

State of Iowa

1935

Amended and Revised Old Age Assistance Act

**Chapter 19, Acts of the Forty-fifth General Assembly in
Extraordinary Session as amended and revised by Senate
File 357, Acts of the Forty-sixth General Assembly.**

**Also, other Iowa statutes as amended by the Forty-sixth
General Assembly affecting or pertaining to old
age assistance.**

Published by

The Old Age Assistance Commission

Des Moines

THE IOWA OLD AGE ASSISTANCE ACT

as amended by Senate File 357, Acts of the Forty-sixth General Assembly.

Note: The amendatory act became effective as of May 10, 1935, by publication, except for those sections printed in italics which are effective as of July 1, 1935, under the provisions of the publication clause. Until July 1, 1935, sections 12, 13, 14, 34 and 36 of the original act remain in force.

Section 1. Definitions. When used herein:

- a. The term "commission" shall mean the old age assistance commission.
- b. The term "superintendent" shall mean the old age assistance superintendent.
- c. The term "board" shall mean the old age assistance board of a county.
- d. The singular shall include the plural and the masculine shall include the feminine.
- e. The term "domicile" shall mean the fixed permanent residence of the applicant or recipient of old age assistance, to which, when absent, he has the intention of returning.
- f. The term "residence" shall mean the place of dwelling of the applicant or recipient of old age assistance, whether permanent or temporary, and such dwelling place may or may not be the domicile of such person.

Sec. 2. **Commission created.** There is hereby created a commission to be known and designated as the old age assistance commission which shall be composed of three citizens of the state, no more than two of whom shall belong to the same political party, who shall within ninety days of the approval of this act, be appointed by the governor for a term of four years and ending July first of the respective year, except that of the members first appointed, one shall be appointed for a term of three years and one for a term of two years; provided, however, that the members first so appointed shall be subject to the approval of the executive council. As the term of a commissioner expires, the governor shall appoint a successor for a term of four years. All such appointments

shall be with the approval of two-thirds of the membership of the senate, in executive session. Each member of the commission shall receive as compensation, in addition to the necessary expenses incurred in the performance of his duties, ten dollars per diem while actually engaged in the business of the commission. Vacancies shall be filled in the same way as the original appointment.

Sec. 3. Superintendent. The commission shall appoint a superintendent who shall be qualified by character, training and experience. He shall receive a salary of three thousand dollars a year. The superintendent, with the approval of the commission, shall appoint the necessary number of assistants and fix their duties and salaries.

Sec. 4. Rules and regulations. The commission shall have authority to make such rules and regulations as are necessary to carry out the provisions of this act.

Sec. 5. Appointments of boards in counties. The old age assistance board of a county shall consist of three members, no more than two of whom shall belong to the same political party, of which the overseer of the poor shall be an ex-officio member. If any county has more than one overseer of the poor, the board of supervisors of such county shall designate, by writing, filed with the county auditor, the overseer who shall serve as a member of such board. The other two members of the board shall be appointed by the board of supervisors for a term of one and two years, respectively, and ending July first. Upon the expiration of the term of office of a member of the board, his successor shall be appointed by the board of supervisors for a full term of two years. If a vacancy occurs, otherwise than by the expiration of a term, in the office of an appointive member of the board, it shall be filled for the unexpired term. At least one member of the board shall be a woman, except that whenever a change in the office of overseer of the poor might place three men on the board, the appointive members shall serve the balance of their term unless removed for cause. Appointments shall be made in writing and filed with the county auditor.

Sec. 6. Compensation. The members of the board as herein provided shall receive no compensation for their services as members of such board, but they shall be entitled to the actual and necessary expenses incurred by them in properly discharging their official duties.

Sec. 7. Local investigators. Any member of the board may qualify himself as a local investigator, as hereinafter provided, or the board may appoint one or more local investigators, at a salary for each to be set by the board and approved by the commission. All appointments shall be made from candidates who have passed an examination prepared by the commission as to character, training and experience of the applicant and conducted under the supervision of the superintendent. Examinations shall be given at such times and in such places as the commission shall provide. The board in its discretion may arrange with other public or private relief departments or agencies to use one or more of their investigators who meet the required qualifications.

Sec. 8. Meetings. The commission and boards shall meet at such times and places as may be fixed by the rules of the commission.

Sec. 9. Persons entitled to assistance. Subject to the provisions and under the restrictions contained in this act, every aged person who has not an income of three hundred dollars a year, while residing in the state, shall be entitled to assistance in old age.

Sec. 10. Amount of assistance. The amount of assistance shall be fixed with due regard to the condition of the individual and community in each case but in no case shall it be an amount which, when added to the income of the applicant from all other sources, shall exceed a total of twenty-five dollars a month.

Sec. 11. Income considered. The income of the applicant shall be his income for the twelve months preceding the date on which his application is made; provided that, if the applicant does at the request of the commission show to their satisfaction a decrease of income, the amount of such decrease may be deducted from the income of the preceding twelve months in determining the amount of assistance to be allowed. However, in calculating the income of the applicant, occasional or uncertain earnings and/or gifts, as determined by the commission, in the amount of one hundred dollars in the aforesaid twelve-month period, shall not be considered.

Sec. 12. To whom granted. *Old age assistance may be granted only to an applicant who, at the time of making application for assistance or for the renewal of a certificate of assistance:*

a. has obtained legal residence and has domicile in the county from which he applies;

b. has attained the age of sixty-five years;

c. is a citizen of the United States;

d. has a domicile in this state and has had such domicile continuously for at least nine years immediately preceding the date of application, but such continuous domicile shall be deemed to have been interrupted by periods of absence from the state when such periods of absence total more than four years, except as otherwise provided in subsections e and f of this section;

e. has had at least five years residence in the state during the nine years immediately preceding the date of application, one of said five years having been continuous and immediately preceding such date. However, continuous residence shall be deemed to have been interrupted by periods of absence exceeding a total of thirty days during the said one year even though a domicile has not been acquired outside this state, except that temporary absences as a patient in a hospital or sanitarium shall not be deemed to have interrupted such continuous residence;

f. has been absent from the state in the service of the state or of the United States but has not acquired a domicile outside this state;

g. is not at the date of making application or of receiving aid, an inmate of any prison, jail, workhouse, insane asylum, or any other public reform or correctional institution;

h. for six months or more during the ten years preceding the date of application for assistance, if a husband, has not deserted his wife, or, without just cause, failed to support her and his children under the age of fifteen years; if a wife, has not deserted her husband, or, without just cause, failed to support such of her children as were under the age of fifteen years;

i. has not within two years preceding such application for assistance been a professional tramp or beggar;

j. has no spouse, child, other person, municipality, association, society or corporation responsible under the law of this state and found by the board or by the commission able to support him;

k. is found by the commission to be unable regularly to earn an income of at least three hundred dollars a year, on account of age, infirmity or inability to procure suitable employment.

Sec. 13. Property exclusions. No person shall receive old age assistance if the assessed value of his real property, less recorded liens, exceeds two thousand dollars, or if married and not separated from the spouse, if the net assessed value of his real property together with that of such spouse, less recorded liens, exceeds three thousand dollars.

No person shall receive old age assistance if he has more than three hundred dollars in cash, on deposit in a bank, in postal savings, or if the immediate cash value, as determined by the board and subject to review by the commission, of his holdings of bonds, stocks, mortgages, other securities or investments, except real estate, exceeds three hundred dollars. At the discretion of the commission, however, where such immediate sale, for cash, of such securities or investments necessitates an undue financial sacrifice, the applicant, when in immediate need of assistance, shall assign such securities and investments to the state to be held in trust by the commission to reimburse the old age assistance revolving fund for the amount paid from the old age pension fund and the old age assistance revolving fund in assistance or other benefits in behalf of said applicant.

No person shall be allowed assistance if the claimant has deprived himself, directly or indirectly, of any property for the purpose of qualifying for old age assistance, or if the claimant or the husband or wife conveys or encumbers any real estate or other property owned by them or by either of them for the purpose of preventing the state from reimbursing itself for assistance granted or to be granted hereunder.

A sworn statement by both the vendor and vendee of the reasons and/or considerations of any transfer of real and/or personal property within the five years immediately preceding the date of application for old age assistance may be required by the board or commission to be made in such manner and on such forms as the commission may direct; provided, however, that no sworn statement need be made for any transfer prior to January 1, 1934, unless the commission so directs.

Sec. 14. Annual income of property. The annual income of any real estate, which does not produce a reasonable income, shall be computed at five per centum of the assessed

value of such real property after deducting the amount of all recorded encumbrances and/or liens thereon.

The annual income of any personal property, including moneys and credits, which does not produce a reasonable income, shall be computed at five per centum of the value of such property as determined by the board and reported to the commission; provided, however, that the value of household goods and/or heirlooms shall be exempted to the amount of five hundred dollars in such computation.

The property owned at the date of application for assistance shall be taken as property of the applicant for the purpose of this act.

Sec. 15. Deduction from estate. On the death of a person receiving or who has received assistance under this act or of the survivor of a married couple, both of whom were so assisted, the total amount paid as assistance shall be allowed as a claim of the second class against the estate of such decedent, and neither the homestead nor the proceeds therefrom of such decedent or his survivor, shall be exempt from the payment of said claim, any act or statute to the contrary notwithstanding. The proceeds of such claim shall be paid into the old age assistance revolving fund. In case of the death of either husband or wife, both of whom have been receiving or have received assistance under this act, the estate of deceased shall not be settled or the homestead sold until the surviving spouse shall die or cease to occupy the homestead as such. Furthermore, no such claim shall be enforced against any real estate of the recipient, or the real estate of a person who has been a recipient, while it is occupied by the recipient's surviving spouse, if the latter, at the time of marriage to the recipient, was not more than fifteen years younger than the recipient, and does not marry again.

Sec. 16. Recovery of amount of assistance by state. In any event, the assistance furnished under this act shall be and constitute a lien on any real estate owned either by the husband or wife for assistance furnished to either of such persons. Whenever an order is made for such assistance to any person in whom or in whose spouse the title to any real estate is vested, a copy of such order shall be indexed and recorded in the manner provided for the indexing of real estate mortgages in the office of the county recorder of the county in which the real estate is situated, and such recording and indexing shall constitute notice of such lien. The county recorder shall not charge a fee for such recording and indexing.

Assistance furnished under this act shall not constitute a lien on any real estate owned by the Indian tribes residing in this state. This is the sole exception to the provisions of this and the preceding section.

No statute of limitations shall apply to any lien or cause of action, belonging to the state and arising under the provisions of this section or act, while the recipient, former recipient, or the spouse survives.

The commission shall release liens, accruing under the provisions of this section and act, when fully paid, when compromised and settled, or when the estate, of which real estate affected by this act is a part, has been probated and the proceeds allowable have been applied on such liens.

If the commission deems it necessary to protect the interest of the state, it may require, as a condition to the grant of assistance, the absolute conveyance of all, or any part, of the property of an applicant for assistance to the state of Iowa. Such property shall be managed by the board which shall pay the net income to the person or persons entitled thereto. The commission shall have power to sell, lease, or transfer such property or defend and prosecute all suits concerning it, and to pay all just claims against it, and to do all other things necessary for the protection, preservation and management of the property.

Upon the death of the recipient, or person who has received assistance, and the surviving spouse of such person, which spouse meets the requirements set out in section 15 of this act, the property shall be disposed of and the proceeds shall be transferred to the old age assistance revolving fund of the state.

The attorney general, at the request of the commission, shall take the necessary proceedings, and represent and advise the commission in respect to any matters arising under this act.

Sec. 16-a. Executor responsible. Any person becoming beneficially entitled to any property or interest therein by any method of transfer or otherwise, and all administrators, executors, referees, and trustees of estates subject to liens provided for by this chapter shall be respectively liable personally or under their bond for the proper settlement of such lien and claim by making proper application of the proceeds of said estate, under the provisions of sections 15 and 16 of this act.

Sec. 16-b. Assignment of insurance. Any person, who has

been granted a certificate of old age assistance and is receiving payments of assistance from the old age pension fund, may petition the commission to accept an assignment of any assignable death benefits, loan value, or cash surrender value, of any life insurance policy, death or funeral benefit of any association, society or organization, requiring further payment of premiums or assessments which such person believes he is unable to pay. The commission may accept such assignment if it deems such action advisable and in the best interests of such person and the state. Upon the payment of such death benefit, the commission shall first deduct the amount of the funeral expenses, incurred under the provisions of section 25 of this act, the amount of the premiums or assessments paid by the commission to keep the insurance or benefit in force, and the amount of assistance paid to such person, all of which shall accrue to the old age assistance revolving fund, and pay the balance received, if any, to such person as was the beneficiary last specified upon the policy.

Sec. 17. Applications. An applicant for assistance shall deliver his claim, in writing, to the board of the county in which he resides, in the manner and form prescribed by the commission.

All statements in the application shall be sworn to or affirmed by the applicant setting forth that all facts are true in every material point.

Sec. 18. Investigation. Whenever an application is made for old age assistance, the board shall promptly make an investigation through an investigator, and in addition such direct investigation as it deems advisable, and after hearing the applicant, if he so request, if it approves the application, shall make a recommendation of the amount of the assistance to be allowed, or, if it disapprove, make a recommendation that no assistance be allowed. The board shall send the application, its recommendation, and the reasons for its decision, to the commission with such supporting papers as the commission may require. The commission may thereupon make investigation as it sees fit through the superintendent or through the board making the recommendation, and may direct a hearing before the board, of which the applicant shall have at least ten days' notice, and at which he may appear and offer evidence. The commission shall decide upon the application and fix the amount of the assistance, if any. An applicant whose application for assistance has been rejected may within thirty days appeal from the decision of the commission

to the district court of the county in which the application was filed by serving a ten-days' notice of such appeal upon the superintendent or upon any member of the commission, in the manner required for service of an original notice. Upon service of such notice, the commission shall furnish the applicant a copy of the application, a copy of all supporting papers, a transcript of the testimony and a copy of its decision. The court shall hear and determine said application on its merits. Upon the allowance of any such application, any taxpayer of the county in which said application was filed may appeal to the district court of such county by serving notice as hereinabove provided, and upon service of said notice the commission shall furnish such taxpayer with a copy of said application, a copy of all supporting papers, a transcript of the testimony and a copy of its decision. The district court may either affirm or reverse the decision of the commission appealed from, and enter such order as may be proper; and said order and judgment of the district court shall be final. An applicant whose application for assistance has been rejected may not reapply for assistance until the expiration of twelve months from the date of the previous application.

Sec. 19. Witnesses. For the purpose of any such investigation, the commission and the board shall have the power to compel, by subpoena, the attendance and testimony of witnesses and the production of books and papers. All witnesses shall be examined on oath, and any member of the commission or of the board may administer said oath.

Sec. 20. Assistance certificate. The commission shall issue to each applicant to whom assistance is allowed a certificate for two years, stating the amount of each installment, which may be monthly or quarterly, as the commission may decide; and, on written order of the commission, the state comptroller shall issue and forward warrant, or warrant check, to such recipient in payment of each installment. The amount of assistance granted under this act shall be subject to review at any time by the commission and the amount received by the recipient may be increased, decreased, or discontinued.

Sec. 21. Renewal of certificate. A renewal certificate of assistance shall be required for each biennium, to be issued by the commission in such form, in such manner and following such investigation as the commission shall direct.

The general provisions as to the eligibility of applicants for assistance shall apply to recipients whose certificate are sub-

ject to review for the issuance of renewal certificates of assistance, with the following exceptions as to residence:

Provided, that he does not establish a domicile outside this state, a person may, while receiving assistance and with the approval of the commission, retain his rights under the provisions of this chapter and section, even though he takes up residence outside the state for reasons of the infirmities of age, health or economic necessity:

- a. in any privately supported charitable, benevolent or fraternal institution;
- b. in any privately supported hospital or sanitarium, except institutions for the feeble minded and insane;
- c. in the household of a relative or friend.

Sec. 22. When assistance commences. The assistance, if allowed, shall commence on the date named in the certificate, which shall be the first day of the calendar month following that on which the application is approved by the commission; provided, however, that no old age assistance payments shall be made before July 1, 1935, except as provided in section 35 of this act.

Sec. 22-a. Expiration of certificates. All applications for assistance which have been or are received and upon which assistance is granted by the commission between August 1, 1934, and July 1, 1935, shall be numbered, to designate individual pensioners and the county board to which they made application. The method of numbering shall be by numbers designating the various counties of the state according to their alphabetical arrangement by names.

The individual applications on which assistance is granted shall be numbered or designated as "pension" numbers consecutively, beginning with one, and separated by a hyphen from the county number, according to the order of their approval by the commission.

The expiration of the assistance certificates, provided for under the provisions of section 20 of this act, and granted by the commission between the dates set forth above, shall be deemed to be on September 30, 1935, for all application files whose pension numbers end in 1; and

October 31, 1935, for all applications whose pension numbers end in 2; and

November 30, 1935, for all applications whose pension numbers end in 3; and

December 31, 1935, for all applications whose pension numbers end in 4; and

January 31, 1936, for all applications whose pension numbers end in 5; and

February 29, 1936, for all applications whose pension numbers end in 6; and

March 31, 1936, for all applications whose pension numbers end in 7; and

April 30, 1936, for all applications whose pension numbers end in 8; and

May 31, 1936, for all applications whose pension numbers end in 9; and

June 30, 1936, for all applications whose pension numbers end in 0.

Sec. 23. To notify board of increase of property or income. If at any time during the currency or continuance of an old age assistance certificate the recipient, or the wife or husband of the recipient, becomes possessed of any property or income in excess of the amount allowed by this act in respect of the amount of assistance granted, it shall be the duty of the recipient immediately to notify the board of the receipt and possession of any such property or income, and the board may on inquiry, and with the approval of the commission, either cancel the assistance or pay the amount thereof during the period of the certificate. Any excess assistance paid shall be returned to the state, and recoverable as a debt due the state.

Sec. 24. Recovery in case of assistance from state. If on the death of any person receiving assistance it is found that he was possessed of property or income in excess of the amount allowed by this act, in respect of the amount of assistance, double the total amount of the assistance in excess of that to which the recipient was entitled may be recovered by the commission as a preferred claim from his estate, and the amount so recovered shall be transferred to the old age pension fund of the state.

Sec. 25. Funeral expenses. On the death of any person receiving old age assistance, such reasonable funeral expenses for burial shall be paid to such persons as the board directs; provided, such expenses do not exceed one hundred dollars and the estate of the deceased or any life insurance or death or funeral benefit association or society payment, made by reason of the death of such person, payable to his estate or the spouse

or any relative, responsible under sections 5298, 5301 and 10501-b6 of the code, 1931, is insufficient to defray the same.

The person to whom such funeral expense is paid as above provided is hereby prohibited from soliciting, accepting or contracting to receive any further compensation for services rendered in connection with such burial except on written approval of the board and subject to such rules and regulations as the commission shall direct.

Sec. 26. Inmate of institution. While any person receiving assistance is an inmate of any charitable, benevolent, or fraternal institution, the amount of assistance shall be paid to the governing authorities of that institution, and shall be applied toward defraying the actual expenses of such person in such institution; provided, that the commission has approved and that it and its agents are permitted freely to visit and inspect said institution. Any moneys remaining after defraying such expense shall be paid to the recipient. It shall not be lawful for the authorities of any charitable institution receiving public moneys, to refuse admission as an inmate of such institution, or to refuse relief, on the ground that the person is receiving assistance under this act.

Sec. 27. Recipient not to receive other assistance. No person receiving assistance under this act shall at the same time receive any other assistance from the state, or from any political subdivision thereof, except for medical and surgical assistance, and hospitalization.

This section shall not be construed to exclude the spouse, minor children or other dependents of the recipient of old age assistance, or the members of the same family or household as said recipient from receiving other forms of aid, relief, assistance or pensions handled or paid through the state or any of its political subdivisions. In administering old age assistance or other forms of relief, the officials of this state and its political subdivisions shall assume old age assistance payments to be made for the sole benefit of the aged person to whom the certificate of assistance has been issued.

Sec. 28. Incapacity of assisted. If the person receiving assistance is, on the testimony of reputable witnesses, found incapable of taking care of himself or his money, the board may direct the payment of the installments of the assistance to any responsible person or corporation for his benefit. It shall be within the power of the commission to suspend payment for such period as the board shall recommend.

Sec. 29. Assistance to be inalienable. All rights to old age assistance shall be absolutely inalienable by any assignment, sale, execution or otherwise, and, in the case of bankruptcy, the assistance shall not pass to or through any trustees or other persons acting on behalf of creditors.

Sec. 29-a. Unlawful to charge for cashing warrant. It shall be unlawful for any person, firm or corporation to charge a fee, service charge or exchange for the cashing of a warrant issued on the old age pension fund, or to discount or pay less than the face value of any warrant drawn on the old age pension fund when cashing the same or accepting it in the payment of the purchase price of goods or merchandise, services, rent, taxes, or indebtedness.

Sec. 30. Assistance certificate improperly obtained. If at any time the commission has reason to believe that an assistance certificate has been improperly obtained, it shall cause special inquiry to be made by the board, and may suspend payment of any installment pending the inquiry. It shall also notify the board of such suspension. If on inquiry it appears that the certificate was improperly obtained, it shall be canceled by the commission, but if it appears that the certificate was properly obtained, the suspended installments shall be payable in due course.

Sec. 31. Violations. Any person who by means of a willfully false statement or representation or by impersonation or other fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain:

- a. an assistance certificate to which he is not entitled; or
- b. a larger amount of assistance than that to which he is justly entitled; or
- c. payment of any forfeited installment grant; or any person who buys or aids or abets in buying or in any way disposing of the property of a person receiving assistance, without the consent of the commission, shall be guilty of a misdemeanor, and upon conviction, shall be punished by a fine not exceeding one hundred dollars, or by imprisonment in the county jail for not more than thirty days, or both.

Sec. 32. Penalty. Any person who violates any provision of this act for which no penalty is specifically provided shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine of not exceeding one hundred dollars, or by imprisonment in the county jail not exceeding thirty days, or

both. Where a person receiving assistance is convicted of an offense under this section the commission shall cancel the certificate.

Sec. 33. No assistance during imprisonment. If any person receiving assistance is convicted of any crime or offense and punished by imprisonment for one month or longer, the board shall direct that payments shall not be made during the period of imprisonment.

Sec. 34. Pension fund created. There is hereby created a fund to be known as the old age pension fund to be administered by the commission, the proceeds of which shall be used to pay the expenditures incurred under this act. To provide money for said fund, there is hereby levied on all persons residing in this state and who are citizens of the United States and of twenty-one years of age and upwards, except inmates of state and county institutions, an annual tax of two dollars. From the list certified to the county treasurer under the provisions of section 36 of this act it shall be the duty of such county treasurer to place the names of all persons subject to said tax on a tax list as specified by the auditor of state, and the said annual tax levied by the provisions of this section and act shall be collected in 1935, and each year thereafter, by the county treasurer as of January first, with delinquency date of July first, after which latter date a penalty of one per centum for each month or fractional month of delinquency, and the county treasurer shall make remittance thereof to the treasurer of state who shall credit same to the old age pension fund.

In any subsequent year to that in which any tax is due and payable, the county treasurer shall charge any unpaid tax and/or penalty against the property owned by the person by whom said tax is payable; or said county treasurer, when such delinquent person is not the owner of real estate, shall cause to be served a notice, which shall be served in the same manner as an original notice, upon the delinquent taxpayer's spouse or employer, if either, of the amount of the tax and penalties due and costs of collection and said spouse or employer shall pay the same, and thereupon the employer may subsequently withhold the amount thus paid in tax, penalty and cost of collection from any wages or salary then or in the future due said employee but costs of collection shall not be chargeable unless the tax and penalties are collected.

Any person, firm, association or corporation, including municipal corporations and special charter cities, having in

their employ continuously for a period of thirty days or more any resident of this state and who is a citizen of the United States, and to whom this act applies and who has not paid the tax provided for in this section, shall deduct said tax from the earnings of such employee and deliver to such employee a receipt for said collection and remit same to the treasurer of state, together with a report showing the amount and name of the person from whom collected; and the treasurer of state shall credit said tax as other taxes provided for in this section and act, and report to the county treasurer of the county from which such remittance was received, giving the name of the employee and the amount of such tax collected; and when said report has been received by the county treasurer, he shall credit such person on his books with said payment. Any employer failing to collect and so report said tax shall be liable therefor. As a condition for obtaining assistance under this act and from this fund, satisfactory proof shall be furnished to the board or commission that the applicant for said aid has paid all taxes due to said fund. Any one who becomes in arrears more than three years on this tax for any year shall forfeit all claim to old age pensions provided for herein.

The officer of each department, division, or bureau of the state government, including state educational institutions, whose duty it is to make out a payroll and to certify the same, shall be liable, personally and under his bond, for the failure of any state employee, under his jurisdiction, to pay the per capita tax levied under the provisions of this section. Such officer is hereby authorized to act in the same manner in withholding the tax from the salary or wages of a state employee as is granted a private employer and a municipal employer under the provisions of this section and act.

The penalties accruing under the provisions of this section shall accompany the tax and be credited to the old age pension fund.

All taxes collected under the provisions of this section and act shall be deposited to the credit of the old age pension fund, and shall be kept separate from the general fund of the state. On receipt of written order from the commission, the state comptroller shall draw warrants and/or warrant checks against the old age pension fund for any and all old age assistance payments and other expenditures provided for in this act.

Sec. 34-a. Refund of tax. Whenever any tax, as provided

for in the preceding section, has been erroneously paid or has been paid or collected more than once for the same year, the taxpayer by whom the tax was erroneously paid shall have the amount of said tax or duplicated tax refunded to him upon application to the county treasurer and the submission of satisfactory proof that the tax has been erroneously paid or paid more than once for any year. Such refund shall be from any old age pension funds then in the hands of such county treasurer.

Sec. 34-b. Authority to accept gifts. The commission is authorized to accept in behalf of the state any gifts, deeds, or bequests of money or property the proceeds of which shall accrue to the benefit of the old age pension fund. In the making of such gifts or contributions the donor shall attach no conditions, whatsoever. The management and disposition of any property so received will be in the commission but such management and disposition shall be subject to the approval of the executive council.

Sec. 34-c. Revolving fund created. There is hereby created a fund, to be known as the "old age assistance revolving fund," to be used for the purpose of protecting the interests of the recipients of old age assistance and such interests of the state and the old age pension fund as arise under the provisions of sections 13, 15, 16 and 16-b of this act.

To establish the old age assistance revolving fund, there is hereby appropriated out of any funds in the state treasury, not otherwise appropriated, the sum of twenty-five thousand dollars. The state comptroller shall set aside from the appropriation, herein made, the amount necessary to be used by the commission. Upon orders by the commission the comptroller shall draw warrants from this fund, if he so approve, for the purposes herein described.

All moneys hereafter received, under the provisions of the above described sections, including any money received under the appropriation herein made, shall constitute the old age assistance revolving fund. Whenever said fund shall have a balance in excess of the amount necessary to carry out the provisions for which it is created, the state comptroller shall transfer such excess to the old age pension fund and shall notify the commission of such transfer.

Sec. 35. Revenue and tax for 1934. For the purpose of affording old age assistance commencing November 1, 1934, under the provisions of this act prior to July 1, 1935, there is hereby levied on all persons pursuant to section 34, a tax of

one dollar, payable on or before July 1, 1934. The board of assessment and review is hereby directed to instruct the auditors of the several counties of the state to have the assessors submit lists of persons over twenty-one years of age, subject to this tax in their respective districts and the said auditor to pass these lists on to the treasurer of such counties for collection.

Sec. 36. Listing taxable persons. *Each assessor shall at the time of listing property for assessment list and return to the county auditor on or before June 1, 1936, and each year thereafter, the names and postoffice addresses of all persons subject to the tax provided for in this act; and the county auditor shall certify said list to the county treasurer on or before June 30, 1936, and each year thereafter.*

Sec. 37. Report of commission. Within ninety days after the close of each fiscal year, the commission shall make a report to the governor for the preceding year, stating:

- a. the total number of recipients;
- b. the amount paid in cash;
- c. the total number of applications;
- d. the number granted;
- e. the number denied;
- f. the number canceled during that year; and
- g. such other information as the commission may deem advisable.

Sec. 37-a. Comptroller's record. There shall be kept on file in the state comptroller's office an itemized record of all receipts and disbursements showing the money received from each county and the assistance granted to each county. A summary of the said record shall be compiled and published at the end of the tax year.

Sec. 38. Procedure. All methods of procedure in hearings, investigations, recording, registration, and accounting, pertaining to old age assistance under this act, shall be in accordance with the rules and regulations as laid down, from time to time, by the commission.

Sec. 39. Assistance subject to future statute. Every assistance granted under the provisions of this act shall be deemed to be granted and shall be held subject to the provisions of any amending or repealing act that may hereafter be passed, and no recipient under this act shall have any claims for compensation, or otherwise, by reason of his assistance being affected in any way by such amending or repealing act.

Sec. 40. **Appropriation to commission.** The sum of ten thousand dollars or so much thereof as may be found necessary, is hereby appropriated to the commission, out of any funds not otherwise appropriated for the purpose of carrying out the provisions of this act.

Sec. 41. **Construction of this act.**

1. Nothing in this act shall be construed as repealing any other act or part of an act providing for the support of the poor except insofar as inconsistent therewith, and the provisions of this act shall be construed as an additional method of supporting and providing for the aged poor.

2. This act shall be liberally construed.

3. If any provision of this act is held invalid, the validity of the remainder of the act shall not be affected thereby.

EDITORIAL NOTE

Herewith are set out amendments to statutes contained in the Code of Iowa of 1931, as they were amended by the Forty-sixth General Assembly to aid in the administration of the Old Age Assistance Act. The italicized words and sentences show the application of the amendments. To more thoroughly understand these amended sections, reference should be made to the complete chapters of the Code.

BYRON G. ALLEN,
Old Age Assistance Superintendent.

Chapter 66

ADMINISTRATION OF OATHS

as amended by House File 59, Acts of the
Forty-sixth General Assembly

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Note: Prior to the passage of this amendatory act, investigators had to become notary publics in order to administer oaths and affirmations. Since May 3, 1935, however, by virtue of their office, investigators have been given limited power to administer oaths.

1216. **Limited authority.** The following officers and persons are empowered to administer oaths and to take affirmations in any matter pertaining to the business of their respective office, position, or appointment:

1. Governor, secretary of state, secretary of agriculture, auditor of state, treasurer of state, attorney general.

2. Members of all boards, commissions, or bodies created by law.

3. All county officers other than those named in the preceding section.

4. Mayors and clerks of cities and towns, judges and clerks of election, township clerks, assessors and surveyors.

5. All duly appointed referees or appraisers.

6. *All investigators for old age assistance as provided for under chapter 19, acts of the forty-fifth general assembly, in extraordinary session.*

Chapter 267

SUPPORT OF THE POOR

as amended by Senate File 392, Acts of the
Forty-sixth General Assembly

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Note: Sections 5298 and 5301 are frequently referred to as a part of the "blood relationship" statutes. Under the law as it now stands and until July 4, 1935, when the herein described amendatory act becomes effective, the county old age assistance boards and the old age assistance commission had no power and authority to compel able sons, daughters, and male grandchildren to support their elderly and indigent parents and grandparents, even though it may have been necessary, under the old age assistance law, to refuse assistance because of the responsible relatives' ability, without hardship, to assist the elderly person.

5297. **"Poor person" defined.** The words "poor" and "poor person" as used in this chapter shall be construed to mean those who have no property, exempt or otherwise, and are unable, because of physical or mental disabilities, to earn a living by labor; but this section shall not be construed to forbid aid to needy persons who have some means, when the board shall be of opinion that the same will be conducive to their welfare and the best interests of the public.

5298. **Parents and children liable.** The father, mother, and children of any poor person, who is unable to maintain himself or herself by labor, shall jointly or severally relieve or maintain such person in such manner as, upon application to the township trustees of the township where such person has a residence or may be, they may direct.

5301. **Remote relatives.** In the absence or inability of nearer relatives, the same liability shall extend to grandparents, if of ability without personal labor, and to the male

grandchildren who are of ability by personal labor or otherwise.

5302. **Enforcement of liability.** Upon the failure of such relatives so to relieve or maintain a poor person who has made application for relief, the township trustees, *county old age assistance board, or state old age assistance commission* may apply to the district court of the county where such poor person resides or may be, for an order to compel the same.

10501-b6. **Status of the adopted child.** Upon the entering of such decree, the right, duties and relationships between the child and parent by adoption shall be the same that exists between parents and child by lawful birth and the right of inheritance from each other shall be the same as between parent and children born in lawful wedlock. (From chapter 473, code, 1931, and should be considered in connection with sections 5297, 5298, 5301, and 5302, published above.)

Chapter 330

PROPERTY EXEMPT AND TAXABLE

as amended by Senate File 121, Acts of the
Forty-sixth General Assembly

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Note: For many years it has been the policy of the state of Iowa to permit certain indigent persons to petition the board of supervisors to suspend, remit or cancel taxes on real and personal property. Effective as of July 4, 1935, and applying to the last half taxes payable in 1935, the suspension of such taxes becomes automatic and does not make necessary petitioning the board of supervisors by the recipients of old age assistance. However, it is still necessary to petition said board for a remittance or cancellation of taxes.

6950. **Petition for exemption.** Whenever a person, by reason of age or infirmity, is unable to contribute to the public revenue, such person may file a petition, duly sworn to, with the board of supervisors, stating such fact and giving a statement of property, real and personal, owned or possessed by such applicant, and such other information as the board may require. The board of supervisors may thereupon order the county treasurer to suspend the collection of the taxes assessed against such petitioner, his polls or estate, or both, for the current year, or such board may cancel and remit said taxes, provided, however, that such petition shall first have

been approved by the council of the city or town in which the property of the petitioner is located, or by the township trustees of the township in which said property is located.

6950-a1. **Suspension of property taxes.** *Whenever a person has been issued a certificate of old age assistance and is receiving monthly or quarterly payments of assistance from the old age pension fund, such person shall be deemed to be unable to contribute to the public revenue. The old age assistance commission shall thereupon notify the board of supervisors, of the county in which such assisted person owns property, of the aforesaid fact, giving a statement of property, real and personal, owned, possessed, or upon which such person is paying the taxes as a purchaser under contract. It shall then be the duty of the board of supervisors so notified to order the county treasurer to suspend the collection of the taxes assessed against such person or contractually payable by him for such time as such person shall remain the owner or contractually prospective owner of such property and during the period such person receives monthly or quarterly payments of assistance from the old age pension fund.*

6951. **Additional order.** The board of supervisors may, if in their judgment it is for the best interests of the public and the petitioner referred to in section 6950, or the public and the aged person referred to in the preceding section, cancel and remit the taxes assessed against the petitioner referred to in section 6950, or the aged person referred to in the preceding section, his polls or estate or both, even though said taxes have previously been suspended as provided in the preceding sections.

6952. **Grantee or devisee to pay tax.** In the event that the petitioner shall sell any real estate upon which the tax has been suspended in the manner above provided, or in case any property, or any part thereof, upon which said tax has been suspended, shall pass by devise, bequest, or inheritance to any person other than the surviving spouse or minor child of such infirm person, the taxes, without any accrued penalty, that have been thus suspended shall all become due and payable, with six per cent interest per annum from the date of such suspension, *except that no interest on taxes shall be charged against the property or estate of a person receiving or having received monthly or quarterly payments of old age assistance, and shall be enforceable against the property or part thereof which does not pass to such spouse or minor child.*

INSURANCE OTHER THAN LIFE

as amended by Senate File 273, Acts of the
Forty-sixth General Assembly

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Note: Senate file 273, mentioned above, applies to insurance policies covering possible losses to property by fire, tornado, windstorm, floods and the like. The amendatory act does away with the possibility of invalidating an insurance policy by reason of the creation of a lien under the provisions of sections 15 and 16 of the old age assistance act. Senate file 273 became effective on May 17, 1935, by publication.

8980. Invalidating stipulations—avoidance. Any condition or stipulation in an application, policy, or contract of insurance, making the policy void before the loss occurs, shall not prevent recovery thereon by the insured, if it shall be shown by the plaintiff that the failure to observe such provision or the violation thereof did not contribute to the loss.

8981. Conditions invalidating policy. Any condition or stipulation referring:

1. To any other insurance, valid or invalid, or
2. To vacancy of the insured premises, or
3. To the title or ownership of the property insured, or
4. To lien, or incumbrances thereon created by voluntary act of the insured and within his control, *except a lien accruing to the benefit of the old age pension fund as provided for in sections 15 and 16 of chapter 19, acts of the forty-fifth general assembly in extraordinary session*, or
5. To the suspension or forfeiture of the policy during default or failure to pay any written obligation given to the insurance company for the premium, or
6. To the assignment or transfer of such policy of insurance before loss without the consent of the insurance company, or
7. To the removal of the property insured, or
8. To a change in the occupancy or use of the property insured, if such change or use makes the risk more hazardous, or
9. To the fraud of the insured in the procurement of the contract of insurance—shall not be changed or affected by the provision of the preceding section.