

University of Miami Law Review

Volume 8
Number 3
Volume 8 Issues 2-3 (Winter-Spring 1954)
Survey of Florida Law

Article 13

5-1-1954

Insurance

Herbert A. Kuvin

Follow this and additional works at: <https://repository.law.miami.edu/umlr>

Recommended Citation

Herbert A. Kuvin, *Insurance*, 8 U. Miami L. Rev. 339 (1954)
Available at: <https://repository.law.miami.edu/umlr/vol8/iss3/13>

This Article is brought to you for free and open access by the Journals at University of Miami School of Law Institutional Repository. It has been accepted for inclusion in University of Miami Law Review by an authorized editor of University of Miami School of Law Institutional Repository. For more information, please contact library@law.miami.edu.

INSURANCE

HERBERT A. KUVIN*

The Florida legislature, state courts and federal courts have been very active relative to insurance law. Following in brief text form are the Florida decisions and recently enacted statutes which are pertinent to the general law of insurance. No attempt has been made to set forth any cases involving workman's compensation law except those decisions pertaining to the making, interpretation and enforcement of insurance policies.

REGULATION OF INSURANCE BUSINESS

Taxation of premiums.—An insurance company sought a declaratory decree and a mandatory injunction to compel the Insurance Commissioner to return to the company the one percent tax which had been levied by various municipalities against the gross receipts of the policy premiums executed by the company. The chancellor entered a decree in favor of the company which on appeal was affirmed by the Supreme Court.¹ Both courts, in construing Florida Statutes Chapter 175 (1949) and Florida Statutes Chapter 19112 (1939), held that the intent of the legislature relative to the proviso which exempts those companies not taxed by the state, is to free them from taxation by the cities also. Since the company, a domestic corporation, is exempted from state taxation, under the sections above, it is not required to pay any tax on premiums to the various municipalities considered by the statute. Therefore it is entitled to the return of the monies which it had paid under protest.

Supervision of policy provisions.—In this case,² the controversy involved the statutory power of the Insurance Commissioner to disapprove the policy of insurers with requisite notice and hearing. The trial court entered a decree construing Florida Statutes Sections 642.01 and 642.02. The Insurance Commissioner appealed. The decision was affirmed in part and reversed in part. It was held that the notice of disapproval of policy forms which stated that the forms contained provisions which were "unjust, inequitable and contrary to law and public policy," and which, in the specifications, recited inadequacies of benefits in relation to premiums received, was a sufficient notice, since the notice itself was not conclusive and a hearing was contemplated. Also, the insurer had its remedy by certiorari if it was dissatisfied with the outcome in such hearing.

*Professor, University of Miami School of Law. Member of the Florida and New Jersey Bars.

1. *Larson v. American Title & Ins. Co.*, 52 So.2d 816 (Fla. 1951).

2. *Larson v. Bankers Life & Casualty Co.*, 64 So.2d 322 (Fla. 1953).

SCOPE AND COVERAGE

As to insured.—This action rose out of a workmen's compensation claim against B, as employer.³ The employee successfully prosecuted his compensation claim against the insurance company. The deputy commissioner held that the policy issued by said carrier did not insure B, the individual. On appeal, the Industrial Commissioner held B was individually covered and reversed the deputy commissioner. On further appeal the circuit court held that the policy, as written and delivered, did cover B as an individual. It appeared that B and the agent of the carrier wrote the policy to insure:

Harry Blumberg, d/b/a B & S Fruit Company. Individual, co-partnership, corporation—or estate? Corporation.

It described the classification as orchards and vineyards and covered all operations including fruit pickers, drivers, chauffeurs and their helpers. The policy also contained standard form undescribed operations endorsement and named B without further description. The facts further indicated that the corporation was inactive for quite some time; that B owned extensive groves, including town and other rental properties which he administered personally, and this was known to the insurance company since it audited his books to arrive at the insurance premiums chargeable for this policy. The court stated that since the policies are prepared by the company, the insured may never read them unless some controversy arises as to their coverage. The law does not require the assured to read the policy. There was no suggestion of fraud and no mutual mistake of fact; the mistake involved was committed by the scrivener in reducing the policy to writing. Therefore, the mistake could be corrected by the Industrial Commission in accordance with the original intent of the parties. It was further held that under Florida Statutes, Section 440.41, the Industrial Commission has the authority and power to interpret a policy under the circumstances in this case.

Contract to provide liability insurance.—Plaintiffs sued for injuries sustained in a store by the falling of a ceiling tile.⁴ The defendants cross-claimed against a third party, claiming that under a contract with the store owner the third party had agreed to indemnify them against public liability arising out of the installation of air conditioning equipment in the store. The cross complaint was dismissed and judgment of exoneration was entered in favor of all the defendants except the store owner. It was held that in the absence of clear and unequivocal terms in a contract, an agreement of a contractor to procure public liability insurance would be construed to be a contract to indemnify only against the negligence of the indemnitor, not of the indemnitee. The court based its finding upon the well known principle that there can be no

3. Blumberg v. American Fire & Casualty Co., 51 So.2d 182 (Fla. 1951).

contribution between joint tortfeasors and, therefore, the store owner, as defendant, could not complain or even appeal from the judgment rendered in favor of the other defendant even though the judgment held against him.

Encroachment by "accident."—Plaintiff obtained a judgment for declaratory decree on a policy issued by defendant. The Supreme Court of Florida reversed on appeal.⁵ The policy issued by the defendant was a property damage liability policy whereby the company agreed to pay on behalf of the insured all sums which he shall be obliged to pay by reason of the liability imposed upon him by law for damage because of injury to or destruction of property "caused by accident" and arising out of the hazards such as ownership, maintenance or use of the property or all operations necessary or incidental thereto. The plaintiff procured a survey from a registered surveyor. Based upon the survey and the stakes placed on the premises owned by plaintiff, he constructed a building thereon. Plaintiff was an experienced contractor and builder by profession. Subsequently, it was discovered that the plaintiff had erected the building on part of the premises owned by the adjoining neighbor and said encroachment was occasioned by the error caused by the surveyor. Plaintiff paid the owner of the adjoining lot a sum of money to satisfy the adjoining owner's damages. Thereupon the plaintiff notified the defendant company of the claim. The insurance company denied liability under the policy. The court held:

An effect which is the natural and probable consequence of an act or cause of action is not an 'accident.' The effect which was the natural and probable consequence of the plaintiff's act in erecting the building was the encroachment on the adjoining property. This is true whether the plaintiff knew the facts as they were or understood them to be other than they were. The result or effect would be the same.

The court chose to ground its decision by finding that the plaintiff's action was the result of a "mistake" and therefore there was no liability under the policy which grounded company liability on "accident."

CONCEALMENT, REPRESENTATIONS AND WARRANTIES

"Sound health" clauses.—Plaintiff, wife of assured, as beneficiary, sued for the amount due on a life policy after the death of her husband.⁶ The policy was issued on an application without requirement of medical examination but contained a clause providing that only premiums were returnable "if within two years prior to issue of policy the assured required medical or surgical treatment." The agent for the company took the application from the assured on July 20th. On the

4. Jackson v. Florida Weather-Makers Inc., 55 So.2d 575 (Fla. 1951).

5. Hardware Mutual Casualty Co. v. Gerrets, 65 So.2d 69 (Fla. 1953).

6. Johnson v. Life Ins. Co. of Georgia, 52 So.2d 813 (Fla. 1951).

same day assured was examined by a doctor and sent to another doctor who x-rayed his chest, and on July 25th diagnosed the ailment as tuberculosis. The policy was issued on the same day and was delivered to the assured by the agent of the company several days thereafter. It is uncontroverted that assured was not in "good health" at delivery of the policy and that company's agent had actual knowledge of the tubercular condition of assured two months after delivery of the policy. It was held that the collection of premiums by the agent after such knowledge, constituted a waiver of the violation of the "good health" clause and the misrepresentation by the assured.

Physical history of assured.—Widow, as beneficiary, brought an action on a life policy.⁷ The insurance company denied liability, claiming false representations by assured as to his physical history on his application. On appeal it was held that there was apparent evidence that fraud in the procurement of the policy was practiced by the assured and a judgment in favor of the defendant was entered.

Refusal of other insurance.—Plaintiff sued to recover on a marine insurance policy.⁸ One ground of defense was that the plaintiff represented that no underwriter had ever refused insurance to him on the boat involved and that said representation was untrue, false, misleading and material to the risk thereby invalidating the insurance policy sued upon. It appeared that the plaintiff had made application to an insurer and was refused insurance without any reason being stated. He then made application to a broker who in turn made application to the same insurer for coverage, and said broker was advised of the refusal previously rendered on this risk. A jury verdict in favor of the defendant insurance company was affirmed on reargument.

AGENCY

Agency in insurance.—It was held that an agent who solicits life insurance policies, delivers the policy to the assured and continues to collect the installment premiums thereon is the general agent of the insurance company and that information or knowledge acquired by him, even though not communicated by him to the company, is knowledge imputed to and binding on the company.⁹

Fidelity and surety.—It was held that the rule is well settled in this country that knowledge communicated to an agent or officer of a corporation is not notice to the corporation in matters involving or applicable to fidelity and surety bonds so as to relieve or discharge the

7. *Gulf Life Ins. Co. v. Ferguson*, 52 So.2d 371 (Fla. 1952).

8. *Adams v. Royal Exchange Assurance*, 62 So.2d 591 (Fla. 1953).

9. See note 6 *supra*.

surety.¹⁰ In this matter a fidelity bond was placed on the office manager of the defendant. He misappropriated defendant's funds. The bond contained the provision that "the bond shall be deemed terminated as to any employee as soon as the insured shall learn of any dishonest or fraudulent acts on the part of such employee." The plaintiff bonding company attempted to rely on the testimony of a former secretary-treasurer of the corporation that he obtained knowledge of the employee's misappropriation, but the other officers of the corporation testified that the corporation had no such notice. A jury verdict in favor of the indemnified corporation was affirmed.

Apparent scope.—A bank sued for an accounting and recovery of unearned premiums not paid to it on policies which had been cancelled, but upon which the bank had paid the full premiums under premium loan transactions between the assured and the agent of the defendant insurance company.¹¹ It appeared that the assured, unable to pay the full premium for the three or five year term of fire insurance, would execute a premium loan contract with the insurance company agent. He in turn delivered the same to the bank, which paid the full premium, and by the terms of the contract, the assured was to have paid the bank installments agreed upon. However, when the policies were cancelled and the unearned premiums were returned, they were sent back by the insurance company to its agent instead of directly to the bank. The agent kept the returned unearned premiums. The bank sued the insurance company. Since the insurance company's agent was to receive premiums and return unearned premiums to the persons entitled to them, the court held that the company was liable for the agent's failure to do so, and the bank had a right to rely upon the agent's apparent authority since there were no circumstances which put the bank upon notice or inquiry relative to the agent's special or limited authority.

Adjuster's authority.—It was held that a fire adjuster, employed by the company, who met with the assured, valued the merchandise damaged and advised him that he would hear from the company in due course, had authority to waive proof of loss either in writing or orally by matter in pais which amounted to an estoppel.¹²

WAIVER AND ESTOPPEL

Acceptance of premiums with knowledge.—This case followed the familiar rule that a forfeiture of rights under an insurance policy is not favored by the law, especially where the forfeiture is sought after the

10. Phoenix Indemnity Co. v. Union Finance Co., 54 So.2d 188 (Fla. 1951).

11. Industrial Ins. Co. of N. J. v. First Nat. Bank of Miami, 57 So.2d 23 (Fla. 1952).

12. Guarantee Mut'l. Fire Ins. Co. v. Jacobs, 57 So.2d 845 (Fla. 1952).

happening of an event which gives rise to the insurer's liability. It is well settled that when an insurer has knowledge of facts which would justify the forfeiture of assured's policy, any unequivocal act which recognizes the continued existence of the policy amounts to a waiver. The court said:

. . . the intention to waive such rights may be inferred from a deliberate disregard of information sufficient to excite attention and call for inquiry as to the existence of facts by reason of which a forfeiture could be declared . . . Constructive notice may be the legal equivalent of knowledge, in the sense that circumstances putting the insurer on notice may not be deliberately disregarded . . .¹³

Filing of proofs of loss.—It was held that the action of the adjuster and agent of the company, after being advised of the loss, in informing the assured that he would hear from the company in due course, waived the requirement of the filing of the proofs of loss as required by the policy.¹⁴

Necessity for pleading.—The plaintiff started an action against the defendant insurance company, as beneficiary under a life insurance policy.¹⁵ The defendant by its answer denied liability claiming that the assured made false representations as to his physical history on the application upon which the policy was issued. The plaintiff failed to file a replication. At the trial the plaintiff, over the objection of the defendant, introduced evidence to prove estoppel or waiver. It was held that since waiver and estoppel was the main issue on which the case was decided and it was not affirmatively pleaded, the defendant was not on notice of such issue. The Supreme Court reversed the trial court on the ground that it erroneously permitted evidence to be presented relative to the waiver or estoppel.

Effect of denial of liability.—The court held where an insurance company, by its letter, after notice of loss, denies liability under its policy, it does so on the ground of coverage and, therefore, is estopped to defend on the defense of failure of timely notice.¹⁶

RIGHTS OF PARTIES

Assured.—The court will ascertain the intent of the parties to an insurance contract and will designate such assured as was actually intended and correct mistakes in that connection. This decision held:

Insurance policies are prepared by the insurance company and as is the case the insured may never read them unless some

13. See note 6 *supra*.

14. See note 10 *supra*.

15. See note 7 *supra*.

16. *Bituminous Casualty Corp. v. Oceano Towing Co.*, 197 F.2d 210 (5th Cir. 1952).

controversy arises as to their coverage. The law does not require him to do so.¹⁷

Assignee.—The controversy was whether a bank had a right to charge against the life insurance policy proceeds which decedent-assured had assigned to it as collateral security for monies received by the decedent from the bank during his lifetime. The bank was allowed recovery to the full extent of the monies which assured had received from it during his lifetime, since the assignment of the policies was for collateral security for any and all liability of the assured, either then existing or which might thereafter arise in the ordinary course of business between the assured and the assignee.¹⁸

Conditional vendor and vendee.—B bought a half interest in a truck secured by a loan to the bank. Later B bought the other half interest and advised the bank to have the insurance policy amended to show his sole ownership. He was informed by the bank that the policy had been properly taken care of and continued to make payments on his loan to the bank. The truck burned. The bank had failed to have the policy amended as agreed. The court held that since the bank had knowledge of all of the transactions by B and undertook to carry out the transfer of insurance, it was liable for the loss which he sustained to his truck.¹⁹

Subrogee.—An insurance company which pays a loss under its policy to its assured and takes back a "loan receipt" has the legal right to enforce the claim against the tortfeasor in the name of its assured and is not required to sue in the name of its assured to the use of said insurance company.²⁰

USE OF DECLATORY JUDGMENT ACTION

An insurance company filed an action for a declaratory judgment to determine whether or not it was obligated under its policy to defend actions on behalf of the person who operated the assured's car with the assured's permission and whether or not it was required to pay any judgments on behalf of said driver since said driver was insured individually and separately.²¹ It was held that no part of the insurance contract is questioned as to validity or construction. There must be some doubt as to the existence or non-existence of some right, statute, immunity, power or privilege which may be at stake under a deed, will, contract, article, memorandum or instrument in writing. There is only a factual question involved in this case since it is disputed as to whether or not

17. See note 3 *supra*.

18. *Silva v. Exchange Nat. Bank of Tampa*, 56 So.2d 332 (Fla. 1951).

19. *First Nat. Bank of Tarpon Springs v. Bliss*, 56 So.2d 922 (Fla. 1952).

20. *Gould v. Weibel*, 62 So.2d 47 (Fla. 1952).

21. *Columbia Casualty Co. v. Zimmerman*, 62 So.2d 338 (Fla. 1952).

the driver was operating the automobile of the assured with assured's consent.

BLANKET FIDELITY BOND

Plaintiff was protected by a blanket indemnity bond against loss by dishonest act of any of its employees and for the faithful performance of the prescribed duties of such employees.²² Plaintiff's treasurer carelessly and negligently used or permitted the use of funds of plaintiff in honoring and cashing forty-six drafts bearing the forged or unauthorized indorsements of the payees thereof without requiring the bearers, who presented such drafts, to indorse them in person before him. Upon discovery, plaintiff's bank charged plaintiff's account with the amounts. The surety company refused to make good this amount, maintaining that the payment to the bank by the plaintiff was a "voluntary payment." Judgment was for the plaintiff.

MARINE INSURANCE

An insurance carrier was ordered to pay the liability imposed upon the owner of the tug boat for injuries caused to the owner of the boat being towed by the assured while said owner was on board his own boat as the crew thereof.²³ The court held that the owner and crew of the towed boat were not passengers of the insured tug within the intendment of the "passenger hazard" exclusion clause.

COOPERATION CLAUSE

The plaintiff, insured under an automobile liability policy, brought a Florida statutory garnishment proceeding against the insurer on a judgment obtained for personal injuries arising out of an automobile collision.²⁴ The defense was that the insured had breached the "cooperation clause" of the policy. It was held to be prejudicial error to permit the plaintiff to retry a damage suit to show that the evidence for recovery in it was so strong that cooperation could not have changed the result. The failure to cooperate was immaterial, since the retrial prevented a fair trial on the issue of non-cooperation.

CONSTRUCTION OF POLICIES

Intent of parties.—The evidence as to the intent of the parties to an insurance contract will be accepted and given examination by the court, rather than the wording of the contract and it will be interpreted in accordance with the express intent of the parties.²⁵

22. *King Edward Employees Federal Credit Union v. Travelers Indemnity Co.*, 206 F.2d 726 (5th Cir. 1953).

23. See note 16 *supra*.

24. *Royal Indemnity Co. v. Rexford*, 197 F.2d 83 (5th Cir. 1952).

25. See note 3 *supra*.

Ambiguity.—Where contracts and statutes are ambiguous, interpretation may be necessary. Where the court is confronted with a contract, the meaning of which was well understood and settled by prior decisions, the court is not at liberty to modify it by interpretation even though the court may modify judge-made rules for better conformity with justice.²⁶

Theft.—The word “theft” comprehends essentially the wilful taking or appropriation of one person’s property by another wrongfully and without justification and with design to hold or make use of it in violation of the rights of the true owner. The intent to deprive the true owner of the property is a necessary ingredient of the offense.²⁷

Notice of cancellation.—In interpreting a provision in a policy the court held that the mere mailing of the notice to the address of the assured was compliance causing a cancellation of the contract.²⁸ It was stated:

We cannot stretch the rule of strict construction of insurance contracts in favor of the insured to mean that where the language is plain and unambiguous it may be given an added meaning. The contract here contains nothing at all about the receipt of the notice, but only about its mailing, and with that simple provision there seems to be meticulous compliance.

Surety contracts.—Where the owner brought an action against the surety for indemnification of loss sustained due to the alleged failure of a contractor to properly perform the building contract, the court held that the strict application of the common law rule of surety is not now applied in cases of compensated sureties.²⁹

Group life policies.—In a case involving the change of a beneficiary designated in a group policy, the court reiterated that the Florida courts follow the strict interpretation of policy requirements for a change of beneficiary in ordinary life policies issued to the individuals, but that in group policies the equity rule will be applied.³⁰

ATTORNEY’S FEES

Two cases involving the question of attorney’s fees under Florida Statutes Section 625.08 were decided by the courts. One, on a fidelity bond,³¹ held that this class of cases did not come within the statutory provision for attorney’s fees. The other case³² involved an action in the Florida state courts on an insurance policy issued and delivered in another state. There the court held that since insurance is a business affected

26. *Pafford v. Standard Life Ins. Co. of Indiana*, 52 So.2d 910 (Fla. 1951).

27. *State Assurance Underwriters v. Miller*, 58 So.2d 532 (Fla. 1952).

28. *Bradley v. Associates Discount Corp.*, 58 So.2d 857 (Fla. 1952).

29. *Gibbs v. Hartford Accident & Indemnity Co.*, 62 So.2d 599 (Fla. 1952).

30. *Travelers Ins. Co. v. Davis*, 102 F. Supp. 5 (S.D. Fla. 1952).

31. See note 10 *supra*.

with a public interest and is subject to the reasonable regulation of the state and, further, that the statute is a procedural provision; it is more or less a part of the insurance contract as much as the other statutes which become part of the contract by their terms.

PROCESS OF UNAUTHORIZED FOREIGN INSURERS

Two cases came before the Fifth Circuit Court of Appeals involving the question of Florida Statutes Sections 625.28-625.33, commonly known as the "Florida Unauthorized Insurers Process Act." Both cases were by the same plaintiff but against different insurers, each of whom was not authorized to transact business in the State of Florida. In the first case,³² the defendant, insurer, operated a mail order insurance business from Iowa. It had no office in Florida. No agents solicited any of its business in Florida. It transacted all its business by mail with the assured. At the time the assured received his policy by mail in 1950 he was a resident of Florida. Assured had mailed all his membership assessments regularly to the company's Iowa office. Upon his death, forms for proof of death were received from and returned to the company by mail. The court held that under the above mentioned 1949 statute, service of process upon the Insurance Commissioner of the State of Florida, in accordance with the terms of the statute, was not a denial of due process of law. However, the court expressly stated that it limited its construction, with relation to process, on insurance delivered in Florida to Florida residents subsequent to the passage of the statute. The Act could not have any retroactive effect upon unauthorized insurers having policies in force prior to the enactment of the statute.

In the second case,³⁴ the service of process was quashed by the court because it appeared that the defendant delivered the policy by mail to the assured in 1936 while he was a resident of Kentucky. The assured moved to Florida in 1946 and resided here until his death in 1951. It was held that the statute passed in 1949 would have no effect upon the defendant company's rights which had accrued prior to the passage of the statute.

STATUTORY ENACTMENTS

Foreign insurance companies: Credits.—This statute provides that a foreign insurance company which owns and substantially occupies any building in the State of Florida as a regional home office for an area of three or more states will be entitled to certain credits on the premium receipts taxed.³⁵

32. *Feller v. Equitable Life Ass'n*, 57 So.2d 581 (Fla. 1952).

33. *Parmalee v. Iowa State Traveling Mens Ass'n*, 206 F.2d 518 (5th Cir. 1953).

34. *Parmalee v. Commercial Travelers Mut. Acc. Ass'n of Am.*, 206 F.2d 523 (5th Cir. 1953).

35. Fla. Laws 1953, c. 27989.

Fire, casualty and surety insurance.—This statute amends several of the previous sections relative to non-admitted insurers, their resident agents or supervisory general agents and provides for the procedure in connection therewith.³⁶

Agents examination.—The Insurance Commissioner is permitted to issue a single license to transact life, accident and health insurance.³⁷

Group life insurance.—The amendment permits insurers to issue policies to trustees of a fund established by one or more employers and one or more labor unions as policy holders, to insure the employees and members of said organizations.³⁸

Group, accident and sickness insurance.—This permits a single group coverage for all employees of corporations under common control and defines such insurance to include summer camps, religious, instructive or recreational meetings.³⁹

Capital stock of insurance and surety companies.—Capital stock may be divided into three classes, and insurance and surety companies may establish two or more classes of each kind and may increase or reduce the same as law will allow. Preferred stock may not be more than two-thirds of the actual paid up capital.⁴⁰

Investments by domestic corporations.—A comprehensive enactment relates to domestic life insurance company investments. It specifies which securities are eligible for investments, reserves and capital and provides a penalty for the violation thereof and repeals all laws in conflict therewith.⁴¹

Accident and sickness insurance.—Provision is made for uniform accident or sickness insurance policies. The terms, conditions, provisions, form and style of these policies are specified in the statute.⁴²

Names of insurance companies.—Insurers are required to submit the name under which they intend to operate to the Insurance Commissioner for his approval. The Commissioner must provide notice to other insurers whose name might be adversely affected, giving them the right to file objections within twenty days. If the Commissioner approves, insurers adversely affected have sixty days to institute an action in the Circuit Court of Leon County for review of the ruling.⁴³

36. Fla. Laws 1953, c. 28002, amendatory of FLA. STAT. §§ 627.55(6), 627.57, 627.59(3), 627.61 and 627.62.

37. Fla. Laws 1953, c. 28004, *proposed* FLA. STAT. § 634.07(4).

38. Fla. Laws 1953, c. 28005, amendatory of the first paragraph of FLA. STAT. § 635.24(4).

39. Fla. Laws 1953, c. 28006 amendatory of FLA. STAT. §§ 642.04(2) and 642.06.

40. Fla. Laws 1953, c. 28010 amendatory of FLA. STAT. §§ 611.06 and 625.02.

41. Fla. Laws 1953, c. 28015 is new and became effective Oct. 15, 1953.

42. Fla. Laws 1953, c. 28027 amendatory of FLA. STAT. c. 642 by adding this to § 642.03(1), and continues §§ 642.04(1) and 642.03 under special circumstances until Oct. 1, 1956, upon which date they will be repealed.

43. Fla. Laws 1953, c. 28066 is entirely new.

Agents character report.—Insurance company officials are required to keep on file a full and complete detailed report on the credit and character of each individual qualifying as an accident and health insurance agent for the first time.⁴⁴

Insurance adjusters.—Florida Statutes Chapter 636 is repealed. The new enactment applies to fire, casualty, marine and surety insurance policy contracts and the adjustment of claims arising thereunder. It states that it is for the purpose of protecting the interest of the public with respect to insurance adjusters and makes provision to regulate their business.⁴⁵

Agents and solicitors.—A new statute is applicable to all agents and solicitors other than those engaged in title insurance, health and accident or life insurance. It is for the regulation and conduct of the business of insurance agents and solicitors, their examination and licensing, and it invests certain powers and authority in the Insurance Commissioner to administer the act.⁴⁶

Temporary licenses of life agents.—At the request of an insurer of industrial or ordinary-combination class, a person may have issued to him a temporary license as a life insurance agent provided he takes an examination within ninety days thereafter. If he fails the examination, his license ceases automatically, unless it is extended by the Commissioner, at his discretion, until the taking of the second examination.⁴⁷

Insurance trade practices.—Certain sections of this statute are amended pertaining to the definition of the word "person." Anti-coercion by the mortgagee and "twisting" is prohibited. The penalty provision of the statute was changed to provide for the revocation of the license, after notice of a hearing for violation of a cease and desist order by the Commissioner. The violation is punishable as a misdemeanor.⁴⁸

Alien fire and casualty companies.—A new provision designated as Florida Statutes Chapter 631 sets forth all of the conditions and provisions to be complied with by foreign fire and casualty insurance companies transacting business in Florida.⁴⁹

STATUTES, NOT PURELY INSURANCE, BUT AFFECTING THE INSURANCE BUSINESS

Maintenance or personal care agreements.—A 1953 enactment provides that all agreements whereby a person or firm undertakes, for a consideration

44. Fla. Laws 1953, c. 28067 amendatory of FLA. STAT. § 627.43 by adding a new paragraph subsection (3) thereto and changing the present (3) to subsection (4).

45. Fla. Laws 1953, c. 28074, repealing FLA. STAT. c. 636 and enacting this law in its place.

46. Fla. Laws 1953, c. 28075 is new and will be designated as FLA. STAT. c. 627.

47. Fla. Laws 1953, c. 28179, amendatory of FLA. STAT. § 634.09(1).

48. Fla. Laws 1953, c. 28188, amendatory of FLA. STAT. §§ 643.02(1), 643.04 subsections (8) (b)(2), and (10), (11), and 643.11.

49. Fla. Laws 1953, c. 28189 is new and will be designated as FLA. STAT. c. 631.

paid in advance or for fees, to care for another for the duration of the other person's life or a term of years, is a business coupled and executed with a public interest and subjects it to the regulation of the Insurance Commissioner. The necessity of procuring a certificate of authority is also set forth. This act contains provisions and regulations usually found in acts pertaining to the regulation of the insurance business.⁵⁰

Burial contracts.—A new act requires that those making contracts which provide for the burial of persons upon the prepayment of sums of money comply with conditions akin to provisions imposed upon insurance companies transacting business in the state. It further requires persons or firms making these contracts to obtain from the Insurance Commissioner a certificate of authority to write such "pre-need burial contracts," and the Commissioner is given authority to regulate the business. Penalties for violation of any of the terms of the Act are set forth also.⁵¹

Excise tax on documents.—Mention is made here of the amendment to Florida Statutes Section 201.08, since it raises the question whether it will make the act apply to insurance policies, especially on contracts of endowment or annuities. Subsection one provides that the tax shall apply on:

. . . written obligations to pay money, . . . made, executed, delivered, sold, transferred, or assigned to in the State of Florida, and for each renewal of the same on each one hundred dollars of the indebtedness or obligation extended thereby, the tax shall be ten cents . . .⁵²

Commission on interstate cooperation.—The general purpose of this new statute⁵³ is to help the state cooperate and participate as a member of the Council of State Governments; to assist in procurement and formulation of, among other functions, the enactment of uniform and reciprocal statutes and administrative rules and regulations, and the interchange and clearance of research and information. The Council of State Governments is described to be a joint governmental agency of Florida and the other states which cooperate through it. The composition of the committee is set forth in the act.

50. Fla. Laws 1953, c. 28190 is new. While this properly does not come under the classification of insurance law, nevertheless, it is, by this legislation, treated as in the nature of insurance transactions and is being made the subject of the same kind of regulation and supervision.

51. Fla. Laws 1953, c. 28211 is new and will be designated as FLA. STAT. C. 639.

52. Fla. Laws 1953, c. 28216, amendatory of FLA. STAT. § 201.08. While this subject is not truly insurance law, the writer has placed it here to question whether it can be construed that the legislature intended that insurance transactions, such as assignments, pledging, designation of beneficiaries, even the making of insurance contracts can be construed to be included within the terms, "written obligations to pay money," and, therefore, are subject to the excise tax on the documents evidencing the same.

53. Fla. Laws 1953, c. 28292 is new. This act may indirectly have some effect upon the administration and regulation of the insurance business and policy forms, etc.