

47.17.535;

(4) Section 47.56.370, chapter 13, Laws of 1961 and RCW 47.56.370;

(5) Section 10, chapter 170, Laws of 1965 ex. sess. and RCW 47.56.371; and

(6) Section 11, chapter 170, Laws of 1965 ex. sess. and RCW 47.56.372.

Passed the Senate April 15, 1973.

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CHAPTER 152

[ Engrossed Senate Bill No. 2524 ]

INSURANCE--COMMISSIONER--

POWERS AND DUTIES

AN ACT Relating to insurance; amending section .05.14, chapter 79, Laws of 1947 as last amended by section 3, chapter 241, Laws of 1969 ex. sess. and RCW 48.05.140; amending section .17.53, chapter 79, Laws of 1947 as last amended by section 11, chapter 241, Laws of 1969 ex. sess. and RCW 48.17.530; amending section 20, chapter 241, Laws of 1969 ex. sess. and RCW 48.18.292; amending section 6, chapter 229, Laws of 1951 as amended by section 12, chapter 241, Laws of 1969 ex. sess. and RCW 48.20.052; amending section .24.06, chapter 79, Laws of 1947 as last amended by section 21, chapter 195, Laws of 1963 and RCW 48.24.060; and amending section .30.01, chapter 79, Laws of 1947 as amended by section 24, chapter 70, Laws of 1965 ex. sess. and RCW 48.30.010.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

Section 1. Section .05.14, chapter 79, Laws of 1947 as last amended by section 3, chapter 241, Laws of 1969 ex. sess. and RCW 48.05.140 are each amended to read as follows:

The commissioner may refuse, suspend, or revoke an insurer's certificate of authority, in addition to other grounds therefor in this code, if the insurer:

(1) Fails to comply with any provision of this code other than those for violation of which refusal, suspension, or revocation is mandatory, or fails to comply with any proper order or regulation of the commissioner.

(2) Is found by the commissioner to be in such condition that its further transaction of insurance in this state would be hazardous to policyholders and the people in this state.

(3) Refuses to remove or discharge a director or officer who has been convicted of any crime involving fraud, dishonesty, or like moral turpitude.

(4) Usually compels claimants under policies either to accept less than the amount due them or to bring suit against it to secure full payment of the amount due.

(5) Is affiliated with and under the same general management, or interlocking directorate, or ownership as another insurer which transacts insurance in this state without having a certificate of authority therefor, except as is permitted by this code.

(6) Refuses to be examined, or if its directors, officers, employees or representatives refuse to submit to examination or to produce its accounts, records, and files for examination by the commissioner when required, or refuse to perform any legal obligation relative to the examination.

(7) Fails to pay any final judgment rendered against it in this state upon any policy, bond, recognizance, or undertaking issued or guaranteed by it, within thirty days after the judgment became final or within thirty days after time for taking an appeal has expired, or within thirty days after dismissal of an appeal before final determination, whichever date is the later.

(8) Is found by the commissioner, after investigation or upon receipt of reliable information, to be managed by persons, whether by its directors, officers, or by any other means, who are incompetent or untrustworthy or so lacking in insurance company managerial experience as to make a proposed operation hazardous to the insurance-buying public; or that there is good reason to believe it is affiliated directly or indirectly through ownership, control, reinsurance or other insurance or business relations, with any person or persons whose business operations are or have been marked, to the detriment of policyholders or stockholders or investors or creditors or of the public, by bad faith or by manipulation of assets, or of accounts, or of reinsurance.

(9) Does business through agents or brokers in this state or in any other state who are not properly licensed under applicable laws and duly enacted regulations adopted pursuant thereto.

Sec. 2. Section .17.53, chapter 79, Laws of 1947 as last amended by section 11, chapter 241, Laws of 1969 ex. sess. and RCW 48.17.530 are each amended to read as follows:

(1) The commissioner may suspend, revoke, or refuse to issue or renew any license which is issued or may be issued under this chapter or any surplus line broker's license for any cause specified in any other provision of this code, or for any of the following causes:

(a) For any cause for which issuance of the license could have

been refused had it then existed and been known to the commissioner.

(b) If the licensee or applicant wilfully violates or knowingly participates in the violation of any provision of this code or any proper order or regulation of the commissioner.

(c) If the licensee or applicant has obtained or attempted to obtain any such license through wilful misrepresentation or fraud, or has failed to pass any examination required under this chapter.

(d) If the licensee or applicant has misappropriated or converted to his own use or has illegally withheld moneys required to be held in a fiduciary capacity.

(e) If the licensee or applicant has, with intent to deceive, materially misrepresented the terms or effect of any insurance contract; or has engaged or is about to engage in any fraudulent transaction.

(f) If the licensee or applicant has been guilty of "twisting," as defined in RCW 48.30.180, or of rebating, as defined in chapter 48.30.

(g) If the licensee or applicant has been convicted, by final judgment, of a felony.

(h) If the licensee or applicant has shown himself to be, and is so deemed by the commissioner, incompetent, or untrustworthy, or a source of injury and loss to the public.

(i) If the licensee has dealt with, or attempted to deal with, insurances, or to exercise powers relative to insurance outside the scope of his licenses.

(2) If any natural person named under a firm or corporate license, or application therefor, commits or has committed any act or fails or has failed to perform any duty which is a ground for the commissioner to revoke, suspend or refuse to issue or renew the license or application for license, the commissioner may revoke, suspend, refuse to renew, or refuse to issue:

(a) The license, or application therefor, of the corporation or firm; or

(b) The right of the natural person to act thereunder; or

(c) Any other license held or applied for by the natural person; or

(d) He may take all such steps.

(3) Any conduct of an applicant or licensee which constitutes ground for disciplinary action under this code shall be deemed such ground notwithstanding that such conduct took place in another state.

(4) The holder of any license which has been revoked or suspended shall surrender the license certificate to the commissioner at the commissioner's request.

Sec. 3. Section 20, chapter 241, Laws of 1969 ex. sess. and RCW 48.18.292 are each amended to read as follows:

(1) ~~((No))~~ Each insurer shall be required to renew any contract of insurance subject to RCW 48.18.291 ~~((shall be terminated by refusal to renew by the insurer))~~ unless one of the following situations exists:

(a) The insurer gives the named insured at least twenty days' notice in writing as provided for in RCW 48.18.291(1), that~~((:~~

~~{i})~~ It proposes to refuse to renew the insurance contract upon ~~((such))~~ its expiration date; and sets forth therein the actual reason for refusing to renew; or

~~((ii))~~ Upon receipt of a written request from the named insured, it will forthwith mail to the named insured a written explanation of its actual reason or reasons for refusing to renew; and

~~{iii})~~ The named insured, within ten days after receipt of such notice, may at his option, request the insurer to furnish such written explanation; and)

(b) ~~((If the named insured exercises his option, the insurer shall forthwith, but, in any event, prior to the expiration date of the policy, mail to the named insured a written explanation giving the actual reason or reasons for its refusal to renew the contract.~~

~~{c})~~ This subsection {i} shall not apply in any of the following situations:

~~{i} If))~~ The insurer has communicated its willingness to renew in writing ~~((or orally through a duly authorized agent:))~~ to the named insured, and has included therein a statement of the amount of the premium or portion thereof required to be paid by the insured to renew the policy and the date by which such payment must be made, and the insured fails to discharge when due his obligation in connection with the payment of such premium or portion thereof; or

~~((ii))~~ If the named insured fails to discharge when due any of his obligations in connection with the payment of premium for the policy or any installment thereof, whether payable directly to the insurer or to its agent or indirectly under any premium finance plan or extension of credit;

~~{iii} If))~~ (c) The insured's agent or broker has procured other coverage acceptable to the insured at least twenty days prior to the expiration of the policy period.

(2) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of such renewal.

(3) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term: PROVIDED, HOWEVER,

That any policy with a policy period or term of six months or less whether or not made continuous for successive terms upon the payment of additional premiums shall for the purpose of RCW 48.18.291 through 48.18.297 be considered as if written for a policy period or term of six months: PROVIDED, FURTHER, That any policy written for a term longer than one year or any policy with no fixed expiration date, shall, for the purpose of RCW 48.18.291 through 48.18.297, be considered as if written for successive policy periods or terms of one year.

Sec. 4. Section 6, chapter 229, Laws of 1951 as amended by section 12, chapter 241, Laws of 1969 ex. sess. and RCW 48.20.052 are each amended to read as follows:

There shall be a provision as follows:

TIME LIMIT ON CERTAIN DEFENSES: (a) After two years from the date of issue of this policy no misstatements except fraudulent misstatements, made by the applicant in the application for such policy shall be used to void the policy or to deny a claim for loss incurred or disability (as defined in the policy) commencing after the expiration of such two year period.

(The foregoing policy provision shall not be so construed as to affect any legal requirement for avoidance of a policy or denial of a claim during such initial two year period, nor to limit the application of RCW 48.20.172, 48.20.182, 48.20.192, 48.20.202, and 48.20.212 in the event of misstatement with respect to age or occupation or other insurance.)

(A policy which the insured has the right to continue in force subject to its terms by the timely payment of premium (1) until at least age 50 or, (2) in the case of a policy issued after age 44, for at least five years from its date of issue, may contain in lieu of the foregoing the following provision (from which the clause in parentheses may be omitted at the insurer's option) under the caption "INCONTESTABLE":

"After this policy has been in force for a period of two years during the lifetime of the insured (excluding any period during which the insured is disabled), it shall become incontestable as to the statements contained in the application.")

(b) No claim for loss incurred or disability (as defined in the policy) commencing after two years from the date of issue of this policy shall be reduced or denied on the ground that a disease or physical condition not excluded from coverage by name or specific description effective on the date of loss had existed prior to the effective date of coverage of this policy. [More stringent provisions may be required by the commissioner in connection with individual disability policies sold without any application or with minimal applications] ((and with the approval of prima facie rates

for credit insurance in accordance with \*section 47 of this 1969 amendatory act)).

Sec. 5. Section .24.06, chapter 79, Laws of 1947 as last amended by section 21, chapter 195, Laws of 1963 and RCW 48.24.060 are each amended to read as follows:

The lives of a group of public employees may be insured under a policy issued to the departmental head or to a trustee, or issued to an association of public employees formed for purposes other than obtaining insurance and having, when the policy is placed in force, a membership in the classes eligible for insurance of not less than seventy-five percent of the number of employees eligible for membership in such classes, which department head or trustee or association shall be deemed the policyholder, to insure such employees for the benefit of persons other than the policyholder or any of its officials, subject to the following requirements:

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

(2) The premium for the policy shall be paid by the policyholder, in whole or in part either from salary deductions authorized by, or charges collected from, the insured employees or members specifically for the insurance, or from the association's own funds, or from both. Any such deductions from salary may be paid by the employer to the association or directly to the insurer. No policy may be placed in force unless and until at least seventy-five percent of the then eligible employees or association members, excluding any as to whom evidence of individual insurability is not satisfactory to the insurer, have elected to be covered and have authorized their employer to make any required deductions from salary.

(3) The rate of charges to the insured employees or members specifically for the insurance, and the dues of the association if they include the cost of insurance, shall be determined according to each attained age or in not less than four reasonably spaced attained age groups. In no event shall the rate of such dues or charges be level for all members regardless of attained age.

(4) The policy must cover at least twenty-five persons at date of issue.

(5) The amounts of insurance under the policy must be based upon some plan precluding individual selection either by the employees or members or by the association. ((Such amounts shall in no event exceed five thousand dollars of life insurance in the case of any employee or member, and the amount of life insurance shall not

exceed one thousand five hundred dollars in the case of retired employees or members and persons over age sixty-five.)

As used herein, "public employees" means employees of the United States government, or of any state, or of any political subdivision or instrumentality of any of them.

Sec. 6. Section .30.01, chapter 79, Laws of 1947 as amended by section 24, chapter 70, Laws of 1965 ex. sess. and RCW 48.30.010 are each amended to read as follows:

(1) No person engaged in the business of insurance shall engage in unfair methods of competition or in unfair or deceptive acts or practices in the conduct of such business as such methods, acts, or practices are defined pursuant to subsection (2) of this section.

(2) In addition to such unfair methods and unfair or deceptive acts or practices as are expressly defined and prohibited by this code, the commissioner may from time to time by regulation ~~((s))~~ promulgated ~~((only after a hearing thereon))~~ pursuant to chapter 34.04 RCW, define other methods of competition and other acts and practices in the conduct of such business reasonably found by him to be unfair or deceptive.

(3) No such regulation shall be made effective prior to the expiration of thirty days after the date of the order ~~((on hearing))~~ by which it is promulgated.

(4) If the commissioner has cause to believe that any person is violating any such regulation he ~~((shall))~~ may order such person to cease and desist therefrom. The commissioner shall deliver such order to such person direct or mail it to the person by registered mail with return receipt requested. If the person ~~((fails to comply therewith before))~~ violates the order after expiration of ten days after the cease and desist order has been received by him, he ~~((shall forfeit to the people of this state))~~ may be fined by the commissioner a sum not to exceed two hundred and fifty dollars for each violation committed thereafter, ~~((such penalty to be recovered by an action prosecuted by the commissioner))~~ or the commissioner may take such other action independently, or in addition, as is permitted under the insurance code for the violation of the regulation.

NEW SECTION. Sec. 7. If any provision of this 1973 amendatory act, or its application to any person or circumstance is held invalid, the remainder of the act, or the application of the provision to other persons or circumstances is not affected.

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Passed the House April 10, 1973.

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