

Reported Recommending
Ind. Postponed
Passed House
Failed to Pass House
Passed Senate
Failed to Pass Senate

House File 186

February 3, 1947.
Insurance.

By SLOANE, SCHWENGEL, HEDIN,
NELSON of Woodbury, NELSEN.

A BILL FOR

An Act to provide for the qualification and licensing
of insurance agents.

Be It Enacted by the General Assembly of the State of Iowa:

1 Section 1. This act shall apply to all agents as
2 may be defined herein.

1 Sec. 2. When used in this act:

2 1. The word "agent" as used in this act means any
3 person residing in this state, or any partnership,
4 association or corporation, or their employees, and whose
5 principal office is in this state, and who or which
6 solicits, negotiates, or effects in this state, on behalf
7 of any insurer, contracts for insurance of any of the
8 following kinds, namely: fire, marine, casualty,
9 fidelity or surety, and who has an office in this state
10 in which is kept a record of such contracts of insurance
11 signed, countersigned, or issued by him or it.

12 2. The term "Commissioner" means the Commissioner
13 of Insurance of Iowa.

14 3. The term "Department" means the Insurance
15 Department of the State of Iowa.

1 Sec. 3. This act shall not apply to the follow-
2 ing:

3 1. County mutual insurance associations or
4 companies organized under the laws of this state, or
5 to their agents, representatives or employees, or to
6 their agents, representatives or employees writing
7 concurrent windstorm and hail insurance.

8 2. Life insurance companies and fraternal bene-
9 ficiary societies, their agents, representatives or
10 employees.

11 3. Employees engaged solely in office or clerical
12 duties for any company or agent.

13 4. Employees or traveling salaried representatives
14 of insurers or of organizations employed by insurers
15 who are engaged in the inspecting, rating or classify-
16 ing of risks or in the supervision of agents, and who
17 are not engaged in the solicitation or writing of insur-
18 ance, except in conjunction with or for a duly licensed
19 agent.

20 5. Officers of insurers or of association of in-
21 surers engaged in the performance of their usual and
22 customary executive duties and who are not engaged in
23 the solicitation or writing of insurance.

24 6. Policies or contracts of reinsurance.

1 Sec. 4. Only agents defined in Section 2 and
2 Section 5 of this Act shall, within this state, solicit,

3 negotiate or effect any policy of insurance for or on
4 behalf of any insurance company, on any property, or
5 insurable business activities or interests, located
6 within, or transacted within this state, and an agent
7 shall solicit, negotiate or effect policies of insur-
8 ance only in insurance companies lawfully authorized to
9 transact business in this state.

1 Sec. 5. Under such regulations and restrictions
2 as may be deemed necessary by the commissioner,
3 licenses may be issued to non-resident agents who
4 are licensed by the State in which they reside, upon
5 the payment of an annual fee of Ten Dollars (\$10.00) :
6 provided if, by the existing or future laws of any
7 state, a higher annual license fee is charged to
8 agents, resident of this state, then, and in that
9 event, the non-resident agent of said state shall pay
10 a like annual fee to this state; provided nothing con-
11 tained in this Section or Act shall be construed as
12 permitting a non-resident agent to countersign poli-
13 cies of insurance which are required by law to be
14 countersigned by a resident agent of this state.

1 Sec. 6. All such agents and non-resident agents
2 shall thereby become liable to all the duties, require-
3 ments, liabilities and penalties herein provided.

1 Sec. 7. The words "insurance company" wherever
2 used in this Act shall be held to include indemnity

3 companies, fidelity companies, surety companies, inter-
4 insurers, or any other insurer; and the words "insur-
5 ance", and "insurance policy" or "insurance contract"
6 wherever used in this Act shall be held to include
7 contracts of indemnity, fidelity or surety.

1 Sec. 8. Any person, partnership, association or
2 corporation or its employees hereafter desiring to en-
3 gage in the insurance business in this state as agent
4 as herein set out, shall first apply to the commissioner
5 of insurance of this state for a license authorizing
6 him to engage in and transact such business respective-
7 ly, which may lawfully be written in this state, in
8 accordance with the provisions of this Act. Such
9 application shall be in writing on uniform forms and
10 supplements prepared by the commissioner of insurance,
11 and shall be accompanied by an examination fee of
12 Ten Dollars (\$10.00), to be paid by all applicants
13 required to take an examination under Section 9 and
14 in accordance with the provision of this Act. It
15 shall be unlawful for any person other than the appli-
16 cant, directly or indirectly, to pay the examination
17 fee herein provided. The applicant shall make sworn
18 answers to such interrogatories as the commissioner
19 of insurance may require in such application, and the
20 application shall include a certificate by a resident
21 official or representative of any insurance company

22 lawfully authorized to transact business in this state,
23 certifying that the applicant is of good business
24 reputation and is worthy of a license. Such applica-
25 tion shall also show:

26 (1) The name and address and legal residence
27 of the applicant, and the name and address of the
28 agency, if any, with which applicant will be connected;

29 (2) Whether any license to act as agent has
30 been issued or refused heretofore by the commissioner
31 of insurance, and whether any such license has been
32 denied, suspended or revoked by any insurance depart-
33 ment of any state or territory of the United States;

34 (3) The business in which the applicant has
35 been engaged for the five years next preceding the
36 date of application, and if employed, the name and
37 address of such employer;

38 (4) Full information concerning the experience
39 of the applicant or the instruction he has received
40 in the kind or kinds of insurance business which the
41 applicant proposes to transact, and the kind or kinds
42 of insurance for which the application is made;

43 (5) That the license is not being procured
44 principally for the purpose of writing insurance on
45 the applicant's own property or risks, or on the
46 property or risks of an individual, or on the property
47 or risks of an individual, partnership, corporation

48 or association of which the applicant is a member,
49 stockholder, officer or employee.

50 (6) Any further information which appears per-
51 tinent or necessary to the commissioner of insurance.

1 Sec. 9. After the receipt of such application
2 in due form, properly verified and certified, it shall
3 be the duty of the commissioner of insurance, or his
4 deputy, within a reasonable time and in a place reason-
5 ably accessible to the applicant, in order to determine
6 the trustworthiness and competency of an applicant for
7 a license, to subject each first-time applicant for
8 license and if he deems necessary any application for
9 renewal of license, to personal written examination as
10 to his competency to act as such agent. When it is
11 shown from such application and examination that the
12 applicant is intending in good faith to act as an insur-
13 ance agent, and is of good business reputation and has
14 had experience or training, or is otherwise qualified
15 in the line or lines of insurance for which he desires
16 to be licensed, and is a resident of this state or has
17 his principal office for the conduct of such business
18 only in this state and is reasonably familiar with the
19 insurance laws of this state, and with the provisions,
20 terms and conditions of the policies or contracts he
21 is proposing to solicit, negotiate and effect, and is
22 worthy of a license, the commissioner of insurance

23 shall issue to the applicant a license to transact
24 business in this state as an insurance agent. Such
25 license shall continue until revocation for cause by
26 the commissioner of insurance for such time as the
27 agent is licensed by any authorized insurance company ;
28 provided that the commissioner of insurance may at any
29 time require the filing of the verified application or
30 the written examination as provided by this Act.

1 Sec. 10. Any insurance company lawfully author-
2 ized to transact business in this state may contract
3 with and appoint as its representative in this state,
4 as its agent or agents, any person or persons who holds
5 an unexpired agent's license issued under the provisions
6 of this Act, by filing with the commissioner of insurance
7 a requisition showing the names and addresses of such
8 appointments and by paying the statutory fee. The
9 annual fee charged for such agent's appointment shall
10 be, for domestic companies fifty cents and for companies
11 located outside the state two dollars. Such appointments
12 shall expire annually on the first day of July each year
13 and such appointments may be renewed in the same manner
14 upon payment of the annual license fee as herein set forth.
15 All appointments or licenses in force at the time this
16 Act becomes effective may be extended to July 1st of the
17 succeeding year upon payment by the companies of one-
18 fourth of such annual fee.

1 Sec. 11. In the event of the death or the in-
2 ability further to act, of an insurance agent holding
3 a certificate of authority from any insurance company,
4 where no other agent in the agency, co-partnership or
5 association is authorized to represent such insurance
6 company, the commissioner of insurance may issue a
7 temporary appointment to another person enabling such
8 other person to represent any such insurance company,
9 upon an application being made in conformity with
10 Section 8 and the additional information required by
11 this Section. Such temporary appointment shall con-
12 tinue only until the person appointed is afforded an
13 opportunity of taking the examination provided in
14 Section 9, but not to exceed a period of six months.

1 Sec. 12. An insurer may pay money, commission
2 or brokerage, or give or allow anything of value, for
3 or on account of the solicitation or negotiation in
4 this State of contracts of the kind or kinds enumerated
5 in Section 2 of this Act on property or risks in this
6 State only to its duly licensed agent.

7 An agent may pay money, commission or brokerage,
8 or give or allow anything of value, for or on account
9 of the solicitation or negotiation of contracts of the
10 kind or kinds enumerated in Section 2 of this Act, on
11 property or risks in this State, only to other duly
12 licensed agents.

1 Sec.13. Any person holding a license as agent
2 on the effective date of this act, may continue to act
3 under such license and may secure renewal thereof under
4 this act, provided that the commissioner of insurance
5 may at any time require the filing of the verified
6 application or the written examination as provided by
7 this act.

1 Sec. 14. The commissioner of insurance shall
2 revoke, deny, or shall suspend for such period of
3 time as he may determine, any insurance agent's
4 license, or any non-resident agent's license, if,
5 after notice and hearing as specified in this Act,
6 he determines that such agent, non-resident agent or
7 applicant

8 (1) has violated any provisions of, or any
9 obligation imposed by, the insurance laws of this
10 state, or has violated any law of this state in the
11 course of his dealings as agent or non-resident
12 agent; or

13 (2) has intentionally made a material mis-
14 statement in the application for his license; or

15 (3) has obtained or attempted to obtain a
16 license by fraud or misrepresentation; or

17 (4) has been guilty of fraudulent or dishonest
18 practices; or

19 (5) has misappropriated or converted to his

20 own use or illegally withheld monies required to be

21 held in a fiduciary capacity as agent; or

22 (6) has otherwise demonstrated incompetency to

23 transact business as an insurance agent or non-

24 resident agent; or

25 (7) has materially misrepresented the terms and

26 conditions of policies or contracts of insurance which

27 he seeks to sell or has sold; or

28 (8) has failed to pass the examination required

29 by this Act; or

30 (9) has solicited, written or placed on property

31 or risks located in this state contracts of insurance

32 for or on behalf of unlicensed or unauthorized insur-

33 ance companies or associations; or

34 (10) has divided or offered to divide any portion

35 of his commission except with another duly licensed

36 agent or non-resident agent; or

37 (11) has, by virtue of any promise of a loan, note,

38 mortgage or other lien held by the agent or his employer

39 on the insured property, required the insured or party

40 purchasing the insurance to accept a contract of insur-

41 ance written by said agent. No power of attorney or

42 other contract made in connection with a loan secured by

43 a mortgage or other lien shall be held to authorize the

44 agent to violate this provision; or

45 (12) has induced any insured to replace a policy

46 of insurance with another policy sold by said agent to
47 the direct or indirect detriment of any such insured.

48 Such hearing shall be held at such time and place
49 as shall be designated in a notice which shall be given
50 by the commissioner of insurance in writing to the per-
51 son involved therein at least twenty (20) days before
52 the date designated in such notice. The notice shall
53 state the subject of inquiry and the specific charges
54 against such agent.

55 In the conduct of such hearing, the commissioner
56 of insurance or any employee of the Department of
57 Insurance specially designated by him for such purpose
58 shall have power to administer oaths, and to examine
59 any person under oath and in connection therewith to
60 require the production of any books, records or docu-
61 ments relevant to the inquiry.

1 Sec. 15. Any written notice of a hearing, suspen-
2 sion, or denial of a license provided for in this Act
3 shall be served upon the person involved either person-
4 ally or by registered mail, and if by mail, such service
5 shall be complete when such notice is deposited in the
6 post office, postage prepaid, addressed to the address
7 of such agent, non-resident agent, or the applicant
8 stated in the application for a license.

1 Sec. 16. Within thirty days after a revocation,
2 suspension or refusal to license, the person aggrieved

3 shall have the right to petition the District Court of
4 the county where the office of the Insurance Department
5 is located, to require said commissioner of insurance
6 to show cause why the license should not be re-instated
7 or issued.

1 Sec. 17. No agent's license or appointment shall
2 be continued or renewed unless he is found to be active-
3 ly engaged in the insurance business, which shall be
4 taken to mean that during the year preceding the appli-
5 cation or requisition for such renewal or continuance,
6 the agent shall have written or placed a total volume
7 of premiums on insurance for the general public, greater
8 than the total volume of premiums which said agent shall
9 have written or placed on his own property or risks, or
10 on the property or risks of an individual, or on the
11 property or risks of an individual, partnership, corpor-
12 ation or association of which the agent is a member,
13 stockholder, officer or employee.

1 Sec. 18. No insurance company lawfully author-
2 ized to transact business in this state shall pay any
3 money or commission or brokerage or give or allow any
4 valuable consideration, except regular salaries to sal-
5 aried employees or compensation to supervising general
6 agents, to any person, partnership or association, not
7 a duly licensed agent or non-resident agent as herein
8 defined, for or because of service in negotiating or

9 producing in this state a contract of insurance on any
10 property, or insurable business activities or interests
11 located within or transacted within this state, except
12 reinsurance.

1 Sec. 19. It shall be unlawful for any person,
2 without conforming to the provisions of this Act direct-
3 ly or indirectly, to represent himself to be the agent
4 of any insurance company, or to solicit, negotiate or
5 effect in this state any contract of insurance or renewal
6 thereof on behalf of any company or any assured.

1 Sec. 20. Every insurance agent licensed under this
2 Act shall keep a record of all contracts of insurance
3 issued by him in his office which record shall contain
4 the usual and customary information concerning the risk
5 undertaken, including the full premium paid or to be
6 paid therefor. That portion of all premiums or monies
7 which an agent or non-resident agent collects from an
8 insured and which is to be paid to a company because of
9 the assumption of liability through the issuance of con-
10 tracts, is required to be held in a fiduciary capacity
11 as such and shall not be misappropriated or converted
12 to his own use or illegally withheld.

1 Sec. 21. The agent of any insurance company which
2 has not been authorized to transact business in this
3 state shall be personally liable upon all contracts
4 of insurance upon property or risks in this state, made

5 by or through him, directly or indirectly, for or in
6 behalf of any such company.

1 Sec. 22. The commissioner of insurance shall have
2 the power and authority to examine the books and records
3 of agents, non-resident agents, or any assured, in order
4 to determine compliance with this Act.

1 Sec. 23. Any person, persons, firm or association
2 violating any of the provisions of this Act shall, on
3 conviction, be fined a sum not exceeding five hundred
4 dollars and the license of the offender or offenders
5 may be suspended or cancelled.

1 Sec. 24. If any section or part of this Act shall
2 be held unconstitutional, such invalidity shall not
3 affect the remaining sections or parts.

EXPLANATION OF H. F. 186

This bill would provide for a more comprehensive law and require examinations in connection with licenses for insurance agents writing fire, marine, casualty, fidelity or surety.