) At every general election of directors or trustees in any domestic mutual life insurance company, every policyholder whose insurance shall have been in force one year, shall be entitled to one vote for each director or trustee to be elected, and in case of a contested election, but not otherwise, may cast all such votes for one candidate or distribute them among the number as he may elect. But if a policy shall have been assigned more than six months prior to the election by an assignment absolute on its face to an assignee other than the insurer, the assignee shall be deemed to be a policyholder entitled to vote as aforesaid; provided, his signature, either attested by the assignor or duly acknowledged, shall have been filed at the home office of the company. Any policyholder entitled to vote at any election shall be qualified to fill any office to be voted for at any such election. General elections shall be held at intervals of not more than two years. At each such election not less than one-fourth of the directors or trustees provided for in the charter or articles shall be elected. No appointment or selection of a director or trustee to fill a vacancy other than when made by general election shall extend beyond the next general election.

(2) All elections shall be held at the home office, and the polls shall be open from 10 a. m. until 4 p. m., after which time no ballot shall be received. Policyholders may vote in person or may transmit their ballots to the company by messenger or by mail, but no voting by proxy shall be allowed at any election or upon any question except as provided in subsection (3). Notice of such election shall be published once in each week for 4 successive weeks immediately preceding the date fixed therefor in at least 2 newspapers of general circulation in this state, one published in the city of Madison, and one at the place where the home office of the company is located.

(3) A domestic mutual life insurance company which by its articles of incorporation and by-laws is limited to writing insurance on the lives of members of one or more of the groups set forth in section 206.60 (5) and (6) may provide in its by-laws for the selection of representatives or delegates from specific districts as fixed in the by-laws, and may provide therein that there shall be no voting by mail. Such delegates or representatives may exercise all the voting powers, rights and privileges of the policyholders they represent, except the right of signing and acknowledging for them the nomination certificate as provided in sections 206.05, 206.06 and 206.07, with the same force and effect as if such voting rights, powers and privileges had been exercised by the policyholders. Except as herein provided, the elections conducted by mutual life insurance companies operating in accordance with this subsection shall be subject to the provisions of this chapter.

206.05 Mutuals, nominating directors, penalties. (1) Not more than ninety nor less than sixty days prior to any general election by any mutual company, the directors or trustees shall appoint three voters, who are not directors or trustees, as inspectors of election, who shall be paid by the company, and such directors or trustees shall suggest a candidate for every office to be filled at the ensuing election, and shall file with the commissioner a certificate thereof, giving the names, occupations and addresses of such inspectors and nominees.

(2) Any officer, director, trustee, agent or employe of such company, who shall directly or indirectly nominate or assist or encourage the nomination of any candidate for the office of director or trustee other than those on the administration ticket, or who shall use or expend any of the property or funds of the company in promoting the election of any person, except as authorized in this section, shall be guilty of a misdemeanor.

(3) In every such company which has over 20,000 policyholders, 500 or more voters of such company, and in every other such company, including any company which by provision in its bylaws selects its representatives or delegates from specific districts as provided in s. 206.04 (3), 100 or more voters, may suggest candidates for the offices to be filled, by filing with the commissioner and with the secretary of the company, not more than 90 nor less than 60 days prior to such election, a certificate signed and acknowledged by them, giving the names, occupations and addresses of their candidates, together with a statement signed by said candidates that they will accept office if elected.

(4) In case of the death or resignation or incapacity of any candidate, a majority of the board of directors, or trustees, or a majority of the persons suggesting the name of such nominee may suggest a candidate in his place, by filing prior to the day set for the election a certificate like that required for the original nomination. If such certificate be filed more than fifty days prior to the election, the name of such substituted candidate shall be on the ballot.

(5) On each certificate of nomination there shall be placed after the name of each candidate the words "for a full term" or "for unexpired term of . . . years, or . . ." (naming the director or trustee to fill whose unexpired term such person is nominated).

206.06 Mutuals, validity of votes. (1) No vote shall be counted if cast for any person other than one who was nominated as provided in section 206.05.

(2) All votes shall be by ballot and no ballot shall be counted unless signed by a policyholder qualified to vote and sealed in an envelope addressed to the company, marked "Ballot for Directors (or Trustees)," and having no other mark thereon. Opposite the name of each candidate on the ballot shall be stated the term for which such candidate has been nominated.

(3) Any question submitted to the policyholders shall be voted upon at the general election, and a separate ballot shall be furnished the policyholders by mail or otherwise, with the ballots containing the names of candidates for directors or trustees. Such separate ballot shall state the question concisely and contain space for voting, thus:

FOR

AGAINST

(4) Ballots and envelopes for inclosing the same shall be supplied by the company and furnished to any policyholder applying therefor by mail or otherwise. Voted ballots may be sent to the company at its home office by messenger or by mail or may be delivered to the inspectors personally at any time before the closing of the polls, and shall be canvassed and preserved and the result certified and reported by the inspectors in the same manner as votes for directors or trustees.

206.07 **Mutuals, elections, ticket, instructions, voting.** (1) In case no nomination other than by the directors or trustees shall have been made, the ballot for directors or trustees may be in such form as the directors or trustees or a committee thereof shall prescribe, and shall be ready for delivery to policyholders not less than ten days prior to the election.

(2) In case any independent nomination shall have been made the company shall, not less than fifteen nor more than fifty days prior to the election, mail in a sealed envelope, to each policyholder entitled to vote at his last known post-office address, a return envelope addressed to the home office and marked "Ballot for Directors (or Trustees)," together with a ballot which shall be substantially in the following form:

BALLOT FOR ELECTION OF DIRECTORS (OR TRUSTEES).

For (name of company home office, post-office address).

To succeed the directors or trustees whose terms expire as follows:

INSTRUCTIONS TO POLICYHOLDERS.

The policyholder is entitled irrespective of the number of policies and amount of insurance held by him to one vote for each of the directors or trustees to be elected, and where there is a contest may cast all such votes for one candidate or distribute them among the candidates as he may elect. Votes shall be indicated by a numeral placed after the name of the person voted for, thus "John Doe, farmer, Madison, Wisconsin, for a full term (1)." No fractional vote shall be recognized. On any ballot recording a greater number of votes than authorized only the first . . . votes will be counted. The ballot shall specify the number of a policy held by the voter, shall be signed by him, and his signature attested by a subscribing witness, and shall be inclosed in a sealed envelope marked on the address side, "Ballots for Directors (or Trustees)," addressed to said company at its home office without any mark or designation to indicate the identity of the voter, and delivered before four P. M. . . ., 19. ., at the home office of the company by mail or messenger or in person.

Directors' Nominations.		Independent Nominations.	
John Doe, farmer, Madison, Wis., for a full term-----	Vote here	Richard Doe, banker, Milwaukee, Wis., for a full term-----	Vote here
William Smith, merchant, Chicago, Ill., for unexpired term of ----- years-----		John Doe, lawyer, New York, N. Y., for unexpired term of ----- years of -----	
Attested -----		Signed by -----	
P. O. Address -----		P. O. Address -----	
		Policy No. -----	

(3) If any question is to be submitted to the policyholders at such election a ballot for voting thereon shall also be inclosed, but no other paper or matter shall be inclosed. Specimen ballots and envelopes shall be filed with the commissioner before being used.

206.08 **Mutuals, elections, canvass, preservation of ballots, penalties.** (1) All ballot envelopes received at the home office before the polls are closed and marked substantially as "Ballot for Directors (or Trustees)" shall be delivered to the inspectors of election and the ballots therein canvassed.

(2) Any person concealing or withholding, or participating in the concealment or withholding from the inspectors, or opening or being privy to the opening of any such envelope containing such ballot, except as authorized by law, shall be guilty of a misdemeanor.

(3) All ballots voted shall be received by the inspectors subject to verification and ascertainment of the validity thereof, and of the qualification of the voters, and immediately upon the closing of the polls the inspectors shall proceed to canvass the votes. The canvass shall proceed from day to day until completed. Any nominee may be present during

the casting and canvass of the votes. All ballots and envelopes received by said inspectors shall immediately upon completion of the canvass be placed in sealed packages and preserved by them for four months from the date of the election.

(4) The person receiving the highest number of votes for a full term shall be elected for a full term, and the person receiving the highest number of votes for each unexpired term shall be elected for such unexpired term. In case two or more persons shall receive the same number of votes, for the same office, the inspectors shall decide the election by lot.

206.09 Mutuals, election reported to secretary and commissioner. The inspectors shall at the conclusion of the canvass sign and file with the secretary of the company and the commissioner certificates of the result of the election, stating the names of all persons for whom votes have been cast for a full term and the number cast for each, and also the names of the persons for whom votes have been cast for each unexpired term and the number of votes cast for each such person; and their decision in case of a tie vote.

206.11 Mailing ballot not to validate policy. Mailing a ballot to any person shall not be construed as an admission of the validity of any policy, or that such person was a policyholder; and no such mailing shall be competent evidence in any action or proceeding in which the question of the validity of any policy or of any claim under it is involved.

206.12 Mutuals, quarterly meetings; forfeit for absence. The trustees or directors of every domestic mutual life insurance company shall hold regular meetings at least once each quarter upon such dates as shall be designated in its charter or articles or by-laws. Any trustee or director who shall be absent from three consecutive meetings shall forfeit his office and shall be ineligible to office for 6 months.

206.13 Participating policies. (1) No mutual life insurance company and no stock life insurance company issuing any participating policies, shall issue any participating policies in this state which do not, by their terms, give to the holders thereof full right to participate annually in the surplus accumulations from the participating business of such company, as provided by law of this state.

(2) This section shall not apply to paid-up or temporary and pure endowment insurance issued or granted in exchange for lapsed or surrendered policies or to annuities.

(3) Any company which issues both participating and nonparticipating policies, and keeps separate accounts between the two classes, may be licensed; provided, it shall, before being licensed, file with the commissioner an agreement that, in consideration of being permitted to issue both participating and nonparticipating policies, the accounts of each class will be kept separate, and that no part of the funds accumulated or belonging to the participating class shall ever be voluntarily transferred to the nonparticipating class, except such as the existing charter of the company may require.

206.14 Foreign companies; license requirements. (1) Every stock company doing life insurance business on the participating plan shall, when applying to do business in this state, and before any license shall be issued, file with the commissioner a statement under oath of the president and secretary, stating: (a) The amount of the unassigned surplus of such company; (b) the amount of said surplus or the interest or right therein belonging to the policyholders; (c) the amount of such surplus or the interest or right therein belonging to the stockholders; (d) the method of ascertainment and the action determining the rights of such policyholders and stockholders respectively; (e) the agreement of the company that such method shall not be changed so as to affect policies issued thereunder.

(2) No license shall be issued to any such stock company until the commissioner is satisfied that the rights of such policyholders are fully and legally determined. Action by the commissioner denying such authority to transact business in this state shall be subject to review by the courts.

206.15 Mutual life companies; salary maximum. No domestic life insurance company transacting a mutual or participating business shall incur or expend in any one year for any salary, compensation or emolument to any officer, trustee, director or salaried employe of such company, either directly or indirectly, any sum in excess of twenty-five thousand dollars, unless in each case such greater sum shall be fixed by the unanimous vote of the board of trustees or directors at any regular meeting thereof, or unless a greater maximum shall have been fixed by a majority vote of the policyholders voting at any regular election of directors. Notice of the submission of such question shall be given by mail to each policyholder at the same time as the notice of election is required to be given.

206.16 License conditions. No license shall be issued to any life insurance company until it has complied with all the laws of this state, nor until the commissioner is satisfied that its assets are properly and safely secured and exceed its liabilities, valuing its policies as provided by section 206.20 or 206.201 whichever is applicable.

206.17 Policies; prerequisites; approval of form. (1) No policy of life or disability insurance as defined in section 201.04 (3) and (4) shall be issued or delivered in this state until the commissioner has approved the same or until there has been filed with him at least 30 days the form of such policy and a copy of any table of rates or statement of benefits furnished to agents or to the public in this state.

(2) No policy shall be issued or delivered after an order of disapproval by the commissioner giving reasons for the disapproval thereof, or of the form or statement required to be filed, and notice thereof shall have been given to the company.

206.18 Policy, contents, exception. (1) No policy (other than a policy of industrial insurance where the premiums are payable monthly or oftener) shall be issued or delivered in this state, unless it contains in substance the following provisions:

Provision 1, specifying the table of mortality and rate of interest and method upon which the reserve on such policy is to be computed; provided, that the method may be omitted if the policy be on the net level premium basis, and when no method is specified the policy shall be presumed to be on the net level premium basis.

Provision 2, specifying separately the premium charged for any benefit promised in the policy other than life or endowment insurance. Any company, required by the laws of the state wherein it is organized to issue a standard form of policy, may omit provisions 1 and 2 from its policy, and insert the same in the application, if a copy thereof shall be attached to the policy when issued.

Provision 3, that upon the nonpayment of any premium when due, after payment of premiums for (insert a number not exceeding three) full years, the same shall be paid by being charged as a loan against the policy at the same rate of interest as therein specified for other policy loans. Such loan shall be payable at any time at the option of the insured, and shall become due and payable only when the total of all loans and interest shall equal the reserve less the surrender charge specified in the policy. In such case each premium receipt shall show the total indebtedness on such policy to the company at the date of such receipt.

Provision 4, that upon the nonpayment of any premium when due, after payment of premiums for (insert a number not exceeding three) full years, the insured shall be granted, as specified in the policy, either extended insurance or paid-up insurance, the net single premium on which, computed on the mortality and interest assumptions of the policy, shall at any time equal the reserve less the surrender charge specified therein, and less any existing indebtedness to the company on or secured by the policy.

Provisions 3 and 4 shall not be required in term insurance of twenty years or less, and either may be automatic, and either may be omitted. The reserve to be used for calculating the benefits after the nonpayment of any premium when due, may exclude the reserve held by the company to provide for total and permanent disability benefits.

(2) Subsection (1), except provision 2 thereof, shall not apply to policies issued by a company after the date on which section 206.181 becomes applicable to such company.

206.181 Standard nonforfeiture law. (1) On and after January 1, 1948, no policy of life insurance, except as stated in subsection (8), shall be issued or delivered in this state unless it shall contain in substance the following provisions, or corresponding provisions which in the opinion of the commissioner are at least as favorable to the defaulting or surrendering policyholder:

(a) In the event of default in any premium payment, the company will grant, upon proper request not later than 60 days after the due date of the premium in default, a paid-up nonforfeiture benefit on a plan stipulated in the policy, effective as of such due date, of such value as may be hereinafter specified.

(b) Upon surrender of the policy within 60 days after the due date of any premium payment in default after premiums have been paid for at least 3 full years in the case of ordinary insurance or 5 full years in the case of industrial insurance, the company will pay, in lieu of any paid-up nonforfeiture benefit, a cash surrender value of such amount as may be hereinafter specified.

(c) A specified paid-up nonforfeiture benefit shall become effective as specified in the policy unless the person entitled to make such election elects another available option not later than 60 days after the due date of the premium in default.

(d) If the policy shall have become paid up by completion of all premium payments

or if it is continued under any paid-up nonforfeiture benefit which became effective on or after the third policy anniversary in the case of ordinary insurance or the fifth policy anniversary in the case of industrial insurance, the company will pay, upon surrender of the policy within 30 days after any policy anniversary, a cash surrender value of such amount as may be hereinafter specified.

(e) A statement of the mortality table and interest rate used in calculating the cash surrender values and the paid-up nonforfeiture benefits available under the policy, together with a table showing the cash surrender value, if any, and paid-up nonforfeiture benefit, if any, available under the policy on each policy anniversary either during the first 20 policy years or during the term of the policy, whichever is shorter, such values and benefits to be calculated upon the assumption that there are no dividends or paid-up additions credited to the policy and that there is no indebtedness to the company on the policy.

(f) A statement that the cash surrender values and the paid-up nonforfeiture benefits available under the policy are not less than the minimum values and benefits required by or pursuant to the insurance law of the state in which the policy is delivered; an explanation of the manner in which the cash surrender values and the paid-up nonforfeiture benefits are altered by the existence of any paid-up additions credited to the policy or any indebtedness to the company on the policy; if a detailed statement of the method of computation of the values and benefits shown in the policy is not stated therein, a statement that such method of computation has been filed with the insurance supervisory official of the state in which the policy is delivered; and a statement of the method to be used in calculating the cash surrender value and paid-up nonforfeiture benefit available under the policy on any policy anniversary beyond the last anniversary for which such values and benefits are consecutively shown in the policy.

(g) The company shall reserve the right to defer the payment of any cash surrender value for a period of 6 months after demand therefor with surrender of the policy.

(h) Any of the foregoing provisions or portions thereof not applicable by reason of the plan of insurance may, to the extent inapplicable, be omitted from the policy.

(2) Any cash surrender value available under the policy in the event of default in a premium payment due on any policy anniversary, whether or not required by subsection (1), shall be an amount not less than the excess, if any, of the present value, on such anniversary, of the future guaranteed benefits which would have been provided for by the policy, including any existing paid-up additions, if there had been no default, over the sum of (a) the then present value of the adjusted premiums as defined in subsections (4), (5) and (6), corresponding to premiums which would have fallen due on and after such anniversary, and (b) the amount of any indebtedness to the company on the policy. Any cash surrender value available within 30 days after any policy anniversary under any policy paid-up by completion of all premium payments or any policy continued under any paid-up nonforfeiture benefit, whether or not required by subsection (1), shall be an amount not less than the present value, on such anniversary, of the future guaranteed benefits provided for by the policy, including any existing paid-up additions, decreased by any indebtedness to the company on the policy.

(3) Any paid-up nonforfeiture benefit available under the policy in the event of default in a premium payment due on any policy anniversary shall be such that its present value as of such anniversary shall be at least equal to the cash surrender value then provided for by the policy or, if none is provided for, that cash surrender value which would have been required by this section in the absence of the condition that premiums shall have been paid for at least a specified period.

(4) Except as provided in sub. (5) (b), the adjusted premiums for any policy shall be calculated on an annual basis and shall be such uniform percentage of the respective premiums specified in the policy for each policy year, excluding any extra premiums charged because of impairments or special hazards, that the present value, at the date of issue of the policy, of all adjusted premiums shall be equal to the sum of (a) the then present value of the future guaranteed benefits provided for by the policy; (b) 2 per cent of the amount of insurance, if the insurance is uniform in amount, or of the equivalent uniform amount, as defined in sub. (5), if the amount of insurance varies with duration of the policy; (c) 40 per cent of the adjusted premium for the first policy year; (d) 25 per cent of either the adjusted premium for the first policy year or the adjusted premium for a whole life policy of the same uniform or equivalent uniform amount with uniform premiums for the whole of life issued at the same age for the same amount of insurance, whichever is less; provided, that in applying the percentages specified in (c) and (d), no adjusted premium shall be deemed to exceed 4 per cent of the amount of insurance or uniform amount equivalent thereto. The date of issue of a

policy for the purpose of this subsection and sub. (5) shall be the date as of which the rated age of the insured is determined.

(5) (a) In the case of a policy providing an amount of insurance varying with duration of the policy, the equivalent uniform amount thereof for the purpose of sub. (4) and this subsection shall be deemed to be the uniform amount of insurance provided by an otherwise similar policy, containing the same endowment benefits, if any, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value at the date of issue as the benefits under the policy; provided, that in the case of a policy providing a varying amount of insurance issued on the life of a child under age 10, the equivalent uniform amount may be computed as though the amount of insurance provided by the policy prior to the attainment of age 10 were the amount provided by such policy at age 10.

(b) The adjusted premiums for any policy providing term insurance benefits by rider or supplemental policy provision shall be equal to: A) the adjusted premiums for an otherwise similar policy issued at the same age without such term insurance benefits, increased, during the period for which premiums for such term insurance benefits are payable, by B) the adjusted premiums for such term insurance, the foregoing items A) and B) being calculated separately and as specified in par. (a) and sub. (4) except that, for the purposes of (b), (c) and (d) in sub. (4), the amount of insurance or equivalent uniform amount of insurance used in the calculation of the adjusted premiums referred to in B) shall be equal to the excess of the corresponding amount determined for the entire policy over the amount used in the calculation of the adjusted premiums in A).

(6) (a) Except as otherwise provided in par. (b), all adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the commissioners 1941 standard ordinary mortality table, except that for any category of ordinary insurance issued on female risks adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. Such calculations for all policies of industrial insurance shall be made on the basis of the 1941 standard industrial mortality table. All calculations shall be made on the basis of the rate of interest, not exceeding $3\frac{1}{2}$ per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits; provided, that in calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may not be more than 130 per cent of the rates of mortality according to such applicable table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner.

(b) In the case of ordinary policies issued on or after the operative date of this paragraph as defined herein, all adjusted premiums and present values referred to in this section shall be calculated on the basis of the commissioners 1958 standard ordinary mortality table and the rate of interest, not exceeding $3\frac{1}{2}$ per cent per annum, specified in the policy for calculating cash surrender values and paid-up nonforfeiture benefits, provided that for any category of ordinary insurance issued on female risks adjusted premiums and present values may be calculated according to an age not more than 3 years younger than the actual age of the insured. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the commissioners 1958 extended term insurance table. For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on such other table of mortality as may be specified by the company and approved by the commissioner. After June 14, 1959, any company may file with the commissioner a written notice of its election to comply with the provisions of this paragraph after a specified date before January 1, 1966. After the filing of such notice, then upon such specified date (which shall be the operative date of this paragraph for such company), this paragraph shall become operative with respect to the ordinary policies thereafter issued by such company. If a company makes no such election, the operative date of this paragraph for such company shall be January 1, 1966.

(7) Any cash surrender value and any paid-up nonforfeiture benefit, available under the policy in the event of default in a premium payment due at any time other than on the policy anniversary, shall be calculated with allowance for the lapse of time and the payment of fractional premiums beyond the last preceding policy anniversary. All values referred to in subs. (2), (3), (4), (5) and (6) may be calculated upon the assumption that any death benefit is payable at the end of the policy year of death. The net value of any paid-up additions, other than paid-up term additions, shall be not less than the dividends used to provide such additions. Notwithstanding the provisions of sub. (2),

additional benefits payable: (a) in the event of death or dismemberment by accident or accidental means, (b) in the event of total and permanent disability, (c) as reversionary annuity or deferred reversionary annuity benefits, (d) as term insurance benefits provided by a rider or supplemental policy provision to which, if issued as a separate policy, this section would not apply, (e) as term insurance on the life of a child or on the lives of children provided in a policy on the life of a parent of the child, if such term insurance expires before the child's age is 26, is uniform in amount after the child's age is one, and has not become paid up by reason of the death of a parent of the child, and (f) as other policy benefits additional to life insurance and endowment benefits, and premiums for all such additional benefits, shall be disregarded in ascertaining cash surrender values and nonforfeiture benefits required by this section, and no such additional benefits shall be required to be included in any paid-up nonforfeiture benefits.

(8) This section shall not apply to any reinsurance, group insurance, pure endowment, annuity or reversionary annuity contract, nor to any term policy of uniform amount, or renewal thereof, of 20 years or less expiring before age 66, for which uniform premiums are payable during the entire term of the policy, nor to any term policy of decreasing amount on which each adjusted premium, calculated as specified in subsections (4), (5) and (6), is less than the adjusted premium so calculated, on such 20 year term policy issued at the same age and for the same initial amount of insurance, nor to any policy which shall be delivered outside this state through an agent or other representative of the company issuing the policy.

(9) After May 22, 1943, any company may file with the commissioner a written notice of its intention to comply with the provisions hereof after a specified date before January 1, 1948. After the filing of such notice, then upon such specified date, this section shall become fully effective with respect to policies thereafter issued by such company and all previously existing provisions of law inconsistent with this section shall become inapplicable to such policies. Except as herein provided, this section shall become effective January 1, 1948, and shall from and after said date supersede all provisions of law inconsistent or in conflict therewith.

History: 1961 c. 337.

206.19 Insolvent company, discontinue business, forfeiture. Whenever the assets of any life insurance company shall not equal its liabilities, the commissioner shall give notice to such company and its agents to discontinue issuing policies within this state until such time as its assets have become equal to its liabilities. Any officer or agent who, after such notice has been given, issues or delivers a policy on behalf of such company before a new certificate of authority is issued shall forfeit for each offense not less than one hundred dollars nor more than one thousand dollars.

206.20 Valuation of policies; basis; method; certification. (1) Every life insurance company doing business or having policies in force in this state shall hold reserve funds properly and safely secured to cover its liability thereon (over and above all other liabilities), which reserves shall be determined as in this section provided.

(2) Policies issued by a domestic company after the year 1909 shall be valued according to the expense charges assumed, the table of mortality adopted, and the rate of interest assumed.

(3) Policies issued by a foreign company after the year 1909 may be valued the same as those of domestic companies; provided, the aggregate liability shall not be less than that resulting from a valuation under the laws of the state or country where the company is incorporated.

(4) Policies issued before the year 1910 on any plan not providing in every year for full net level premium reserves may be valued upon such plan and on the basis of either the American Experience or the Actuaries Table of Mortality, and at a rate of interest not higher than that assumed nor higher than four and one-half per cent per annum.

(5) Policies for which no other method of valuation is provided shall be valued on a net level premium reserve basis computed on either the American Experience or Actuaries Table of Mortality and at a rate of interest for policies issued before the year 1910 not higher than that assumed nor higher than four and one-half per cent per annum, and for policies issued after the year 1909, not higher than that assumed nor higher than four per cent per annum.

(6) Policies mentioned in subsections (3), (4) and (5) may be valued to require aggregate reserves in excess of those required by said subsections, but not greater than such as would result from valuing the same on the basis of the table of mortality adopted with interest at 2 per cent per annum.

(7) The table of mortality adopted, if other than the American Men Ultimate, the

American Experience, or the American Experience Select Table of Mortality, shall not exhibit at any age a lower death rate than that shown at the corresponding age by the Commissioners 1941 Standard Ordinary Mortality Table; and the rate of interest assumed in computing the premiums and reserves shall not be less than 2, nor more than $3\frac{1}{2}$ per cent per annum.

(8) Said American Experience Select Table is deducted by calculating the rates of mortality according to the following percentages of the rates shown by the American Experience Table of Mortality: First year of insurance fifty per cent thereof, second year of insurance sixty-five per cent thereof, third year of insurance seventy-five per cent thereof, fourth year of insurance eighty-five per cent thereof, fifth year of insurance ninety-five per cent thereof, and for each year thereafter one hundred per cent thereof.

(9) The commissioner may vary the standards of interest and mortality in the case of corporations of foreign countries as to contracts issued outside of the United States; and in cases of invalid lives and other extra hazards; and may value policies in groups and use approximate averages for fractions of a year.

(10) The reserves for total and permanent disability provisions in policies of life or endowment insurance shall be calculated on the basis of Hunter's Disability Table, or on any table based upon disability experience approved by the commissioner with interest at not exceeding three and one-half per cent per annum; but the reserve in any policy year shall not be less than the proportional unused part of the net annual premium calculated by such table for the disability benefit.

(11) The reserve for accidental death benefits contained in or issued in conjunction with life insurance policies shall be on any basis approved by the commissioner; provided, that in no case shall the reserve be less than the proportional unused part of the net annual premium for such benefits.

(12) If the premium charge for insurance is less than the net premium required according to the table of mortality adopted and the rate of interest assumed, the company shall be charged with the present value of an annuity, the amount of which shall equal the deficiency by reason of the premium charged being less than the net premium required.

(13) If the premium stipulated in any policy shall provide for an expense charge exceeding in any year the provision for expenses in such year the valuation shall include a liability computed on the basis of the excess of such expense charge.

(14) The valuation annually made and accepted by the insurance department of any other state or country of policies of a company located therein, if such valuation shall be certified as true and correct by the insurance commissioner or like officer of such state or country, shall be accepted by the commissioner of this state, for the year for which such valuation shall be certified; provided, that the aggregate liability so determined shall not be less than the liability resulting from a valuation made under the laws of this state.

(15) The valuation by the department of commerce and labor of the United States, of policies of a foreign company, if conforming to the aforesaid provisions as to valuation by the commissioners or like officers of such other states, shall be received and accepted in like manner.

(16) Except as otherwise provided in this section, the commissioner shall annually make valuations of all outstanding policies, additions thereto, and other obligations of every company mentioned in subsection (1). Any valuation made by him shall, upon request, be certified to the commissioner or like officer of any other state or country.

(17) Each valuation shall indicate the tables of mortality used, the rates of interest assumed, and the method of computation employed.

206.201 Standard valuation law. (1) The commissioner shall annually value, or cause to be valued, the reserve liabilities (hereinafter called reserves) for all outstanding life insurance policies and annuity and pure endowment contracts of every life insurance company doing business in this state, except that in the case of an alien company, such valuation shall be limited to its United States business, and may certify the amount of any such reserves, specifying the mortality table or tables, rate or rates of interest and methods (net level premium method or other) used in the calculation of such reserves. In calculating such reserves, he may use group methods and approximate averages for fractions of a year or otherwise. In lieu of the valuation of the reserves herein required of any foreign or alien company, he may accept any valuation made, or caused to be made, by the insurance supervisory official of any state or other jurisdiction when such valuation complies with the minimum standard herein provided and if the official of such state or jurisdiction accepts as sufficient and valid for all legal purposes the certificate of valuation of the commissioner when such certificate states the valuation to have been made in a specified manner according to which the aggregate reserves would be at least

as large as if they had been computed in the manner prescribed by the law of that state or jurisdiction.

(2) The minimum standard for the valuation of all such policies and contracts issued prior to the effective date of this section [see 206.201 (8) and 206.181 (9)] shall be that provided by the laws in effect immediately prior to such date. The minimum standard for the valuation of all such policies and contracts issued on or after the effective date of this section shall be the Commissioners reserve valuation method defined in subsections (3) and (4), with $3\frac{1}{2}$ per cent interest, and the following tables:

(a) For all ordinary policies of life insurance issued on the standard basis, excluding any disability and accidental death benefits in such policies, the commissioners 1941 standard ordinary mortality table for such policies issued before the operative date of s. 206.181 (6) (b) as defined therein, and the commissioners 1958 standard ordinary mortality table for such policies issued on or after such operative date; provided that for any category of such policies issued on female risks all modified net premiums and present values referred to in this section may be calculated according to an age not more than 3 years younger than the actual age of the insured.

(b) For all industrial life insurance policies issued on the standard basis, excluding any disability and accidental death benefits in such policies, the 1941 Standard Industrial Mortality Table.

(c) For individual annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the 1937 standard annuity mortality table or, at the option of the company, the annuity mortality table for 1949, ultimate, or any modification of either of these tables approved by the commissioner.

(d) For group annuity and pure endowment contracts, excluding any disability and accidental death benefits in such policies—the group annuity mortality table for 1951, any modification of such table approved by the commissioner, or, at the option of the company, any of the tables or modifications of tables specified for individual annuity and pure endowment contracts.

(e) For total and permanent disability benefits in or supplementary to ordinary policies or contracts—for policies or contracts issued on or after January 1, 1966, the tables of Period 2 disablement rates and the 1930 to 1950 termination rates of the 1952 disability study of the society of actuaries, with due regard to the type of benefit; for policies or contracts issued on or after January 1, 1961 and prior to January 1, 1966, either such tables or, at the option of the company, the Class (3) disability table (1926); and for policies issued prior to January 1, 1961, the Class (3) disability table (1926). Any such table shall, for active lives, be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(f) For accidental death benefits in or supplementary to policies—for policies issued on or after January 1, 1966, the 1959 accidental death benefits table; for policies issued on or after January 1, 1961 and prior to January 1, 1966, either such table or, at the option of the company, the inter-company double indemnity mortality table; and for policies issued prior to January 1, 1961, the inter-company double indemnity mortality table. Either table shall be combined with a mortality table permitted for calculating the reserves for life insurance policies.

(g) For group life insurance, life insurance issued on the substandard basis and other special benefits, such tables as may be approved by the commissioner.

(3) Reserves according to the Commissioners reserve valuation method, for the life insurance and endowment benefits of policies providing for a uniform amount of insurance and requiring the payment of uniform premiums shall be the excess, if any, of the present value, at the date of valuation, of such future guaranteed benefits provided for by such policies, over the then present value of any future modified net premiums therefor. The modified net premiums for any such policy shall be such uniform percentage of the respective contract premiums for such benefits that the present value, at the date of issue of the policy, of all such modified net premiums shall be equal to the sum of the then present value of such benefits provided for by the policy and the excess of (a) over (b), as follows:

(a) A net level annual premium equal to the present value, at the date of issue, of such benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one per annum payable on the first and each subsequent anniversary of such policy on which a premium falls due; provided, that such net level annual premium shall not exceed the net level annual premium on the 19-year premium whole life plan for insurance of the same amount at an age one year higher than the age at issue of such policy.

(b) A net one-year term premium for such benefits provided for in the first policy year.

(4) Reserves according to the commissioners reserve valuation method for (a) life

insurance policies providing for a varying amount of insurance or requiring the payment of varying premiums, (b) annuity and pure endowment contracts, (c) disability and accidental death benefits in all policies and contracts, and (d) all other benefits, except life insurance and endowment benefits in life insurance policies, shall be calculated by a method consistent with the principles of sub. (3), except that any extra premiums charged because of impairments or special hazards shall be disregarded in the determination of modified net premiums.

(5) In no event shall a company's aggregate reserves for all life insurance policies, excluding disability and accidental death benefits, issued on or after the effective date of this section, be less than the aggregate reserves calculated in accordance with the method set forth in subsections (3) and (4) and the mortality table or tables and rate or rates of interest used in calculating nonforfeiture benefits for such policies.

(6) Reserves for all policies and contracts issued prior to the effective date of this section may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for all such policies and contracts than the minimum reserves required by the laws in effect immediately prior to such date. Reserves for any category of policies, contracts or benefits as established by the commissioner, issued on or after the effective date of this section, may be calculated, at the option of the company, according to any standards which produce greater aggregate reserves for such category than those calculated according to the minimum standard herein provided, but the rate or rates of interest used shall not be higher than the corresponding rate or rates of interest used in calculating any nonforfeiture benefits provided for therein; provided, that reserves for participating life insurance policies issued on or after the effective date of this section may, with the consent of the commissioner, be calculated according to a rate of interest lower than the rate of interest used in calculating the nonforfeiture benefits in such policies, with the further proviso that if such lower rate differs from the rate used in the calculation of the nonforfeiture benefits by more than one-half per cent the company issuing such policies shall file with the commissioner a plan providing for such equitable increases, if any, in the cash surrender values and nonforfeiture benefits in such policies as the commissioner shall approve. Any such company which at any time shall have adopted any standard of valuation producing greater aggregate reserves than those calculated according to the minimum standard herein provided may, with the approval of the commissioner, adopt any lower standard of valuation, but not lower than the minimum herein provided.

(7) If the gross premium charged by any life insurance company on any policy or contract is less than the net premium for the policy or contract according to the mortality table, rate of interest and method used in calculating the reserve thereon, there shall be maintained on such policy or contract a deficiency reserve in addition to all other reserves required by law. For each such policy or contract the deficiency reserve shall be the present value, according to such standard, of an annuity of the difference between such net premium and the premium charged for such policy or contract, running for the remainder of the premium-paying period.

(8) This section shall become effective on the same date as does section 206.181. The provisions of this section shall supersede all provisions of law inconsistent or in conflict therewith.

History: 1961 c. 337.

206.21 Valuation fee. Every life insurance company shall pay to the commissioner for the valuation of its policies made by him the fee required by s. 200.13 (20).

History: 1961 c. 562.

206.22 Alien companies; deposit. Every life insurance company, organized under the laws of any foreign country, shall as one of the conditions of renewal of its license, maintain within the United States as trust deposits with public officials having supervision over insurers, or with trustees, public depositories, or trust institutions approved by the commissioner, assets available for discharge of its United States insurance obligations, which assets shall be in an amount not less than the outstanding reserves and other liabilities of the insurer arising out of its insurance transactions in the United States. These trust deposits shall be in addition to the requirements of s. 201.32 (6) (a) relating to the deposits of corporations organized under the laws of foreign countries.

History: 1961 c. 29.

206.24 Valuation of industrial policies; annuities; accident and disability; exceptions. (1) Policies of industrial insurance on which the premiums are payable monthly or oftener shall be valued to produce reserves not less than those computed on the "Standard Industrial Mortality Table" and the "Substandard Industrial Mortality Table," with interest at three and one-half per centum per annum.

(2) Annuities shall be valued to produce reserves not less than those computed on "McClintock's Tables of Mortality Among Annuitants," with interest at three and one-half per centum per annum; any table not exhibiting at any age a higher death rate than that shown at the corresponding age and duration by the "British Offices Annuity Table 1893," may be used. Annuities granted in any policy of life insurance may be valued in like manner, except that annuities deferred for ten years or more may be valued on the table used for computing the premiums.

(3) This section shall not apply to any policies issued prior to 1907.

206.25 Assessment life companies. No life insurance company which transacts business in this state shall issue policies, the performance of which is contingent upon the payment of assessments or calls made upon its members.

206.26 Premium limit; expense charge. (1) No foreign life insurance company shall issue or deliver any policy in this state, and no domestic life insurance company shall issue or deliver any policy, wherein the premium stipulated to be paid shall exceed the sum of:

(a) The net premium which will mature the policy according to its terms (exclusive of the amount mentioned in paragraph (b)) computed on the basis of the American Experience Table of Mortality and 2 per cent interest, and

(b) An amount (for expenses and contingencies) the present value of which over the premium paying period will be equal to one-third of the net single premium on a whole life policy insuring the same sum and issued at the same age, such value and such single premium to be computed according to the American Experience Table of Mortality with interest at 3 per cent per annum. In the case of a policy providing for a sum insured varying with duration of the policy, the equivalent level amount thereof for the purpose of this paragraph shall be deemed to be the level amount of insurance provided by an otherwise similar policy, issued at the same age and for the same term, the amount of which does not vary with duration and the benefits under which have the same present value as the benefits under the policy.

(2) The amount provided for expenses and contingencies, otherwise designated as the "expense charge," for any policy year shall not exceed in the first year the sum of the maximum level provision for expenses and contingencies for such year permitted for the policy in question under sub. (1) (b), the excess of the first year's premium over the largest subsequent annual premium on the policy, and the net level premium computed for a 20 annual premium payment life policy insuring the same sum and issued at the same age and upon the table of mortality adopted and rate of interest assumed, less the mortality charge computed on the basis of no reserve for such year; provided, the first year's expense charge on any policy, other than a term policy, shall not exceed the difference between the premium allowable under sub. (1) and the said mortality charge, and in case of a term policy shall not exceed the difference between the premium and 50 per cent of the mortality charge for such year computed according to the commissioners 1958 standard ordinary mortality table.

(3) The expense charge in any one of the 4 succeeding years shall not exceed one and one-half times the amount which would be available under a level distribution of the maximum provision under sub. (1) (b), over the premium paying period of the policy, computed upon the American Experience Table of Mortality with interest at 3 per cent per annum.

(4) The expense charge in any year after the fifth year shall not exceed the amount which would be available under a level distribution of the remainder of the maximum provision under sub. (1) (b), over the premium paying period of the policy, computed according to the American Experience Table of Mortality with interest at 3 per cent per annum.

(5) The foregoing limitation permits the addition to any premium payable in installments during the year of a sum not exceeding six per centum of the corresponding annual premium.

(6) The foregoing expense charges may be used irrespective of the method of loading or valuation adopted by the company. The expense charges shall be increased by 50 per cent for any company having in force at the end of the next preceding year less than one million dollars of life insurance; and for any other company, such limit shall be increased by 50 per cent less one-tenth of one per cent for each one million dollars of life insurance, in excess of one million dollars of life insurance, in force at the end of the next preceding calendar year.

(7) This section shall not apply to policies of industrial insurance.

History: 1961 c. 33.

206.27 Life insurance companies to report expense charges and expenses annually; forms. Every foreign life insurance company doing business in this state or having in force any policies issued in this state, and every domestic life insurance company, shall, beginning with the first day of March, 1916, and on the first day of March each year thereafter, make a report in writing to the commissioner of insurance in such form as he may require, of the expense charges and expenses on all business transacted during the calendar year preceding, excluding industrial business, if any, stating:

(1) For the first year of insurance: (a) The total expense charges provided for the first year of insurance as defined in section 206.26; and (b) the actual expenses for (1) commissions on first year's premiums, (2) advances to agents, (3) the expenses of medical examinations and inspections of risks less the savings on mortality, and (4) the due proportion of all other expenses, properly chargeable to first year's business, exclusive of investment expenses, taxes, fees and licenses, which said other expenses shall be classified to show separately agency supervision, home office expenses and other items; provided, that in case a company make direct payment for agency supervision or the conduct of branch offices, or any part thereof, by salaries or otherwise instead of exclusively by commissions, a deduction may be made from such other expenses, corresponding to the smaller renewal commissions payable by such company, and the apportionment made by the company under this subsection shall be final, unless written notice of disapproval shall be given to the company by the commissioner of insurance within sixty days after the report is filed.

(2) For the total business: (c) The total expense charges becoming available during the calendar year, and (d) the total expenses, less expenses of medical examinations and inspections of risks not exceeding savings on mortality, and also less fees, licenses, taxes and investment expenses.

206.28 First year expenses; application of sections limited. (1) Sections 206.28 to 206.32 shall not apply to stock corporations, issuing and representing themselves as issuing nonparticipating policies exclusively, nor to industrial policies.

(2) No company mentioned in s. 206.27, shall incur or expend or permit any person to incur or expend on its behalf, or under any agreement with it, during any calendar year, for the purposes specified in s. 206.27 (1) (b), an amount exceeding in the aggregate the total expense charges specified in s. 206.27 (1) (a).

206.29 Total business; expenses not to exceed expense charges. No company mentioned in s. 206.27 shall in any calendar year make or incur any expense, or permit any expenses to be made or incurred on its behalf or under any agreement with it, for all purposes (exclusive of such expenses for medical examinations and inspections of risks as are actually paid from the gains on mortality and of such investment expenses, taxes, fees and licenses as are actually paid from the savings on interest and the contingency reserve), in an amount exceeding in the aggregate the total expense charges specified in s. 206.27 (2) (c).

206.30 Agents; commissions and advances; limitation. No company mentioned in section 206.27 shall in any calendar year, on account of any policy, make or incur any expense or permit any expense to be made or incurred on its behalf or under any agreement with it for commissions and advances to agents, greater than the expense charge becoming available on such policy in such calendar year.

206.31 Compensation of agents. No such company, nor any person, firm or corporation on its behalf, or under any agreements with it, shall pay or allow to any agent, broker or other person, firm or corporation, for procuring an application for life insurance, for collecting any premium thereon or for any other service performed in connection therewith, any compensation other than that which has been determined in advance.

206.32 Bonuses and cumulative compensation prohibited; exception. All bonuses, prizes and awards and all increased or additional compensations of every sort, based upon any contingency, are prohibited. This does not prohibit the institution of competition among agents and the awarding of tokens of small intrinsic value, given not as compensation but as a recognition of merit. A statement of the value of each such token of greater value than ten dollars and of the total amount expended within and without this state in any such competition shall be filed with each annual statement. Any company may condition renewal commissions, or compensation after the first insurance year, upon the efficiency of service of the agent, or upon the amount and quality of the business renewed under his supervision. No such competition shall be instituted, or any such conditions imposed on renewal commissions or compensation, affecting any business written in this state, unless the full plan has first been filed with the commissioner.

206.33 Discriminations. (1) No life insurance company shall make or permit any distinction or discrimination between insurants of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends or other advantages.

(2) Every insurance company, and its officers or agents, shall, upon written demand by the commissioner, furnish him the forms of all insurance policies and of any other papers pertaining to any contract of insurance, issued or used or authorized to be issued or used by said company or by its representatives in or about the business of life insurance. Upon the failure of such company or its agents to fully comply with such demand, within fifteen days after the service of the same, the commissioner shall revoke the authority of such company, or the license of such agent. Service of such demand upon an agent within this state or mailing the same registered and addressed to the home office of such company shall be sufficient service.

(3) No evidence of any violation of the provisions of this section or section 201.53 shall be received in any action brought against the company upon any policy after the death of the insured.

206.34 Investments of domestic life insurance companies. (1) Every life insurance company organized under the laws of this state may invest its assets as follows:

(a) In the lawfully authorized bonds or other evidences of indebtedness which shall be the direct obligation of the United States or of any state of the United States, or of the District of Columbia, or of the Dominion of Canada, or of any province or city thereof.

(b) In the lawfully authorized bonds or other evidences of indebtedness of any county, city, town, village, school district, or of any other governmental or civil division within the United States or Canada or the District of Columbia, which shall be a direct obligation of the county, city, town, village, school district, or other governmental or civil division issuing the same.

(bl) In lawful authorized bonds or other evidences of indebtedness issued or guaranteed by the international bank for reconstruction and development or the inter-American development bank. The aggregate of such company's investment under this paragraph shall not exceed 2 per cent of such company's admitted assets.

(bm) In lawfully authorized bonds or other evidences of indebtedness payable from and adequately secured by revenues specifically pledged therefor of the United States or Canada, or of any state of the United States, or of a commission, board or other instrumentality of one or more of them.

(bn) In the lawfully authorized evidences of indebtedness of a municipally owned public utility of this state created pursuant to section 3 of article XI of the constitution, if the net book value of the property pledged as security for such bonds has been established or approved by the public service commission and the total issue of such bonds does not exceed 50 per cent of the net book value of the property pledged as security therefor. In lawfully authorized bonds or other evidences of indebtedness payable from revenues of a public utility or railroad owned by or held for the benefit of any state, county, city, town, village, or other governmental subdivision within the United States or Canada, or in the District of Columbia, provided such bonds or other evidences of indebtedness are adequately secured by mortgage or lien on the property of the said utility or railroad; or by specific pledge of revenues, provided the resolutions or ordinances adopted by the governing body of such state, county, city, town, village, or other governmental subdivision authorizing the issuance of such bonds or other evidences of indebtedness and pledging revenues, shall require that during the life of the bonds or other evidences of indebtedness, rates, fees, tolls or charges fixed, maintained and collected together with any other revenues pledged shall at all times be such as will produce revenues sufficient to pay all expenses of operation and maintenance of such undertaking and the principal of such bonds or other evidences of indebtedness when due and interest thereon pursuant to applicable laws of the state or states permitting or requiring the fixing, maintenance and collection of rates, fees, tolls or charges in such amounts.

(c) In loans secured by mortgages upon unincumbered and wholly or partly improved real property in the United States or Canada, or upon leasehold estates in improved real property therein. Real property and leasehold estates shall not be deemed to be incumbered within the meaning of this section by reason of the existence of unpaid assessments and taxes not delinquent, mineral, oil or timber rights, easements or rights of way for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements or rights of way, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner. No such loan shall exceed two-thirds of the then fair market value, including buildings, if any, mortgaged to

secure the same. If the value of the buildings constitutes any part of the security, such buildings must be kept insured to an amount which, together with two-thirds the value of the land, shall equal or exceed the loan, and the policy or policies of insurance must be assigned or made payable to and held by or for the benefit of the company as collateral to such loan. The foregoing limitations and restrictions shall not apply to real estate loans which are insured under the provisions of the national housing act by the federal housing administration or to real estate loans made under the provisions of ch. 219.

(d) In bonds or other evidences of indebtedness of terminal, belt line, and railroad companies in the United States or Canada, adequately secured by mortgage or pledge of property of the corporation issuing them, or held in trust for its use or benefit, or by adequate collateral so secured; provided, no default in payment of interest thereon has occurred within three years of the date of the investment therein, or since issuance if such bonds were issued less than three years prior to the date of investment therein, and that the issue thereof has been approved by the proper public authority, if such approval was required by law at the time of issue.

(e) In bonds or other evidences of indebtedness of any public utility, including any transportation company, telegraph or telephone company, or company engaged in furnishing, directly or indirectly, electricity, gas, heat, light, power or water, to the public in a municipality or municipalities or other governmental divisions in the United States or Canada having a population of five thousand or more, which bonds or evidences of indebtedness are adequately secured by mortgage on, or pledge of, the owned and used property and franchises of the company issuing them, or held in trust for its use and benefit, or by adequate collateral so secured, and the issue of which has been approved by the proper public authority, if such approval was required by law at the time of issue; and provided that the company issuing such bonds or evidences of indebtedness has not defaulted in the payment of interest upon any of its bonds or evidences of indebtedness at any time during three years prior to the date of investment therein.

(ee) In evidences of indebtedness of any public utility, including any transportation company, telegraph or telephone company, or company engaged in furnishing, directly or indirectly, electricity, gas, heat, light, power or water to the public in a municipality or municipalities or other governmental divisions in the United States or Canada having a population of five thousand or more, in addition to those mentioned in paragraph (e) of this subsection, if the net earnings of the issuing company available for fixed charges for a test period of three fiscal years next preceding the date of investment by the insurance company, shall have averaged per year not less than one and one-half times its average annual fixed charges applicable to such period, and the issue of which has been approved by the proper public authority, if such approval was required by law at the time of issue; and provided that the company issuing such evidences of indebtedness has not defaulted in the payment of interest upon any of its bonds, or other evidences of indebtedness at any time during three years prior to the date of investment therein, or since issuance, if issued less than three years prior to the date of investment therein.

(ee) In bonds or other evidences of indebtedness of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (in addition to those mentioned in any other paragraphs of this subsection and other than bonds of corporations organized for the sole purpose of holding stock in other corporations) which bonds or other evidences of indebtedness are adequately secured by mortgage on, or pledge of, the owned and used or useful property of the company issuing them, or held in trust for its use and benefit, or by adequate collateral so secured, and the issue of which has been approved by the proper public authority, if such approval was required by law at the time of issue; provided that no insurance company shall invest in any one such issue of bonds or other evidences of indebtedness in excess of 2 per cent of the admitted assets of the insurance company; provided further that the company issuing such bonds or other evidences of indebtedness has not defaulted in the payment of principal or interest upon any of its bonds or other evidences of indebtedness at any time during 5 years prior to the date of investment therein, or since issuance, if issued less than 5 years prior to the date of investment therein.

(ef) In evidences of indebtedness of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (other than evidences of indebtedness of corporations organized for the sole purpose of holding securities of other corporations), if the net earnings of the issuing company available for fixed charges for a test period of 5 fiscal years next preceding the date of investment by the insurance company shall have averaged per year not less than $1\frac{1}{2}$ times its average annual fixed charges applicable to such period and if during either of the last 2 years of such period such net earnings shall have been not less than $1\frac{1}{2}$ times its fixed charges for such year, and the issue of which has been approved by the

proper public authority if such approval was required by law at the time of issue; provided that no insurance company shall invest in any one issue of such evidences of indebtedness in excess of one per cent of its admitted assets; provided further that the company issuing such evidences of indebtedness has not defaulted in the payment of principal or interest upon any of its bonds, or other evidences of indebtedness at any time during 5 years prior to the date of investment therein, or since issuance, if issued less than 5 years prior to the date of investment therein.

(eg) In preferred stock of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (other than preferred stock of corporations organized for the sole purpose of holding securities of other corporations), the issue of which has been approved by the proper public authority if such approval was required by law at the time of issue, provided either (a) the net earnings of the issuing company available for fixed charges and dividends for a test period of 5 fiscal years next preceding the date of investment by the insurance company shall have averaged per year not less than 2 times the sum of the annual fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company computed as of the date of such investment by the insurance company, or (b) the net earnings of the issuing company available for fixed charges and dividends for each of the 3 fiscal years next preceding the date of investment by the insurance company shall have been not less than $1\frac{1}{2}$ times the sum of the annual fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company computed as of the date of such investment by the insurance company. In any such computation, fixed charges on indebtedness, and dividend requirements on preferred stock, for the retirement of which provision is made at or prior to the date of investment by the insurance company, shall be disregarded. No insurance company shall invest more than one-half of one per cent of its admitted assets in the preferred stock of any one issuing company, nor shall the aggregate of any insurance company's investments under this paragraph exceed 5 per cent of its admitted assets.

(en) "Net earnings available for fixed charges" as used in this subsection shall mean net income determined on either a consolidated or an unconsolidated basis after allowance for operating and maintenance expenses, depreciation and depletion, and taxes, other than federal and state income taxes, but excluding extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. "Net earnings available for fixed charges and dividends," as used in this subsection shall be determined in the same manner as "net earnings available for fixed charges" but after allowance for federal and state income taxes.

(eo) "Fixed charges" as used in this subsection shall include interest on all bonds and other evidences of indebtedness, and amortization of debt discount. "Preferred dividend requirements," as used in this subsection shall mean dividends at the maximum prescribed rate on all preferred stock of the same class as that being acquired by the insurance company and on all stock ranking as to dividends on a parity therewith or prior thereto, whether or not such dividends are cumulative.

(ep) In applying tests of "net earnings available for fixed charges" under this subsection to an issuing company, whether or not in legal existence during the whole of the test period, which has at or prior to the date of investment by the insurance company acquired the assets of any other company by purchase, merger, consolidation or otherwise substantially as an entirety, net earnings available for fixed charges of such predecessor or constituent company for such portion of the test period as preceded acquisition, may be included in the net earnings of the issuing company, in accordance with consolidated earnings statement covering such period. The requirements imposed by pars. (ec) and (ef) upon the issuing company are deemed to have been met if at the time the investment is made a company which meets such requirements has guaranteed the indebtedness or has otherwise become obligated to pay amounts which are applicable to the payment of and sufficient to discharge the principal of and interest on the indebtedness in accordance with the terms thereof, provided that in determining whether such requirements have been met the pro forma annual interest on such indebtedness is included in the fixed charges of said company applicable to the test period in question.

(es) In common stock of any solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof (other than common stock of corporations organized for the sole purpose of holding securities of other corporations), the issue of which has been approved by the proper public authority if such approval was required by law at the time of issue, provided that such company either: a. during any 3 fiscal years of the 5 completed fiscal years next preceding the date of investment, has earned a sum available for payment of dividends per share (with strict proportional adjustment for changes in capitalization) equal in the aggregate to not less than 10 per cent of the price paid per share, or b. during the 3 fiscal

years next preceding the date of such investment, has had average annual net earnings available for fixed charges and dividends equal to $1\frac{1}{2}$ times the sum of its average annual fixed charges, maximum contingent interest and amounts required for payment of preferred dividends for such period. No insurance company shall invest more than one-half of one per cent of its admitted assets in the common stock of any one issuing company, nor shall the aggregate of any insurance company's investments under this paragraph exceed 5 per cent of its admitted assets.

(f) In the mortgage bonds of the farm loan banks authorized under the federal farm loan act, and in obligations secured by mortgages or trust deeds authorized in par. (c), and in debentures issued by the banks for co-operatives established pursuant to the farm credit act of 1933, as amended.

(fe) In equipment securities or in certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale, the issue of which has been approved by the proper public authority, if such approval was required by law at the time of issue, if such lessee or conditional vendee is a solvent company organized under the laws of the United States or of any state thereof, or of the Dominion of Canada or of any province thereof, and if the net earnings of such company available for fixed charges as defined and applied pursuant to pars. (en), (eo) and (ep) for a test period of 3 fiscal years next preceding the date of investment by the insurance company shall have averaged per year not less than 2 times its average annual fixed charges applicable to such period; provided that the company issuing such securities has not defaulted in the payment of principal or interest upon any of its bonds, or other evidences of indebtedness at any time during 5 years prior to the date of investment therein, or since issuance, if issued less than 5 years prior to the date of investment therein. No insurance company shall invest in any one issue of such securities under this paragraph in excess of 2 per cent of its admitted assets.

(ff) In equipment securities evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale of rolling stock for use by companies operating railroads in the United States or the Dominion of Canada, the issue of which has been approved by the proper public authority, if such approval was required by law at the time of issue.

(fp) In the purchase and ownership of: a. vessels, vehicles or rolling stock used or useful for the transport of persons, goods, products or commodities, and b. machinery or equipment used by manufacturing, processing or financial establishments, which is or will become subject to contracts for the sale or use thereof under which contractual payments are to be made which may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property, said anticipated useful life to be not less than 5 years. The aggregate of such company's investments under this paragraph shall not exceed 3 per cent of such company's admitted assets, and shall not be subject to the limitation contained in s. 201.24 (1).

(fs) In loans, securities or investments in countries other than the United States and Canada which are substantially of the same kinds, classes and investment grades as those eligible for investment under this subsection, other than par. (m); but the aggregate amount of such company's investments made pursuant to this paragraph shall not exceed 2 per cent of its admitted assets.

(g) In loans upon collateral security of any of the foregoing securities, not exceeding ninety per cent of the market value of such securities.

(h) In loans upon the security of its own policies to an amount which shall be adequately secured thereby and shall not in any case exceed the surrender value specified in the policy.

(i) In evidence of indebtedness not hereinbefore specifically authorized, provided the same are eligible for discount, rediscount, purchase or sale by federal reserve banks or other hereafter created governmental agency having similar powers and functions; provided further that such investments shall not at any time exceed one-third of its unapportioned surplus or contingency reserve as defined in section 206.36, as shown by the last annual statement of such corporation filed with the commissioner of insurance as provided in section 201.50, and that no such investment shall be made by a company that has not unassigned surplus to the amount of one million dollars.

(j) In interest-bearing notes of any savings and loan association organized under the laws of this state and in any bonds or other securities of any savings and loan finance corporation organized under the laws of this state. Also in investment shares of any savings and loan associations to the extent that they are or may be insured or guaranteed by the United States government, or by the federal savings and loan insurance corporation, or by any other agency of the United States government, and in shares of corporations chartered or incorporated under section 5 of the home owners' loan act of 1933.

(k) In the purchase and ownership of any real estate located within the continental limits of the United States or the Dominion of Canada which produces income or which by suitable improvement will produce income. The term "real estate" as used in this paragraph shall include a leasehold of real estate and other interests in real property. The aggregate of such company's investment under this paragraph shall not exceed 5 per cent of such company's admitted assets, and shall not be subject to the limitation contained in s. 201.24 (3).

(m) In loans, securities or investments in addition to those permitted in this subsection whether or not such loans, securities or investments qualify or are permitted as legal investments under its charter, or under other provisions of this section or under other sections of the statutes; provided, for the purposes of par. (c) and this paragraph, that the portion of a loan secured by a mortgage upon real property which does not exceed two-thirds of the then fair market value of said property shall be deemed to be a permitted investment under par. (c) and the remainder of said loan may be deemed to be made under this paragraph. Any investment originally made under this paragraph which would subsequently, if it were then being made, qualify as a permitted investment under another paragraph of this subsection shall thenceforth be deemed to be a permitted investment under such other paragraph. The aggregate of such company's loans, securities and investments under this paragraph shall not exceed 5 per cent of such company's admitted assets.

(n) In the development, ownership and operation of veterans' or civilians' housing projects or in the mortgage bonds of any housing authority, redevelopment company or corporation authorized under the statutes.

(2) (a) No life insurance company organized under the laws of this state shall invest more than ten per cent of its admitted assets in the securities of any one corporation.

(c) No domestic life insurance company shall make any investment not authorized by law; provided, however, that nothing in this section shall be construed as prohibiting a company from taking any action deemed necessary or expedient for the protection of investments made by it or from accepting in good faith, to protect its interests, securities or property not herein mentioned in payment of or to secure debts due to it.

History: 1961 c. 126.

206.35 Life insurance investments; amortization valuation authorized. All bonds or other evidences of debt having a fixed term and rate held by a life insurance company or fraternal benefit society authorized to do business in this state may, if amply secured and not in default as to principal or interest or both, be valued as follows: If purchased at par, at the par value; if purchased above or below par, on the basis of the purchase price adjusted so as to bring the value to par at maturity and so as to yield in the meantime the effective rate of interest at which the purchase was made; provided that the purchase price shall in no case be taken at a higher figure than the actual market value at the time of purchase; and, provided further, that the commissioner of insurance shall have full discretion in determining the method of calculating values according to the foregoing rule, and the values found by him in accordance with such method shall be final and binding, provided, also, that any such corporation may return such bonds or other evidence of debt at their market value or their book value, but in no event at an aggregate value exceeding the aggregate of the values calculated according to the foregoing rule.

206.36 Surplus returned on participating policies. Every life insurance company doing business in this state, in which policyholders are entitled to share in the surplus, shall annually ascertain the surplus over required reserves and other liabilities. After setting aside such contingency reserve as may be deemed necessary, making provision for the payment of authorized dividends upon the capital stock, and such sums as are required to be held for account of deferred dividend policies, the remaining surplus shall be equitably apportioned and returned as a refund on participating life, accident, sickness and health insurance policies entitled to share therein; provided, that if a refund is declared payable on the first or second anniversary of the policy, the refund may be conditioned on the payment of the succeeding year's premium.

206.38 Consolidation. (1) **LIMITATION.** No company organized under the laws of this state to do the business of life, accident or health insurance, either on the stock, mutual stipulated premium, assessment, or fraternal plan, shall consolidate with any other company, or reinsure its risks, or any part thereof with any other company, or assume or reinsure the whole of, or any portion of the risks of any other company, except as hereinafter provided; but nothing herein contained shall prevent any such company, organized on the stock or mutual plan, from reinsuring a fractional part of any single risk.

(2) **PETITION TO COMMISSIONER.** When any such company shall propose to consoli-

date with any other company, or to enter into any contract of reinsurance, it shall present its petition to the commissioner, setting forth the terms and conditions of such proposed consolidation or reinsurance, and praying for approval thereof.

(3) NOTICE TO POLICYHOLDERS. The commissioner shall thereupon issue an order fixing the time and place of hearing and requiring notice to be given by mail to each policyholder of such company, of such petition, and of the time and place at which hearing thereon will be held, and the publication of said notice in at least 2 newspapers, once in each week, for at least 2 successive weeks, the last publication to be not less than 14 days before the time appointed for the hearing.

(4) REINSURANCE; NOTICE; HEARING. In lieu of the foregoing proceeding, any disability insurance company may consolidate and enter into a contract of reinsurance with any other company by filing with the commissioner a copy of such contract and all papers relating thereto, which consolidation and reinsurance shall take effect upon such filing and the mailing of a notice thereof, to each policyholder so reinsured. Provided, that if the holders of not less than five per cent of such policies so reinsured shall within thirty days thereafter file a petition with the commissioner for a hearing on the question of such reinsurance, the commissioner shall, and without such petition may, order a hearing, notice of which shall be given by the company by mail to each policyholder so reinsured at least ten days before such hearing, and thereupon proceedings shall be had as provided in subsections (5) and (6).

(5) COMMISSION TO HEAR PETITION. The governor, or some resident of the state to be appointed by him, the attorney-general, and the commissioner shall constitute a commission to hear and determine upon every petition under this section. At the time and place fixed originally or by adjournment, the commission shall proceed with the hearing, and may make or order such examination into the affairs and condition of said company as it may deem proper. The commissioner shall have the power to summon and compel the attendance and testimony of witnesses and the production of books and papers before said commission. Any policyholder or stockholder of the company or companies so petitioning may appear and be heard. Said commission, if satisfied that the interest of the policyholders are properly protected, and that no reasonable objection exists thereto, may authorize the proposed consolidation or reinsurance, or may modify the terms and conditions thereof as may seem best for the interests of the policyholders, and said commission may make such order with reference to the distribution and disposition of the surplus assets of any such company, as shall be just and equitable to the policyholders. Such consolidation or reinsurance shall require the approval of all the members of said commission, and it shall be the duty of said commission to guard the interests of the policyholders. Their decision shall be in writing and signed by them.

(6) EXPENSES; COMPENSATION PROHIBITED. All expenses and costs incident to proceedings under this section shall be paid by the companies petitioning or effecting such reinsurance, and an itemized statement of the expenses and costs shall be filed in the department with the decision of the commission. Provided, that in the discretion of the commission the petitioners under subsection (4) may be ordered to pay all or a part of such expenses and costs. No officer of any such company, except as fully expressed in the contract of reinsurance, and no member of said commission, or employe of the state, shall receive any compensation, or gratuity, directly or indirectly, for aiding, promoting or assisting in such consolidation or reinsurance.

(7) PENALTY. Any officer or stockholder of any such company, or any member of such commission or employe of the state, violating or consenting to the violation of the provisions of this section, shall be punished by a fine of not less than ten thousand dollars and by imprisonment for not less than one year, nor more than 10 years.

History: 1961 c. 33.

206.39 Life company as trustee. Any life insurance company doing business in this state may hold the proceeds of any policy issued by it under a trust or other agreement upon such terms and restrictions as to revocation by the policyholder and control by the beneficiary and with such exemptions from the claims of creditors of the beneficiary as shall have been agreed to in writing by such company and the policyholder. The company may hold said proceeds as a part of its general corporate assets. To be held in like manner, such company may receive and collect premiums in advance upon policies issued by it in such amounts and upon such conditions, including the right of the policyholder to withdraw unused portions thereof, as shall have been agreed to in writing by such company and the policyholder.

206.40 Retirement plan for agents. Any life insurance company organized under general law or special act of this state, doing business in this state, may establish retirement plans for agents on an actuarial basis approved by the insurance department.

206.41 Qualifications and licensing of life insurance agents. (1) LIFE INSURANCE AGENT DEFINED. (a) The term "life insurance agent" means any authorized or acknowledged agent of an insurer, who acts as such in the solicitation of, negotiation for, or procurement or making of a life insurance or annuity contract; except that the term "life insurance agent" shall not include any regular salaried officer or employe of a licensed insurer, or of a licensed life insurance agent, who does not solicit or accept from the public applications for any such contract. A regular salaried officer or employe of an insurer authorized to do business in this state shall not be deemed to be a "life insurance agent" by reason of rendering assistance to, or on behalf of a licensed life insurance agent, provided that such salaried officer or employe devotes substantially all of his time to activities other than the solicitation of applications for life insurance or annuity contracts and receives no commission or other compensation directly dependent upon the amount of business obtained.

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

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

(b) No commission or other valuable consideration for services as a life insurance agent shall be paid directly or indirectly by an insurer or licensed life insurance agent to any person other than a person holding a currently valid license to act as a life insurance agent as required by the laws of this state. Nor shall any person other than a duly licensed life insurance agent accept any such commission or other valuable consideration, except that any duly licensed agent may direct that his commissions be paid to any partnership of which he is a member, employe or agent, or to any corporation of which he is an officer, employe or agent, if such corporation or partnership is engaged primarily in the insurance business or to a bank organized under ch. 221, a permittee under s. 115.07 (4), a licensee under s. 115.09 or 218.01, or a national bank, if such duly licensed agent is an officer, member, employe, or agent of any of the aforesaid agencies and the commissions are for the sale of credit life insurance; and except that this section shall not prevent the payment or receipt of renewal or other deferred commissions to or by any person solely because such person has ceased to hold a license to act as a life insurance agent.

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

(b) The application shall include a notarized certificate signed by an officer or properly authorized representative of the insurer stating that the insurer has investigated the character and background of the applicant and is satisfied that he is trustworthy and qualified to act as its agent and intends to hold himself out in good faith to the general public as a life insurance agent and that the insurer desires that the applicant be licensed as a life insurance agent to represent it in this state.

(5) EXAMINATION OF APPLICANT FOR LICENSE. (a) Each applicant for a license to act as a life insurance agent within this state shall pay an examination fee as required in s. 200.13 (17) and shall submit to a personal written examination to determine his competence with respect to life insurance and annuity contracts and his familiarity with the pertinent provisions of the laws of this state, and shall pass the same to the satisfaction of the commissioner; except that no such fee or written examination shall be

required of an applicant, unless a license had not been issued to such applicant within the 2 years immediately preceding the date of filing his application.

(b) The commissioner shall establish rules and regulations with respect to the scope, type, frequency, grading of papers, and announcements of the results of such written examinations and the times and places within the state where they shall be held. Upon giving the commissioner 3 days' notice in writing of his intention to apply, any applicant shall be permitted to take the examination on any business day by appearing at the office of the commissioner in person. The commissioner shall cause examinations to be conducted from time to time at convenient points throughout the state as the need for such examinations may arise. In advance of such examination the commissioner shall cause notice to be given to all companies admitted to do business in the state. The commissioner is authorized to appoint a representative deemed by him to be competent, who shall conduct the examination in the commissioner's office or in any place designated by the commissioner in the state. The commissioner is authorized in his discretion to pay a fee to the person conducting the examination as his deputy.

(c) No person who has taken and failed to pass 2 examinations given pursuant to this section shall be entitled to take any further examination until after the expiration of 6 months from the date of the last examination in which he failed. An examination fee as required by s. 200.13 (17) shall be paid for each and every examination.

(d) The commissioner shall appoint an advisory board consisting of not less than 6 nor more than 9 members to make recommendations to him with respect to the scope, type, frequency, grading of papers, announcement of results and generally the conduct of written examinations and the times and places within the state where they shall be held, the ways and means of passing upon the issuing licenses and generally to aid and assist the commissioner in carrying out the provisions of the law economically and in the interest of the insuring public, the companies and the applicants. The advisory board shall consist of persons experienced in the life insurance business, one-third of whom shall be officers or employes of Wisconsin domiciled life insurance companies, one-third shall be general agents or managers, and one-third licensed life insurance agents of whom one shall be an agent who solicits industrial life insurance. Two-thirds of the first advisory board shall be appointed for the term of 2 years and one-third for the term of one year and thereafter all members of the board shall be appointed for 2 years. The advisory board shall meet no less than 2 times in each calendar year.

(e) The examination provided for under this subsection need not be taken by persons licensed under sub. (6) (b).

(6) ISSUANCE OR REFUSAL OF LICENSE. (a) If the commissioner is satisfied that the applicant is trustworthy and competent and is a resident of this state (unless application is for a nonresident agent's license) and the annual fee for such license as required by s. 200.13 (15) has been paid or tendered and the applicant, if required, has passed his written examination, a license shall be issued forthwith, limited to the insurer by whom the agent is to be appointed. If the applicant has not passed his written examination, the commissioner shall notify the applicant and the insurer in writing that a license will not be issued to him for that reason.

(b) The commissioner may issue licenses permitting the sale of credit life insurance only. Such licenses shall be designed and printed so that they can be clearly distinguished from other licenses issued under this section. For the purposes of this paragraph credit life insurance is nonrenewable, nonconvertible, term insurance. Such insurance may be sold under this paragraph only when:

1. The insurance is written upon the life of the debtor, and all or a portion of the insurance is payable to the creditor in satisfaction of the debt; and
2. The term of the insurance does not substantially exceed the term of the obligation; and
3. The amount of the insurance does not substantially exceed the amount of the original obligation.

(c) Each insurer shall forward the original copy of each license to the agent named thereon to act for such insurer and each agent shall retain possession of such license while it is in effect and shall return same to the company for which it was issued at such time as his appointment is terminated by that company.

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

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

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

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

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

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

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

(9) EXPIRATION AND RENEWAL OF AGENT'S LICENSE. (a) Each license issued to a life insurance agent shall expire on November 1 following the date of issue except that licenses issued prior to May 1, 1962 shall expire on that date and licenses issued during the period commencing May 1, 1962 and ending October 31, 1962 shall expire on November 1, 1963, unless prior to the applicable expiration date as set forth herein it is revoked or suspended by the commissioner or the authority of the agent to act for insurer is terminated. The fee for licenses issued during the period commencing May 1, 1962 and ending October 31, 1962 shall be 150 per cent of the otherwise applicable annual fee as required in s. 200.13 (15).

(b) License renewals may be effected from year to year upon request of the insurer, without further action on the part of the agent. License renewals for licenses expiring May 1, 1962 shall be subject to a fee of 150 per cent of the otherwise applicable annual fee as required in s. 200.13 (15) which may continue them in force until November 1, 1963.

(c) Prior to May 1, 1962 and thereafter annually prior to November 1 of each year (beginning in 1963), each insurer shall submit to the commissioner a list of all agents appointed by it together with the required annual license fees. Such list shall show the name, license number, kinds of license and birth date for each agent whose license is to remain in effect. The commissioner may require such list to include the resident address and business address of each agent. Any change in an address of an agent holding a license shall be promptly reported to the commissioner by the company for whom such agent acts.

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

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

1. Has wilfully violated any provision of the insurance laws of this state; or
2. Has intentionally made a material misstatement in the application for such license;

or

3. Has obtained, or attempted to obtain, such license by fraud or misrepresentation; or
4. Has misappropriated or converted to his own use or illegally withheld money belonging to an insurer or an insured or beneficiary; or

5. Has otherwise demonstrated lack of trustworthiness or competence to act as a life insurance agent; or

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

7. Has materially misrepresented the terms and conditions of life insurance policies or contracts; or

8. Has made or issued, or caused to be made or issued, any statement misrepresenting or making misleading comparisons regarding the terms or conditions of any life insurance or annuity contract legally issued by any insurer, for the purpose of inducing or attempting to induce the owner of such contract to forfeit or surrender such contract or allow it to lapse for the purpose of replacing such contract with another; or

9. Has obtained or attempted to obtain such license, not for the purpose of holding himself out to the general public as a life insurance agent, but primarily for the purpose of soliciting, negotiating or procuring life insurance or annuity contracts covering himself or members of his family, or the officers, directors, stockholders, partners, employees or debtors of a partnership, association or corporation of which he or a member of his family is an officer, director, stockholder, partner or employe except that the soliciting of credit life insurance by an officer or employe of a bank organized under ch. 221, a permittee under s. 115.07 (4), a licensee under s. 115.09 or 218.01, or a national bank shall not constitute grounds under this section for refusal of such license.

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

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

(aa) The license of any agent who does any unauthorized act of an insurance business as set forth in s. 201.42 (2) shall be suspended for a period of not less than 90 days and such agent shall not be permitted to do business until all liability for such violation is discharged. Whenever the commissioner receives notice of an unauthorized act of an insurance business he shall forthwith make an inspection of the books and records of such agent and upon his refusal to permit such inspection the commissioner shall revoke his license.

(b) 1. Whenever the issuance of any license is refused (except for failure to pass a required written examination), the commissioner shall give notice to the applicant for such license and the insurer whom he represents or who desires that he be licensed stating the reason or reasons such license is refused. Whenever any license is to be suspended or revoked or the renewal thereof is to be refused hereunder, the commissioner shall give notice to the holder of such license and the insurer whom he represents by virtue of such license expressing intent to suspend, revoke or refuse renewal thereof and stating the reason or reasons therefor at least 20 days prior to the effective date of such action. Such suspension, revocation or nonrenewal shall take effect on such specified date unless an aggrieved party proceeds as hereinafter provided.

2. Any insurer, agent or applicant for license aggrieved by action of the commissioner hereunder may request in writing within 10 days after receipt of the notice hereinbefore mentioned a reconsideration by the commissioner of his action and shall state in such request the reason or reasons such action should not be taken. The commissioner shall reaffirm or reverse his action within 10 days after receipt of such request. Failure by the commissioner to act within the appointed time shall serve to continue the license in force beyond the date established for such refused renewal, suspension or revocation but shall not preclude the establishment of a new effective date for such action.

3. Nothing contained herein shall preclude any right of an aggrieved party to require a public hearing and request in writing a review of the commissioner's actions, by proceeding in accordance with ch. 227 nor any right of the commissioner to call a public hearing under said chapter. Any license which is in force at the time such hearing is requested or called and which is the subject of such hearing shall remain in force during the time that proceedings under ch. 227 or any judicial review thereof is pending.

4. All notices, requests and decisions hereinbefore mentioned shall be transmitted by giving a copy of such notice, request or decision personally to the addressee or by sending a copy of such notice, request or decision by prepaid registered mail and the mail service shall be complete upon the delivery or tender of the copy to such addressee 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.

5. Any license which is suspended, revoked or the renewal thereof refused shall be immediately surrendered to the commissioner.

(c) 1. No agent whose license has been revoked or the renewal thereof refused hereunder shall be entitled to file another application for a license under s. 206.41 or 209.04 within 2 years from the effective date of such revocation or refused renewal or, if judicial review of such revocation or refusal of renewal is sought, within 2 years from the date of final court order or decree affirming such revocation or refusal of renewal. Such application, when filed, may be refused by the commissioner unless the applicant shows good cause why the revocation or refused renewal of his license shall not be deemed a bar to the issuance of a new license.

2. No agent whose license has been suspended shall be entitled to file another application for a license under s. 206.41 or 209.04 during such period of suspension.

(13) PENALTY. Any person, partnership, association or corporation violating any of the provisions of this section shall, in addition to any other penalty provided by law be fined not more than \$500 or imprisoned not more than 6 months, or both, each such

violation being a separate offense. In addition, if such offender holds a license as a life insurance agent, such license shall be suspended or revoked as hereinbefore provided.

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

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

History: 1961 c. 397, 562.

206.45 Life policy applications; holders' demand for copies. (1) Every person within the state holding a policy of insurance issued by any life insurance company doing business in this state, shall be furnished by such company with a copy of the application upon which policy was issued, upon demand made for such copy by the holder of such policy or by any person upon whose life such policy was issued.

(2) If such company wilfully neglect or fail for thirty days from the time of such demand, to furnish such person a copy of such application, it shall be forever barred from setting up by way of defense to any suit on such policy of insurance, any error, incorrectness, fraud or misrepresentation of the person making the same, or any mistake therein; and such application shall thereafter be taken and held, so far as the same may affect any claim under such policy, or any gain secured thereby, to be in all respects true and correct.

206.46 Life insurance; political contributions; statements precedent to license. As a condition precedent to a license to transact life insurance business, every company shall file with the commissioner a statement verified by its president and secretary, showing in detail, the consideration if any paid or contributed, directly or indirectly, or used or offered or agreed to be paid in aid of any political party or organization, or for and in aid of any corporation or other organization organized or maintained for political purposes or for or in aid of any candidates for public office or for nomination for such office, or for the reimbursement or indemnification of any person for property so used; the names and addresses of parties, companies or organizations to whom paid, the time and place of payment and amount paid and that such disbursements have been truly entered upon the books of the company, together with such other information in relation thereto as the commissioner may require.

206.47 Life companies; lobbying expenses; statements precedent to license. As a condition precedent to a license to transact life insurance business, every life insurance company shall file with the commissioner a statement verified by its president and secretary, showing in detail the bills opposed or promoted by it during the preceding year; the state in which such legislation was pending; the names and addresses of persons engaged as counsel or otherwise; the consideration paid each of them; the expenses of advertising, traveling, etc., and to whom paid; and that such disbursements and expenses have been truly entered upon the books of the company, together with such other information in relation thereto, as the commissioner may require.

206.48 Reports; gains and losses; unlicensed companies; penalties. (1) Every life insurance company shall include in the annual statement required by section 201.50 an exhibit of the gains and losses separately for its participating and nonparticipating business and its ordinary and industrial business, and separately as to each for the first year's business and for the total business of the company; provided, that this shall not require separate statement as to the first year's industrial business.

(2) Where a separate account of any items required on such statement shall not be kept as to the participating and nonparticipating or ordinary and industrial business of any company, such statement shall state what proportion of such items is apportioned to each.

(3) Any company heretofore licensed but not presently licensed, in lieu of filing the statement required by subsection (1), may file the annual statement required by the law in force during the last year such company was licensed.

206.49 Burial insurance. (1) Every person, association or corporation before engaging in the business of burial insurance shall comply with all of the laws of this state governing the organization, qualification and conduct of a legal reserve life insurance company, except that the amount of cash or securities deposited with the state treasurer by any such person, association or corporation shall be not less than ten thousand dollars, and if the maximum amount of all of the policies or certificates outstanding at the end of

any year shall exceed twenty thousand dollars such deposit shall be increased five thousand dollars for each ten thousand dollars of certificates above twenty thousand dollars.

(2) Any person, association or corporation now engaged in the business of burial insurance of any kind whatever, by contract, by virtue of the provisions of any by-law or regulation of any such association or corporation, or otherwise, shall, within thirty days after the taking effect of this section comply with the provisions of subsection (1).

(3) All benefits in policies of burial insurance shall be payable in cash to the beneficiary. No person, firm, corporation or association engaged in the business of providing for the payment of the funeral, burial or other expenses of deceased members, or certificate holders therein or engaged in the business of providing any other kind of insurance shall contract to pay or pay such insurance or its benefits or any part of either to any official undertaker or to any designated undertaker or undertaking concern or to any particular tradesman or business man, so as to deprive the representative or family of the deceased from, or in any way to control them in, procuring and purchasing such supplies and services, in the open market with the advantages of competition, unless expressly authorized by the laws of this state and all laws regulating such insurance or applicable thereto have been complied with.

(4) Any person, association or corporation violating any provision of this section shall be guilty of a misdemeanor and upon conviction shall be punished by a fine of not less than twenty dollars nor more than fifty dollars for each and every day that such violation continues, and it shall be the duty of the commissioner of insurance to proceed against such insurer under the provisions of section 200.08.

(5) "Burial insurance," as this term is used in this section, includes all contracts in which the insurer agrees to pay for any or all of the incidents of the burial of the body of a named person.

(6) This section shall not apply to fraternal organizations operating under the lodge system.

206.51 False pretenses, libel. (1) No life insurance company, and no officer or agent thereof, shall issue or circulate, or permit to be issued or circulated, any estimate, illustration, circular or statement misrepresenting the terms of any policy issued by it, or advantages promised thereby, or the dividends or share of surplus to be received thereon, or shall use any title of any policy or class of policies, misrepresenting the true nature thereof; or shall issue or circulate or permit to be issued or circulated, any statement, wilfully misrepresenting any other company, the nature or terms of its policies, its premium charge or dividends allowed or returned by such other company.

(2) No figures used in any statement or illustration of future dividends or of future net cost shall be issued or used by any company or agent, unless the same shall be a mathematical calculation based upon assumptions of the policy and dividend scale in actual use, nor unless each edition thereof shall be numbered serially and a copy thereof has been filed with the commissioner.

(4) This section shall apply to mutual benefit societies.

(5) Any officer or agent or deputy violating any of the provisions of this section shall be fined not less than twenty-five dollars nor more than three hundred dollars, or be imprisoned not exceeding 6 months.

206.52 Trusts created by life insurance. (1) Life insurance may be made payable to a trustee to be named as beneficiary in the policy and the proceeds of such insurance shall be paid to such trustee and be held and disposed of by the trustee as provided in a trust agreement or declaration of trust made by the insured during his lifetime. It shall not be necessary to the validity of any such trust agreement or declaration of trust that it have a trust corpus other than the right of the trustee to receive such insurance proceeds as beneficiary.

(2) A policy of life insurance may designate as beneficiary a trustee or trustees named or to be named by will, if the designation is made in accordance with the provisions of the policy and the requirements of the insurance company. The trustee or trustees may be appointed immediately after the proving of the will, and upon appointment and qualification the proceeds of such insurance shall be paid to the trustee or trustees to be held and disposed of under the terms of the will as they exist at the death of the testator and in accordance with ch. 323; but if no qualified trustee makes claim to the proceeds from the insurance company within one year after the death of the insured, or if satisfactory evidence is furnished the insurance company within such one year period showing that no trustee can qualify to receive the proceeds, payment shall be made by the insurance company to the executors, administrators or assigns of the insured, unless otherwise provided

by agreement with the insurance company during the lifetime of the insured. The proceeds of the insurance as collected by the trustee or trustees shall not be subject to debts of the insured and inheritance tax to any greater extent than if such proceeds were payable to any other named beneficiary other than the estate of the insured. For purposes of trust administration such proceeds shall be subject to the court jurisdiction over the trust in the same manner as though they had been payable to the estate of the insured, but shall not otherwise be considered as payable to the estate of the insured. Such proceeds shall be listed for tax purposes only, as required under s. 312.01, in the general inventory of the estate. Such insurance proceeds so held in trust may be commingled with any other assets which may properly come into such trust as provided in the will. Enactment of this section shall not invalidate previous life insurance policy beneficiary designations naming trustees of trusts established by will.

(3) The fact that the insured may reserve or have the right to borrow on the policy or to surrender the same shall not affect the validity of any such trust further than the amounts so borrowed or withdrawn are involved, and the remainder of the moneys due on such policy at the death of the insured shall go to the trustee to be handled and administered in accordance with the trust provisions.

206.54 Age erroneously stated; effect on liability. If the age of the insured has been misstated in an application for a policy of life insurance and the error shall not have been adjusted during the lifetime of the insured the amount payable under the policy shall be such as the premium paid would have purchased at his correct age, except that if the insured at the time the insurance was applied for shall have been beyond the maximum age limit designated by the insurer, the insurer may, at its option, admit a minimum liability equal to the amount of premiums collected under the policy. This section shall apply to fraternal benefit societies.

206.60 Group life insurance, definitions, requirements. No policy of group life insurance shall be delivered in this state unless it conforms to one of the following descriptions:

(1) A policy issued to an employer, or to the trustees of a fund established by an employer, which employer or trustees shall be deemed the policyholder, to insure employees of the employer for the benefit of persons other than the employer, subject to the following requirements:

(a) The employees eligible for insurance under the policy shall be all of the employees of the employer, or all of any class or classes thereof determined by conditions pertaining to their employment. The policy may provide that the term "employees" shall include the employees of one or more subsidiary corporations, and the employees, individual proprietors and partners of one or more affiliated corporations, proprietors or partnerships if the business of the employer and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership or contract. The policy may provide that the term "employees" shall include the individual proprietor or partners if the employer is an individual proprietor or a partnership. The policy may provide that the term "employees" shall include retired employees. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employe of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the employer's funds or funds contributed by him, or partly from such funds and partly from funds contributed by the insured employees. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured employees. A policy on which part of the premium is to be derived from funds contributed by the insured employees may be placed in force only if at least 75 per cent of the then eligible employees, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured employees must insure all eligible employees, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least 10 employees at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or by the employer or trustees.

(2) A policy issued to a creditor, who shall be deemed the policyholder, to insure debtors of the creditor, subject to the following requirements:

(a) The debtors eligible for insurance under the policy shall be all of the debtors of

the creditor whose indebtedness is repayable either 1. in instalments or 2. in one sum at the end of a period not in excess of 18 months from the initial date of the debt, or all of any class or classes thereof determined by conditions pertaining to the indebtedness or to the purchase giving rise to the indebtedness. The policy may provide that the term "debtors" shall include the debtors of one or more subsidiary corporations, and the debtors of one or more affiliated corporations, proprietors or partnerships if the business of the policyholder and of such affiliated corporations, proprietors or partnerships is under common control through stock ownership, contract or otherwise. No debtor shall be eligible unless the indebtedness constitutes an irrevocable obligation to repay which is binding upon him during his lifetime, at and from the date the insurance becomes effective upon his life.

(b) The premium for the policy shall be paid by the policyholder, either from the creditor's funds, or from charges collected from the insured debtors, or from both. A policy on which part or all of the premium is to be derived from the collection from the insured debtors of identifiable charges not required of uninsured debtors shall not include, in the class or classes of debtors eligible for insurance, debtors under obligations outstanding at its date of issue without evidence of individual insurability unless at least 75 per cent of the then eligible debtors elect to pay the required charges. A policy on which no part of the premium is to be derived from the collection of such identifiable charges must insure all eligible debtors, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy may be issued only if the group of eligible debtors is then receiving new entrants at the rate of at least 100 persons yearly, or may reasonably be expected to receive at least 100 new entrants during the first policy year, and only if the policy reserves to the insurer the right to require evidence of individual insurability if less than 75 per cent of the new entrants become insured. The policy may exclude from the classes eligible for insurance classes of debtors determined by age.

(d) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in instalments to the creditor, or \$10,000, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or \$10,000, whichever is less.

(e) The insurance shall be payable to the policyholder. Such payment shall reduce or extinguish the unpaid indebtedness of the debtor to the extent of such payment.

(3) A policy issued to a labor union, which shall be deemed the policyholder, to insure members of such union for the benefit of persons other than the union or any of its officials, representatives or agents, subject to the following requirements:

(a) The members eligible for insurance under the policy shall be all of the members of the union, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the union, or both.

(b) The premium for the policy shall be paid by the policyholder, either wholly from the union's funds, or partly from such funds and partly from funds contributed by the insured members specifically for their insurance. No policy may be issued on which the entire premium is to be derived from funds contributed by the insured members specifically for their insurance. A policy on which part of the premium is to be derived from funds contributed by the insured members specifically for their insurance may be placed in force only if at least 75 per cent of the then eligible members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be derived from funds contributed by the insured members specifically for their insurance must insure all eligible members, or all except any as to whom evidence of individual insurability is not satisfactory to the insurer.

(c) The policy must cover at least 25 members at date of issue.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the members or by the union.

(4) A policy issued to the trustees of a fund established by 2 or more employers in the same industry or by one or more labor unions or by one or more employers and one or more labor unions, which trustees shall be deemed the policyholder, to insure employees of the employers or members of the unions for the benefit of persons other than the employers or the unions, subject to the following requirements:

(a) The persons eligible for insurance shall be all of the employees of the employers or all of the members of the unions, or all of any class or classes thereof determined by conditions pertaining to their employment, or to membership in the unions, or to both.

The policy may provide that the term "employees" shall include retired employees, and the individual proprietor or partners if an employer is an individual proprietor or a partnership. No director of a corporate employer shall be eligible for insurance under the policy unless such person is otherwise eligible as a bona fide employe of the corporation by performing services other than the usual duties of a director. No individual proprietor or partner shall be eligible for insurance under the policy unless he is actively engaged in and devotes a substantial part of his time to the conduct of the business of the proprietor or partnership. The policy may provide that the term "employees" shall include the trustees or their employes, or both, if their duties are principally connected with such trusteeship.

(b) The premium for the policy shall be paid by the trustees either wholly from funds contributed by the employers of the insured persons, or by the union or unions or partly from such funds and partly from funds contributed by the insured persons specifically for their insurance. A policy on which part of the premium is contributed by the insured persons specifically for their insurance may be placed in force only if at least 75 per cent of the employes of the employers or of the members of the unions who remit funds for premium payments to the trustee, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, elect to make the required contributions. A policy on which no part of the premium is to be contributed by the insured persons specifically for their insurance may be placed in force only if all eligible persons, excluding any as to whom evidence of insurability is not satisfactory to the insurer, are insured.

(c) The policy must cover at date of issue at least 100 persons and not less than an average of 3 persons per employer unit; and if the fund is established by the members of an association of employers the policy may be issued only if 1. either (a) the participating employers constitute at date of issue at least 60 per cent of those employer members whose employes are not already covered for group life insurance or (b) the total number of persons covered at date of issue exceeds 150; and 2. the policy shall not require that, if a participating employer discontinues membership in the association, the insurance of his employes shall cease solely by reason of such discontinuance.

(d) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the insured persons or by the policyholders, employers or unions.

(5) Life insurance covering the members of any credit union, co-operatives or any association of public employes, written under a policy issued to such organization which shall be deemed to be the policyholder for the purposes of this chapter, the premium on which is to be paid by the organization or by the organization and its members jointly, and insuring all of its eligible members for amounts of insurance based upon some plan which will preclude individual selection, for the benefit of persons other than the organization or its officials; provided that all eligible members of a credit union, co-operatives or any association of public employes may be insured; provided also that when the premium is to be paid by the organization and its members jointly and the benefits are offered to all eligible members, not less than 75 per cent of such members may be so insured. Provisions of subsections (6) to (10) of section 206.61 shall not be required as to policies issued under this subsection.

(6) Life insurance covering the lives of members of a group of persons who become borrowers from one credit union under agreement to repay the sum borrowed in instalments over a period of not more than 20 years, to the extent of their indebtedness to said credit union but not to exceed \$10,000 on any one life, written under a policy which may be issued upon the application of and made payable to the credit union as beneficiary, the premium on such policy to be payable by the credit union, the borrower, or jointly by the credit union and borrower, except that such limitation as to amount shall not apply to any group policy existing on July 15, 1949 nor to any amount thereafter written pursuant to such policy. Section 206.61 (6) to (11) shall not be required as to policies issued under this subsection. The insurance specified in s. 201.04 (4) may be written in any such policy with or without separate premium charge notwithstanding s. 201.05 (3).

(7) No such policy of group life insurance may be issued to an employer, or labor union or to the trustees of a fund established in whole or in part by an employer or a labor union, which provides term insurance on any person which, together with any other term insurance under any group life insurance policy or policies issued to the employer or employers of such person or to a labor union or labor unions of which such person is a member or to the trustees of a fund or funds established in whole or in part by such employer or employers or such labor union or labor unions, exceeds \$20,000, unless 150 per cent of the annual compensation of such person from his employer or employers

exceeds \$20,000, in which event all such term insurance shall not exceed \$40,000 or 150 per cent of such annual compensation, whichever is the lesser. These limitations as to amount shall not apply to any such group policy existing on July 15, 1949, or to any amount thereafter written under the policy.

History: 1961 c. 463.

206.61 Group life insurance standard provisions. No policy of group life insurance shall be delivered in this state unless it contains in substance the following provisions, or provisions which in the opinion of the commissioner are more favorable to the persons insured, or at least as favorable to the persons insured and more favorable to the policyholder, provided (a) that provisions of subs. (6), (8), (9) and (10) shall not apply to policies issued to a creditor to insure debtors of such creditor and subs. (7) and (11) also shall not apply to such policies issued under s. 206.60 (6); (b) that the standard provisions required for individual life insurance policies shall not apply to group life insurance policies; (c) that if the group life insurance policy is on a plan of insurance other than the term plan, it shall contain nonforfeiture provisions which in the opinion of the commissioner are equitable to the insured persons and to the policyholder, but nothing herein shall be construed to require that group life insurance policies contain the same nonforfeiture provisions as are required for individual life insurance policies; and (d) that the premium rate applicable to an individual policy issued pursuant to sub. (8) or (9) shall be determined without taking into account any extra rate of mortality expected among the general class of persons exercising the rights afforded by such subsections:

(1) A provision that the policyholder is entitled to a grace period of 31 days for the payment of any premium due except the first, during which grace period the death benefit coverage shall continue in force, unless the policyholder shall have given the insurer written notice of discontinuance in advance of the date of discontinuance and in accordance with the terms of the policy. The policy may provide that the policyholder shall be liable to the insurer for the payment of a pro rata premium for the time the policy was in force during such grace period.

(2) A provision that the validity of the policy shall not be contested, except for nonpayment of premiums, after it has been in force for 2 years from its date of issue; and that no statement made by any person insured under the policy relating to his insurability shall be used in contesting the validity of the insurance with respect to which such statement was made after such insurance has been in force prior to the contest for a period of 2 years during such person's lifetime nor unless it is contained in a written instrument signed by him.

(3) A provision that a copy of the application, if any, of the policyholder shall be attached to the policy when issued, that all statements made by the policyholder or by the persons insured shall be deemed representations and not warranties, and that no statement made by any person insured shall be used in any contest unless a copy of the instrument containing the statement is or has been furnished to such person or to his beneficiary.

(4) A provision setting forth the conditions, if any, under which the insurer reserves the right to require a person eligible for insurance to furnish evidence of individual insurability satisfactory to the insurer as a condition to part or all of his coverage.

(5) A provision specifying an equitable adjustment of premiums or of benefits or of both to be made in the event the age of a person insured has been misstated, such provision to contain a clear statement of the method of adjustment to be used.

(6) A provision that any sum becoming due by reason of the death of the person insured shall be payable to the beneficiary designated by the person insured, subject to the provisions of the policy in the event there is no designated beneficiary as to all or any part of such sum owing at the death of the person insured, and subject to any right reserved by the insurer in the policy and set forth in the certificate to pay at its option a part of such sum not exceeding \$500 to any person appearing to the insurer to be equitably entitled thereto by reason of having incurred funeral or other expenses incident to the last illness or death of the person insured.

(7) A provision that the insurer will issue to the policyholder for delivery to each person insured an individual certificate setting forth a statement as to the insurance protection to which he is entitled, to whom the insurance benefits are payable, and the rights and conditions set forth in subsections (8), (9) and (10).

(8) A provision that if the insurance, or any portion of it, on a person covered under the policy ceases because of termination of employment or of membership in the class or classes eligible for coverage under the policy, such person shall be entitled to have issued to him by the insurer, without evidence of insurability, an individual policy of life in-

insurance without disability or other supplementary benefits, provided application for the individual policy shall be made, and the first premium paid to the insurer, within 31 days after such termination, and provided that:

(a) The individual policy shall, at the option of such person, be on any one of the forms, except term insurance, then customarily issued by the insurer at the age and for the amount applied for;

(b) The individual policy shall be in an amount not in excess of the amount of life insurance which ceases because of such termination, provided that any amount of insurance which shall have matured on or before the date of such termination as an endowment payable to the person insured, whether in one sum or in instalments or in the form of an annuity, shall not, for the purposes of this provision, be included in the amount which is considered to cease because of such termination; and

(c) The premium on the individual policy shall be at the insurer's then customary rate applicable to the form and amount of the individual policy, to the class of risk to which such person then belongs, and to his age attained on the effective date of the individual policy.

(9) A provision that if the group policy terminates or is amended so as to terminate the insurance of any class of insured persons, every person insured thereunder at the date of such termination whose insurance terminates and who has been so insured for at least 5 years prior to such termination date shall be entitled to have issued to him by the insurer an individual policy of life insurance, subject to the same conditions and limitations as are provided by subsection (8), except that the group policy may provide that the amount of such individual policy shall not exceed the smaller of (a) the amount of the person's life insurance protection ceasing because of the termination or amendment of the group policy, less the amount of any life insurance for which he is or becomes eligible under any group policy issued or reinstated by the same or another insurer within 31 days after such termination, and (b) \$2,000.

(10) A provision that if a person insured under the group policy dies during the period within which he would have been entitled to have an individual policy issued to him in accordance with subsection (8) or (9) and before such an individual policy shall have become effective, the amount of life insurance which he would have been entitled to have issued to him under such individual policy shall be payable as a claim under the group policy, whether or not application for the individual policy or the payment of the first premium therefor has been made.

(11) In the case of a policy issued to a creditor to insure debtors of such creditor, a provision that the insurer will furnish to the policyholder for delivery to each debtor insured under the policy a form which will contain a statement that the life of the debtor is insured under the policy and that any death benefit paid thereunder by reason of his death shall be applied to reduce or extinguish the indebtedness.

History: 1961 c. 333.

206.62 Notification of policyholders. Any section of this chapter which requires the sending of notice, proposals, ballots or other materials to policyholders shall have been complied with if such notice, proposals, ballots or other materials are mailed to the last known post-office address of the policyholder or of the insured for delivery to the policyholder. The term "policyholder" as used in this section means the person who owns the policy of insurance.

206.63 Credit life insurance requirements. Credit life insurance may be written as follows:

(1) (a) Except as required by this section and except as provided in s. 206.60 (6), group credit life insurance shall be subject to the conditions and restrictions of s. 206.60 (2).

(b) Individual credit life insurance policies shall be for nonrenewable, nonconvertible, term insurance.

(2) (a) The amount of insurance on the life of any debtor shall at no time exceed the amount owed by him which is repayable in instalments to the creditor, or \$10,000, whichever is less. Where the indebtedness is repayable in one sum to the creditor, the insurance on the life of any debtor shall in no instance be in effect for a period in excess of 18 months except that such insurance may be continued for an additional period not exceeding 6 months in the case of default, extension or recasting of the loan. The amount of the insurance on the life of any debtor shall at no time exceed the amount of the unpaid indebtedness, or \$10,000, whichever is less.

(b) The conditions and restrictions imposed upon individual credit life insurance policies shall not apply to policies issued by a life insurance company in connection

with specific loans or credit transactions when evidence of insurability is required in connection therewith; nor shall the restrictions imposed on individual credit life policies or group credit life policies apply to policies issued by a life insurance company in connection with a loan or other credit transaction of more than 5 years.

(c) The provisions of this section shall not be construed to authorize licensees under s. 115.09 to require or accept insurance not permitted under s. 115.09 (7) (f).

(3) (a) A certificate or policy showing the amount and term of insurance shall be delivered to the insured debtor within 30 days of the date upon which indebtedness is incurred.

(b) When the insured debtor has paid or has obligated himself to pay all or any part of the premium, the total premium shall be shown in the certificate or policy issued to the insured debtor. Such certificate or policy shall contain in addition to all other requirements a provision for cancellation of insurance upon termination of indebtedness through prepayment by refinancing or otherwise and shall provide for a refund of any unearned premium which shall be computed on a formula which has been filed with the commissioner of insurance. However, in the case of insurance written in connection with a loan or credit transaction where the indebtedness is variable from period to period and the interest or charge is computed periodically on the outstanding balance, the certificate or individual policy may show the premium rate in lieu of the total amount of the premium.

(4) The insurer shall fully control and be responsible for the settlement or adjustment of all claims.

(5) In addition to all other requirements applicable to the filing of life insurance policy forms and rates, the provisions of s. 204.31 (3) (g) shall apply to all policies of credit life insurance.

History: 1961 c. 354.