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INSURANCE

*G. Frank Purvis, Jr.**

Nineteen hundred and sixty-four was an active legislative year in the field of insurance law. The large number of bills enacted dealt principally with regulatory matters. These comments will follow the headings of those Parts of the Insurance Code amended.

I. DOMESTIC MUTUAL INSURERS

In 1962 the legislature amended the Code to reduce the required number of board meetings of the directors of domestic companies from twelve to at least six times a year. The amendment, however, was made applicable only to section 81, which dealt with stock insurers. Act 134 of 1964 has made the same change with respect to domestic mutual insurers by amending section 128 of the Code.

II. LIFE INSURERS

Sections 163 and 168 of the Code contain the Louisiana version of the National Association of Insurance Commissioners Standard Nonforfeiture Law and Standard Valuation Law. Since the original adoption of these two laws a number of changes have been made in the recommendations of the Insurance Commissioners and in the laws of the numerous states which have adopted them. The last such amendment in Louisiana was in 1960. Acts 154 and 155 amend these Louisiana laws to include the latest recommendations for the improvement of the law. Basically, these amendments establish modern tables as the minimum evaluation standards for annuities, disability benefits, and accidental death benefits, and revise the methods of determining minimum nonforfeiture values for term riders and family policies. Further, they authorize the use of the Commissioners 1961 Standard Industrial Mortality Table and the Commissioners 1961 Industrial Extended Term Insurance Table. Both enactments still leave the Louisiana law so that the effective date is at the option of the insurer, having no mandatory

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operative date provision. These enactments also made technical corrections to remove ambiguities and clarify the method of operation of the law when dealing with the determinations of amounts of insurance, reduced benefits in juvenile policies, non-forfeiture values on policies with term riders, treatment of level term and decreasing term riders, and term insurance on children expiring before age twenty-six covered under family policies.

III. INDUSTRIAL INSURERS

In order to set the minimum requirement for payments under funeral policies where the beneficiary does not avail himself of the contractual service set forth in the policy when it is practical and possible for the industrial insurer to furnish such services, act 124 of 1964 provides that the insurer shall make a "stated cash payment which shall be the refund of all premiums paid thereon, not to exceed 50% of the face amount." It is not stated whether or not this legislation is to apply from its effective date to policies already in force.

IV. DOMESTIC SERVICE INSURERS

Since service insurers also issue funeral policies and are faced with the same problem as industrial insurers, the legislature, by act 125 of 1964, subjected service insurers to the same requirement as that accorded industrial insurers under act 124 discussed above. The amendment in this instance was to section 292 of the Insurance Code.

Having decided that it was no longer in the public interest to permit the incorporation of service insurers, the legislature, by act 151 of 1964, prohibited the organization of domestic service insurers as well as the qualification of alien or foreign service insurers after August 1, 1964.

V. NON-PROFIT FUNERAL SERVICE ASSOCIATIONS

Previously, non-profit funeral service associations have been required to furnish their members and policyholders with statements of receipts and disbursements at least four times annually. This requirement has now been reduced by act 152 of 1964 so that only one such statement per year is required.

VI. INSURANCE CONTRACT

A new section 660 has been added to the Insurance Code by act 135 of 1964, which requires that the premium charged for the bail bond to which it is attached must be shown in the power of attorney attached to the bail bond. This is one of three new regulatory matters with respect to bail bonds. Act 136 requires that any power of attorney attached to a bail bond be countersigned by a licensed agent and act 138 gives the Casualty and Surety Division the duty to audit all powers of attorney attached to bail bonds.

VII. STANDARD FIRE POLICY

Act 464 of 1964 is designed to provide expressly for settlements under the valued policy law (section 695 of the Code) where there is a total loss as defined under subsection A of section 695 and the loss is covered by a blanket form policy of insurance. In such a case it provides that subsection B shall apply and the insurer shall pay to the insured the amount equal to the actual cash value at the time of the loss of each insured object so destroyed, not exceeding the total amount of the insurance. A new paragraph E is added to the section, which provides that the liability of the insurer in the event of loss, total or partial, shall not exceed the insurable interest of the insured in the property and nothing in the valued policy law shall preclude the insurer from questioning or contesting the insurable interest of the insured.

VIII. QUALIFICATION AND LICENSE REQUIREMENTS FOR LIFE INSURANCE AGENTS AND FOR BROKERS AND AGENTS OTHER THAN LIFE

There were a number of acts enacted by this legislature to change the method of handling agents' licenses. Basically, these acts amend the law, where necessary, to provide that a license, once issued to an insurance agent, shall remain in effect until surrendered by the holder or until the license is suspended, revoked, or its renewal is refused. With this change the law has been amended to require each insurer to notify the Commissioner annually of the appointments of such agents made by them, and, likewise, requires an annual notification from the insurer.

ance agent that he wishes to continue his license in effect. It also requires a notification from each insurer to the Commissioner of Insurance of the termination of the appointment of any agent. The acts making these changes are 139, 140, 141, 144, 148, with respect to life insurers and acts 142, 143, 146, 149, 341, with respect to brokers and agents other than life. Additionally, section 1458 of the Code, one of the Miscellaneous and Final Provisions, is amended by act 145 to recognize the continuing validity beyond one year of these licenses.

Act 136 of 1964 amended the Louisiana countersignature requirement to include "powers of attorney attached to bail bonds." This amendment to section 1171 was mentioned previously in discussing the insurance contract. All the acts mentioned under this heading are to become effective at 12:01 A.M. on January 1, 1965.

IX. UNFAIR TRADE PRACTICES

Section 1214 of the Insurance Code has been amended to include an additional provision, now numbered 11, defining as an unfair trade practice the participation directly or indirectly of any person in any plan to offer or effect any kind or kinds of life or health insurance or annuities as an inducement to the purchase by the public of any goods, securities, commodities, services, or subscriptions to periodicals. Excluded from this provision by act 371 is insurance written in connection with an indebtedness in case of death or disability of the creditor. This exclusion permits the continued writing of so-called creditor life and health insurance.

X. UNAUTHORIZED INSURANCE

Act 385 of 1964 adds a new section 1271 to the Insurance Code which specifically prohibits the sale of tontine funds in the state. Such funds are said to be those whereby any part of the principal or interest earned on individual contributions is to be used for the benefit of other contributors. The act expressly excludes from its effect insurance policies approved for use in the State of Louisiana by the Commissioner of Insurance. This, obviously, recognizes the special characteristics of insurance policies and is not intended to permit the sale of tontine fund contracts under the guise of insurance policies.

XI. EXAMINATIONS AND INVESTIGATIONS

For many years industrial insurance companies, as well as other types of domestic insurers, were required to be examined every two years by the Commissioner of Insurance, and more often if he deemed it necessary. On the other hand, old line life insurers, fire, casualty, and marine insurers were required to be examined only once every three years. Because of the growth in size and in number of the domestic insurance companies, together with the recommendation of the staff of examiners which is supplied to the Insurance Commissioner, act 137 of 1964 changed the requirement on these companies to once in every three years, making the law uniform for all types of domestic insurers.

XII. ADMINISTRATIVE ORDERS, HEARINGS, AND APPEALS

Two changes were made with respect to administrative hearings, orders, and appeals to correct deficiencies in the existing law. Act 150 recognizes the fact that the Commissioner cannot himself be personally present to conduct all hearings and has, therefore, authorized him to designate a department employee to hold hearings under section 1351 of the Code. Act 153 of 1964 gives to the Commissioner power to compel the attendance of any person needed at the hearing by subpoena, to administer oaths and to examine such persons under oath, and to require the production of any books, records, or papers relative to the inquiry. The method of service of the summons is to be made by registered mail or, where necessary, by the sheriff of the parish where these persons reside or may be found, the same as in cases of service of a notice to a witness in a civil proceeding. The act provides for penalties for failure to comply and fixes the fees for attendance and travel.

XIII. LOUISIANA INSURANCE RATING COMMISSION AND RATE REGULATION

The legislature, by act 118 of 1964, has now provided that provisions in automobile liability insurance contracts for the submission of claims by the assured to arbitration shall be effective only at the option of the assured. Such provisions shall not deprive the assured of his right to bring action against the insurer to recover any sums due him under the terms of the policy, nor shall it deprive the courts of jurisdiction of such actions

against the insurer. This provision is added as paragraph (5) to subsection D of section 1406 of the Code. We have previously mentioned that act 138 of 1964 added to the specific duties of the Casualty and Surety Insurance Division the audit of all powers of attorney attached to bail bonds.

Previously, the information filed by any fire, marine, or any inland marine insurer in connection with the rates it proposed to use became open to public inspection only after the filing became effective. Act 362 of 1964 amends section 1407 so that such a filing and all information pertaining to it shall be open to public inspection when filed with the Fire Insurance Division or the Marine and Inland Marine Insurance Division.

XIV. MISCELLANEOUS AND FINAL PROVISIONS

Previously, the penal action which the Commissioner of Insurance could take under the Insurance Code for violation of the insurance laws was limited to the right to suspend, revoke, or refuse to renew any license which was granted by him. By act 147 of 1964 the legislature has now recognized the trend in both state and federal law to permit the levy of an administrative fine in lieu of the penalties mentioned above. The Commissioner, by this act, is granted authority to levy a fine, not to exceed \$500.00, in lieu of suspension or revocation of a license duly issued, when, in his opinion, the violation does not warrant the suspension or revocation. The Commissioner is also authorized to withhold fines imposed under the section. Hearings must be held before the imposition of any such fine in accordance with the provisions of the Insurance Code.

Previously mentioned is the amendment to section 1458 by act 145 of 1964, recognizing the extension of the duration of agents' licenses beyond one year.

XV. GENERAL

Acts of the legislature which deal with insurance and are not amendments or additions to the Insurance Code are few in number. Act 285 of 1964 provides that insurance premiums for public liability and property damage insurance applying to and covering school buses owned by parish and city school boards shall be the obligation of the board owning such buses. It also recognizes the right of the parish and city school boards to pay

premiums for such insurance covering privately-owned buses used for transportation of school children for and on behalf of such boards. The Louisiana Trust Code, act 338 of 1964, deals, as was to be expected, with the use of insurance in connection with trusts, and this will not be discussed here.

Of various other acts, one urges the Division of Administration to consider the possibility of providing hospital coverage for retired personnel and their wives (Senate Concurring Resolution 5); another permits executory proceedings to enforce mortgagee's claim for advances made for insurance premiums, among other things, when such advances are secured by valid mortgage (act 4); another authorizes retirement systems for hospital service districts to contract with admitted insurers for insurance coverage on officers and employees under group policies for hospitalization, pension, and retirement benefits (act 335); and still another approves investment by insurance companies in bonds to be issued by the Larose-Lafitte Toll Road Authority (act 486).