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tract" and added "including but not * * * policies or contracts", added clause (c), and relettered former clauses (c) and (d) as (d) and (e).

Subd. 4 added L.1970, c. 295, § 2, eff. Sept. 1, 1970. Former subd. 4 renumbered 5.

Subd. 5, formerly 4, renumbered 5, L.1970, c. 295, § 2, eff. Sept. 1, 1970.

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3. Guaranteeing credit, etc.

Defendant, which was not licensed as insurer or authorized by its cer-

tificate of incorporation to function as insurer, acted unlawfully in conducting business of extending credit to clients of attorneys in personal injury actions for medical-legal evaluation and therapeutic care, by guaranteeing payment to providers of care. *People v. Allied Medical Clearing House Inc.*, 1967, 55 Misc.2d 489, 285 N.Y.S.2d 439, affirmed 29 A.D.2d 919, 289 N.Y.S.2d 391.

7. Certificate of self-insurance

Certificate of self-insurance can in nowise be equated with insurance contract or policy. *Aetna Cas. & Sur. Co. v. World Wide Rent-A-Car, Inc.*, 1967, 28 A.D.2d 286, 284 N.Y.S.2d 807.

§ 41-a. [Penalty for unauthorized business transactions] ¹

Any person, firm, association or corporation which transacts any insurance business in this state while not authorized to do so by a license issued and in force pursuant to this chapter, or exempted by this chapter from the requirement of having such license, shall, in addition to any other penalty provided by law, forfeit to the people of this state the sum of one thousand dollars for the first such violation and the sum of two thousand five hundred dollars for each subsequent violation. Added L.1970, c. 295, § 3, eff. Sept. 1, 1970.

¹ Section enacted without catchline which has been supplied by editor.

§ 42. Requirements for foreign or alien insurer's license

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Wendell Washington Ins. Co. v. Squier Corp., 1968, 31 A.D.2d 514, 294 N.Y.S.2d 835.

5a. Residence office

When originally filing application to transact business, foreign insurance company is not required to designate county within state in which its principal office is to be located. Provi-

incorporated alien insurers are not required to designate a residence office in application for authority to do business filed with Secretary of State. *General Acc. Fire & Life Assur. Corp. v. Allcity Ins. Co.*, 1967, 53 Misc.2d 596, 279 N.Y.S.2d 422.

§ 46. Kinds of insurance authorized

1. "Life insurance," meaning every insurance upon the lives of human beings and every insurance appertaining thereto. The business of life insurance shall be deemed to include the granting of endowment benefits; additional benefits in the event of death by accident or accidental means; additional benefits operating to safeguard the contract from lapse, or to provide a special surrender value, in the event of total and permanent disability of the insured; and optional modes of settlement of proceeds. Amounts paid to the insurer for life insurance and proceeds applied under optional modes of settlement or under dividend options may be allocated by the insurer to one or more separate accounts pursuant to section two hundred twenty-seven.

2. "Annuities," meaning all agreements to make periodical payments where the making or continuance of all or of some of a series of such payments, or the amount of any such payment, is dependent upon the continuance of human life, except payments made under the authority of paragraph one. Amounts paid to the insurer to provide annuities and proceeds applied under optional modes of settlement or under dividend options may be allocated by the insurer to one or more separate accounts pursuant to section two hundred twenty-seven.

13. "Personal injury liability insurance," meaning insurance against legal liability of the insured, and against loss, damage or expense incident to a claim of such liability, and including an obligation of the insurer to pay medical, hospital, surgical and disability benefits to injured persons, and funeral and death benefits to dependents, beneficiaries or personal representatives of persons who are killed, irrespective of legal liability of the insured, arising out of the death or injury of any person, or arising out of injury to the economic interests of any person as the result of negligence in rendering expert, fiduciary or professional service, but not including any kind of insurance specified in paragraph fifteen. Policies, except those covering nuclear facilities licensed by the atomic energy commission of the United States as meeting federal standards of radiological health and safety and nuclear facilities licensed by the state as meeting such federal standards, and except those purchased to satisfy the financial responsibility requirements of any federal law, issued to commercial or industrial enterprises providing insurance against the legal liabilities specified in this subdivision shall expressly exclude therefrom liability arising out of pollution or contamination caused by the discharge, dispersal, release or escape of any pollutants, irritants or contaminants into or upon land, the atmosphere or any water course or body of water unless such discharge, dispersal, release or escape is sudden and accidental.

14. "Property damage liability insurance," meaning insurance against legal liability of the insured, and against loss, damage or expense incident to a claim of such liability, arising out of the loss or destruction of, or damage to, the property of any other person, but not including any kind of insurance specified in paragraph thirteen or fifteen. Policies, except those covering nuclear facilities licensed by the atomic energy commission of the United States as meeting federal standards of radiological health and safety and nuclear facilities licensed by the state as meeting such federal standards, and except those purchased to satisfy the financial responsibility requirements of any federal law, issued to commercial or industrial enterprises providing insurance against the legal liabilities specified in this subdivision shall expressly exclude therefrom liability arising out of pollution or contamination caused by the discharge, dispersal, release or escape of any pollutants, irritants or contaminants into or upon land, the atmosphere or any water course or body of water unless such discharge, dispersal, release or escape is sudden and accidental.

As amended L.1968, c. 601, § 1; L.1970, c. 508, § 1; L.1971, c. 765, §§ 1, 2, eff. Sept. 1, 1971; L.1971, c. 766, §§ 1, 2, eff. Sept. 1, 1971.

Subd. 1 amended L.1970, c. 508, § 1, eff. Jan. 1, 1971. L.1970 added sentence beginning "Amounts paid".

Subd. 2 amended L.1968, c. 601, § 1, eff. Nov. 1, 1968; 1970, c. 508, § 1, eff. Jan. 1, 1971. L.1968 in sentence beginning "Any such agreement" deleted "made in connection with a qualified pension, profit-sharing or annuity plan" following "Any such agreement" and "or section two hundred twenty-seven-a or both" following "two hundred twenty-seven." L. 1970 substituted "Amounts" for "Any such agreement may provide that any amounts" and "and proceeds applied * * * dividend options may" for "shall" and deleted "whether such annuities are payable in fixed or variable amount or both" following "two hundred twenty-seven".

Subd. 13 amended L.1971, c. 765, § 1, eff. Sept. 1, 1971; L.1971, c. 766, § 1, eff. Sept. 1, 1971. L.1971, c. 765 inserted sentence beginning "Policies". L.1971, c. 766, in sentence beginning "Policies", inserted "except those covering * * * requirements of any federal law."

Subd. 14 amended L.1971, c. 765, § 2, eff. Sept. 1, 1971; L.1971, c. 766, § 2, eff. Sept. 1, 1971. L.1971, c. 765 inserted sentence beginning "Policies". L.1971, c. 766, in sentence beginning "Policies", inserted "except those covering * * * requirements of any federal law."

Effective Date of L.1971, c. 765; application. Section 3 of L.1971, c. 765, provided: "This act [amending subds. 13, 14 of this section] shall take effect on the first day of Sep-

tember next succeeding the date on which it shall have become a law [June 25, 1971] and shall be applicable to policies issued or renewed thereafter."

issuance of various types of insurance. *Helfaer v. John Hancock Mut. Life Ins. Co.*, 1966, 51 Misc.2d 839, 274 N.Y.S.2d 494, reversed 30 A.D.2d 102, 290 N.Y.S.2d 40, reversed 26 N.Y.2d 699, 308 N.Y.S.2d 805, 257 N.E.2d 46.

9. Life insurance

Group life insurance is "life insurance" within this section authorizing

§ 46-a. Subsidiaries of domestic life insurance companies

1. In addition to investments in subsidiaries to the extent, if any, permissible under subdivision four of section eighty, subdivisions eight, nine, ten, fourteen and sixteen of section eighty-one, section eighty-two and subdivision one of section two hundred twenty-seven, a domestic life insurance company may, subject to section sixty-seven, invest in, or otherwise acquire, under this section the stock, including voting trust certificates, certificates of deposit, interim receipts and other similar instruments representing such stock, of one or more solvent corporations engaged or organized to engage exclusively in one or more of the following businesses:

- (a) any kind of insurance business authorized by the jurisdiction in which it is incorporated;
- (b) acting as an insurance agent for its parent or for any of its parent's insurer subsidiaries;
- (c) investing, reinvesting or trading in securities or acting as a securities broker or dealer for its own account, that of its parent, any subsidiary of its parent or any affiliate or subsidiary;
- (d) rendering management, sales or other related services to any investment company subject to the federal investment company act of nineteen hundred forty, as amended;¹
- (e) rendering investment advice;
- (f) rendering services related to the functions involved in the operation of an insurance business including, but not limited to, actuarial, loss prevention, safety engineering, data processing, accounting, claims, appraisal and collection services;
- (g) acting as administrator of employee welfare benefit and pension plans for governments, government agencies, corporations or other organizations or groups;
- (h) ownership and management of assets which the parent could itself own and manage pursuant to any other section of this chapter, provided that the aggregate investment by the insurer and its subsidiaries acquired pursuant to this paragraph shall not exceed the limitations otherwise applicable to such investments by the parent;
- (i) acting as administrative agent for a government instrumentality which is performing an insurance function or is responsible for a health or welfare program;
- (j) financing of insurance premiums;
- (k) any other business activity reasonably ancillary to an insurance business;
- (l) owning a corporation or corporations engaged or organized to engage exclusively in one or more of the businesses specified in paragraphs (a) to (l) (k) inclusive.

Except to the extent permitted by subdivision nine, nothing in this section shall permit any domestic insurer organized or acquired as a subsidiary pursuant to this section to do any business other than that referred to in sections forty-six and sixty nor to permit any authorized foreign or alien insurer so organized or acquired to do any business in this state other than that referred to in such sections. Nor shall this subdivision authorize or permit any subsidiary of the type described in paragraph (b), organized or acquired pursuant to this section, to engage in any activity which is otherwise contrary to law.