CHAPTER 601
INSURANCE — ADMINISTRATION

SUBCHAPTER I
GENERAL PROVISIONS

601.01 Purposes. The purposes of chs. 600 to 646 are:
(1) To ensure the solidity of all insurers doing business in this state;
(2) To encourage self-regulation of the insurance enterprise; and
(3) To maintain freedom of contract and freedom of enterprise so far as consistent with the other purposes of the law;
(4) To encourage self-regulation of the insurance enterprise;
(5) To encourage loss prevention as an aspect of the operation of the insurance enterprise;
(6) To provide for an office that is expert in the field of insurance, and able to enforce chs. 600 to 646;
(7) To encourage full cooperation of the office with other regulatory bodies, both of this and other states and of the federal government;
(8) To ensure that policyholders, claimants and insurers are treated fairly and equitably;
(9) To encourage loss prevention as an aspect of the operation of the insurance enterprise;
(10) To keep the public informed on insurance matters;
(11) To achieve the other purposes stated in chs. 600 to 646.

601.04 Certificate of authority; fee. (1) Scope. This section applies to all insurers incorporated or organized under any law of this state except chs. 611, 612, 613 and 614.

601.01 Purposes. The purposes of chs. 600 to 646 are:
(1) To ensure the solidity of all insurers doing business in this state;
(2) To encourage self-regulation of the insurance enterprise; and
(3) To maintain freedom of contract and freedom of enterprise so far as consistent with the other purposes of the law;
(4) To encourage self-regulation of the insurance enterprise;
(5) To encourage loss prevention as an aspect of the operation of the insurance enterprise;
(6) To provide for an office that is expert in the field of insurance, and able to enforce chs. 600 to 646;
(7) To encourage full cooperation of the office with other regulatory bodies, both of this and other states and of the federal government;
(8) To improve and thereby preserve state regulation of insurance;
(9) To encourage self-regulation of the insurance enterprise;
(10) To keep the public informed on insurance matters; and
(11) To achieve the other purposes stated in chs. 600 to 646.

SUBCHAPTER II
OFFICE OF THE COMMISSIONER OF INSURANCE

601.11 Personnel. (1) Deputy commissioner. (a) Appointment. The deputy commissioner shall be appointed subject to ss. 15.04 (2) and (3) and 15.73.

(b) Acting commissioner. When the office of commissioner is vacant, or when the commissioner is unable to perform his or her duties because of mental or physical disability, the deputy commissioner shall be acting commissioner. The deputy commissioner shall have such other duties and powers as the commissioner delegates and assigns.
(2) Other personnel. Except for those employed under s. 601.14 (2) or otherwise specifically exempted, all personnel including staff attorneys shall be appointed under the classified service.

History: 1977 c. 418.

601.12 Legal services. (1) Legal services. The attorney general shall allocate personnel as the legal needs of the office demand.

(2) Enforcement. Upon request of the commissioner, the attorney general shall proceed in any federal or state court or agency to recover any tax or fee related to insurance payable under the laws of this state and not paid when due, and any penalty or forfeiture authorized by chs. 600 to 647. Upon request of the commissioner, the attorney general or, in a proper case, the district attorney of any county, shall aid in any investigation, hearing or other procedure under chs. 600 to 647 and shall institute, prosecute and defend proceedings relating to the enforcement or interpretation of chs. 600 to 647, including any proceeding to which the state, the insurance commissioner or any employee of the office, in the employee's official capacity, shall be a party or in which the commissioner or the employee is interested.

History: 1975 c. 189; 1977 c. 339 s. 43; 1979 c. 89, 102, 177; 1983 a. 358 s. 14

601.13 Financial services; deposits. (1) Receipt of deposits. Subject to the approval of the commissioner, the state treasurer shall accept deposits or control of acceptable book-entry accounts from insurers and other licensees of the office as follows:

(a) Deposits required or permitted by the laws of this state;
(b) Deposits of domestic insurers or of alien insurers domiciled in this state if required by the laws of other states as prerequisite to authority to do an insurance business in other states; and
(c) Deposits resulting from application of any retaliatory provisions.

(2) Terms of deposit. Unless otherwise provided by the law requiring or permitting the deposit, each deposit shall be held in trust: first, for the claimants under s. 645.68 (3); 2nd, for the claimants under s. 645.68 (4); and thereafter, for all other creditors in the order of priority established by s. 645.68. No claim may be made against the deposit of an alien insurer unless the claim arises out of a transaction in the United States.

(3) Securities eligible. All deposits may consist of any of the securities authorized in this subsection. Each security must be approved by the commissioner, must be subject to disposition by the state treasurer and must not be available to any other person except as expressly provided by law. The authorized securities are:

(a) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of the United States or Canada or any state or province thereof.
(b) Lawfully authorized bonds or other evidences of indebtedness which are the direct obligation of any county, city, village, town, school district or other governmental or civil division within the United States or Canada.
(c) Lawfully authorized bonds or other evidences of indebtedness payable from and adequately secured by revenues specifically pledged therefor of the United States or Canada, or of any state or province, or of a commission, board or other instrumentalities of one or more of them.
(d) Interest-bearing notes of any savings and loan association organized under the laws of this state.
(e) Bonds or other securities of any savings and loan association organized under the laws of this state.
(f) Investment shares of any savings and loan association to the extent that they are or may be insured or guaranteed by the federal government, by the federal savings and loan insurance corporation or by any other agency of the United States.
(g) Shares of corporations chartered or incorporated under section 5 of the homeowners' loan act of 1933.
(h) Certificates of deposit of any bank organized under the laws of this state or of any national bank located in this state.

(4) Valuation. Securities held on deposit shall be valued under s. 623.03 for valuation of such investments of life insurers, or at market, whichever is lower.

(5) Receipt, inspection and record. The state treasurer shall deliver to the depositor a receipt for all securities deposited or held under the control of the state treasurer and shall permit the deposito to inspect its physically held securities at any reasonable time. On application of the depositor the treasurer shall certify when required by any law of the United States or of any other state or foreign country or by the order of an court of competent jurisdiction that the deposit was made. The treasurer and the commissioner shall keep a permanent record of securities deposited or held under the control of the state treasurer and of any substitutions or withdrawals and shall compare records at least annually.

(6) Transfer of securities. No transfer of a deposited security, whether voluntary or by operation of law, is valid unless approved in writing by the commissioner and countersigned by the treasurer.

(7) Not subject to levy. No judgment creditor or other person shall levy upon any deposit held under this section.

(8) Interest and substitutions. Subject to s. 14.58 (13), a depositor shall, while solvent and complying with the laws of this state, be entitled:

(a) To receive interest and cash dividends accruing on the securities held on deposit for its account; and
(b) To substitute for deposited securities other eligible securities, as expressly approved by the commissioner.

(9) Voluntary excess deposit. A depositor may deposit eligible securities in excess of requirements to absorb fluctuations in value and to facilitate substitution of securities.

(10) Release of deposit. Upon approval of the commissioner, any deposit or part thereof shall be released upon the depositor's request to the extent permitted by law.

(11) Advance deposit of fees. With the approval of the commissioner, any person required to pay fees or assessments to the state through the commissioner may make a deposit with the treasurer from which the fees or assessments shall be paid on order of the commissioner not less than twice each year. Upon request by the depositor, any balance remaining shall be returned to the certificate of the commissioner that all fees and assessments have been paid to date.

History: 1971 c. 40 s. 93; 1971 c. 260 s. 92 (6); 1977 c. 205 ss. 102, 103; 1977 c. 339 s. 43; 1979 c. 89, 102, 177

601.14 Supporting services. (1) Offices. The department of administration shall provide suitable premises for the offices of the commissioner of insurance:

(a) In the city of Madison; and
(b) Elsewhere, if approved by the governor as necessary for the efficient operation of the office.

(2) Materials, supplies, equipment and contractual services. The department of administration shall provide the office with all materials, supplies, equipment and contractual services necessary for its efficient operation, including reasonable library facilities and books. Part-time or temporary services of professionals and experts shall be provided by the department of administration upon the recommendation of
the commissioner, and may be provided without regard to the restrictions of subch. II of ch. 230.

History: 1971 c 307; 1977 c 196 s. 131.

601.15 Oath. The deputy commissioner shall take and file the official oath.

601.16 Official seal and signature. (1) SEAL. The commis-

sioner need not have nor use an official seal. Any statutory or

common law requirement that an official seal be affixed is satis-

fied by the signature of the commissioner.

(2) SIGNATURES. Any signature of the commissioner may be

in facsimile unless specifically required to be handwritten.

History: 1977 c 203 s. 103.

601.17 Bond. (1) BLANKET BOND. The commissioner shall

procure a blanket bond conforming to s. 19.01 (2) covering

the commissioner and each employe of his office in the sum of

$100,000, applying separately to each covered person. The

premium for the bond shall be allocated to the several

appropriations under s. 20.145.

(2) QUALIFICATIONS OF SURETY. The bond shall be under-

written by an insurer authorized to transact surety business in

this state and shall be approved by the governor.

601.18 Delegation. Any power, duty or function vested in

the commissioner by law may be exercised, discharged or

performed by any employe of the office acting in the comis-

sioner's name and by the commissioner's delegated authority.

Any person whose own course of action in good faith

depends upon proof of the validity of an asserted delegation

is not obligated to act until the person is shown a written

delegation with a handwritten signature of the commissioner

or deputy commissioner.

History: 1979 c 102.

601.19 Organization of the office. The commissioner shall

publish periodically in the Wisconsin administrative code an

up-to-date chart and explanation of the organization of the

commissioner's office, making clear the allocation of respon-

sibility and authority among the staff.

History: 1979 c 102 s. 236 (14).

601.20 Advisory councils and committees. (1) AUTHORIZ-

ATION TO FORM COUNCILS AND COMMITTEES. The commis-

sioner may create advisory councils and committees under s.

15.04 (1) (c) to assist in dealing with regulatory problems.

The commissioner may appoint members and may provide

by rule for the creation, governance, duties and termination

of any council or committee the commissioner establishes.

History: 1975 c 372, 375, 421; 1977 c 196 s. 131; 1979 c 103, 221.

601.21 Note to chapter 609. (1) Biennially, the comis-

sioner shall prepare and submit a note, as provided in sub-

(2) and (3), for inclusion in ch. 609 of each biennial edition of

the Wisconsin statutes.

(2) The commissioner shall include in the note under sub-

(1) a list of the significant provisions of chs. 600 to 655 that

apply to health maintenance organizations, preferred pro-

vider plans and limited service health organizations under ch.

609 and shall prepare the note in the form specified by the

revisor of statutes under s. 13.93 (1) (q).

(3) The commissioner shall submit the note under sub. (1)

to the revisor of statutes at the time specified by the revisor

under s. 13.93 (1) (q).

History: 1985 a. 29

FINANCING THE INSURANCE OFFICE

601.31 Fees. (1) The following fees, unless revised by the

commissioner as provided in s. 601.32, shall be paid to the

commissioner:

(a) For filing documents for examination preliminary to

initial licensing or for any other initial filing of documents

required by law as a prerequisite for operating or otherwise

providing services in this state, including the filing of articles

of incorporation, the first declaration or statement, a certified

copy of charter, and others:

1. Domestic and nondomestic insurers, $100.

2. Rate service organizations, $100.

3. Motor clubs, $100.

4. Licensees under ch. 615, $100.

5. Providers of services under ch. 647, $100.

(b) For issuing a permit or certificate of authority:

1. Domestic and nondomestic insurers, $100.

2. Rate service organizations, $100.

3. Motor clubs, $100.

4. Licensees under ch. 615, $100.

5. Providers of services under ch. 647, $100.

(c) Annually for continuation of a permit or certificate of

authority:

1. Domestic and nondomestic insurers, $25.

2. Rate service organizations, $100.


4. Licensees under ch. 615, $25.

5. Providers of services under ch. 647, $25.

(d) For filing articles of amendment, domestic companies,

$25.

(e) For filing a copy of amendments to the articles of a

nondomestic insurer, $25.

(f) For filing articles of merger, $100.

(g) For filing a copy of articles of merger of a nondomestic

insurer, other than with a domestic corporation, $25.

(h) For filing an application by a nondomestic insurer for

amended certificate of authority to transact business in this

state, $25.

(i) For filing an application to reserve a corporate name,

$25.

(j) For filing a notice of transfer of a reserved corporate

name, $25.

(k) For filing an annual statement, $25.

(l) For issuing or enlarging the scope of a license, amounts

to be set by the commissioner by rule but not to exceed:

1. Individual intermediary, $10;

2. Corporation or partnership intermediary, $100; and

3. Licensees authorized to place business under s. 618.41,

$100.

(m) For regulating, annually after the year in which the

initial license is issued, amounts to be set by the commissioner

by rule and paid at times and under procedures set by the

commissioner, but not to exceed:

1. Resident intermediaries, $20;

2. Nonresident intermediaries, $40; and

3. Holder of a license to place business under s. 618.41,

$100.

(n) For listing an agent under s. 628.11, a fee to be set by

the commissioner by rule but not to exceed $5 annually for

resident agents and $15 annually for nonresident agents.

(o) For examination of an applicant for a license as an

insurance intermediary, an amount to be set by the commis-

sioner by rule but not to exceed $50 and not to exceed the

reasonably estimated average cost of the examination and

investigation of an intermediary.
INSURANCE — ADMINISTRATION 601.415

(3) RULES. The commissioner shall have rule-making authority under s. 227.11 (2).

(4) ENFORCEMENT PROCEEDINGS. (a) The commissioner shall issue such prohibitory, mandatory and other orders as are necessary to secure compliance with the law.

(b) On request of any person who would be affected by an order under par. (a), the commissioner may issue a declaratory order to clarify the person’s rights or duties.

(5) INFORMAL HEARINGS AND PUBLIC MEETINGS. The commissioner may at any time hold informal hearings and public meetings, whether or not called hearings, for the purposes of investigation, the ascertainment of public sentiment, or informing the public. No effective rule under order may result from the hearing unless the requirements of ch. 227 are satisfied.

(6) REGULATION OF RISK RETENTION GROUPS AND RISK PURCHASING GROUPS. (a) The commissioner may by rule regulate the condition and conduct of risk retention groups and risk purchasing groups doing business in this state.

(b) The regulation of risk retention groups and risk purchasing groups under ss. 601.72, 618.41, 618.415, 618.43, 628.02, 628.03 and 628.48 is in addition to any other provisions of chs. 600 to 655 which apply to risk retention groups or risk purchasing groups and does not authorize a risk retention group or risk purchasing group to do an insurance business except as permitted under chs. 600 to 655.

601.415 Miscellaneous duties. The duties listed in this section are in addition to other duties imposed under chs. 600 to 647. Failure to list a specified power, duty or function of the commissioner in this section does not affect the validity of the power, duty or function.

(1) JOINT SURVEY COMMITTEE ON RETIREMENT SYSTEMS AND RETIREMENT RESEARCH COMMITTEE. The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the joint survey committee on retirement systems under s. 13.50 and the retirement research committee under s. 13.51.

(2) GROUP INSURANCE BOARD. The commissioner shall serve as a member of the group insurance board under s. 15.165 (2).

(3) WISCONSIN RETIREMENT BOARD. The commissioner or an experienced actuary in the office designated by the commissioner shall serve as a member of the Wisconsin retirement board under s. 15.165 (3) (b).

(4) COUNCIL ON FIRE SERVICE TRAINING PROGRAMS. The commissioner or a designated representative shall serve on the council on fire service training programs under s. 15.947 (1).

(5) COOPERATION WITH DEPARTMENT OF ADMINISTRATION. The commissioner shall cooperate with the department of administration in placing insurance under s. 16.865 (4).

(6) DETERMINATION OF VARIABLE INTEREST RATE ADJUSTMENTS. The commissioner shall approve indices for variable interest rate adjustments under s. 138.055 (4) (c).

(7) EXAMINATION OF FIDUCIARY OPERATIONS. The commissioner shall examine the fiduciary operations of organizations under the commissioner’s jurisdiction under s. 223.105 (3) (a).

(8) CONSUMER CREDIT LAW. The commissioner shall cooperate with the commissioner of banking in the administration of ch. 424, shall determine the method for computation of
refunds under s. 424.205, shall approve forms, schedules of
premium rates and charges under s. 424.209 and shall issue
rules or orders of compliance to insurers under s. 424.602.

27, 47, 247.

601.45 Reports and replies. (1) DEFINITION. In this section,
"individual practice association" means a person, other than
a hospital, clinic or an individual physician or other individual
health care provider, which does all of the following:
(a) Contracts with a health maintenance organization,
limited service health organization or preferred provider
plan, as defined in s. 609.01, to provide health care services.
(b) Provides health care services primarily through health
care providers who are independent contractors or who are
obligated to provide the services because of membership in
the entity.

(1g) REPORTS. The commissioner may require from any
person subject to regulation under chs. 600 to 647:
(a) Statements, reports, answers to questionnaires and
other information, and evidence thereof, in whatever reasonable
form the commissioner designates, and at such reasonable
intervals as the commissioner chooses, or from time to
time;
(b) Full explanation of the programming of any data
storage or communication system or person and
(c) That information from any books, records, electronic
data processing systems, computers or any other information
storage system be made available to the commissioner at any
reasonable time and in any reasonable manner.

(1r) REPORTS BY INDIVIDUAL PRACTICE ASSOCIATIONS. The
commissioner may by rule require that an individual practice
association submit to the commissioner information reasonably
necessary to determine the financial condition of the
individual practice association. The information required
under this subsection may include, but is not limited to,
financial statements of the individual practice association,
extcept the commissioner may not require members of the
individual practice association or other health care providers
who contract with the individual practice association to
submit individual financial statements.

(2) FORMS. The commissioner may prescribe forms for the
reports under subs. (1g) and (1r) and specify who shall execute or certify such reports. The forms for the reports
required under sub. (1g) shall be consistent, so far as practica-
ble, with those prescribed by other jurisdictions.

(3) ACCOUNTING METHODS. The commissioner may pre-
scribe reasonable minimum standards and techniques of
accounting and data handling to ensure that timely and
reliable information will exist and will be available to him.

(4) REPLIES. Any officer, manager or general agent of any
insurer authorized to do or doing an insurance business in
this state, any person controlling or having a contract under
which the person has a right to control such an insurer,
whether exclusively or otherwise, any person with executive
authority over or in charge of any segment of such an
insurer's affairs, any individual practice association or
officer, director or manager of an individual practice associa-
tion, and any insurance agent or other person licensed under
chs. 600 to 646 or any provider of services under a continuing
care contract, as defined in s. 647.01 (2), shall reply promptly
in writing or in other designated form, to any written inquiry
from the commissioner requesting a reply.

(5) VERIFICATION. The commissioner may require that any
communication made to the commissioner under this section
be verified.

(6) IMMUNITY. In the absence of actual malice, no com-
nunication to the commissioner required by law or by the
commissioner shall subject the person making it to an action
for damages for defamation.

27, 47, 247.

601.422 Commercial liability insurance reports. (1) RE-
QUIREMENT. Each insurer authorized to write commercial
liability insurance shall file an annual commercial liability
insurance report complying with this section with the com-
missioner on or before May 1 of each year.

(2) CONTENTS. The report filed under sub. (1) shall contain
the name of the insurer and all of the following information,
for each category or type of commercial liability insurance
designated by the commissioner by rule and offered by the
insurer, for policies covering insureds located in this state for
each group of policies with effective dates within a particular
calendar year:

(a) The total dollar amount of premiums written and
earned for primary coverage and for excess coverage.
(b) The number of policies written.
(c) The amount of reserves established for each of the
following:
1. Reported claims.
2. Incurred but not reported claims.
3. Loss adjustment expenses.
(d) Reported paid losses.
(e) Net investment gain or loss and other income gain or
loss allocated to each category or type, computed by the
formula used in the annual insurance expenses exhibit for
allocation among lines of business.
(f) The actual expenses attributable to each category or
type, reported separately as loss adjustment expenses and all
other expenses.
(g) Total number of claims reported.
(h) Total number of claims closed without payment.
(i) Total number of claims paid.
(j) Total number of legal actions filed.

(3) OTHER INSURANCE EXCLUDED. If commercial liability
insurance coverage includes any insurance other than com-
mercial liability insurance delivered as a part of a package
with commercial liability insurance, only information relat-
ing to the commercial liability insurance portion of the
coverage shall be included in the report filed under sub. (1).

(4) PERIOD OF REPORT. The report filed under sub. (1) shall
provide all required information updated as of the last day of
the calendar year preceding the year in which the report is
filed. The report shall include required information for
policies with effective dates within calendar years beginning
with calendar year 1988 and ending with the calendar year
preceding the year in which the report is filed. Effective with
filings in 1999, the report shall exclude required information
for policies with effective dates within any calendar year
commencing more than 10 years prior to January 1 of the
year in which the report is filed.

(5) SUMMARY. The commissioner shall provide a summary of
the information contained in the 2 most recent filings of
reports under sub. (1) in the biennial report to the governor
and the legislature under s. 15.04 (1) (d).

(6) RULES, ADJUSTMENTS AND EXCLUSIONS. The commis-
sioner may, by rule, establish the form of the report filed
under sub. (1), including the manner of reporting the ele-
ments of the report. The commissioner may, by rule, require
reports to include information in addition to that specified in
this section. The commissioner may adjust the reporting
requirements for any insurer for which the requirements of
this section are burdensome. The commissioner may deter-
mine that no report need be filed if the commercial liability
insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

(7) No liability or cause of action. There shall be no liability on the part of and no cause of action shall arise against an insurer or an insurer's agents or employees for reporting in good faith under this section, or against the commissioner or employees of the office for any good faith act or omission under this section.

601.423 Social and financial impact reports. (1) Definition. In this section, “health insurance mandate” means a statute of this state which requires an insurance policy, plan or contract to do any of the following:

(a) Permit a person insured under the policy, plan or contract to obtain treatment or services from a particular type of health care provider, including, but not limited to, requiring a health maintenance organization, preferred provider plan, limited service health organization or other plan to select a particular type of health care provider for participation in the plan.

(b) Provide coverage for the treatment of a particular disease, condition or other health care need.

(c) Provide coverage of a particular type of health care treatment or service, or of equipment, supplies or drugs used in connection with a health care treatment or service.

(d) Provide coverage for particular persons because of their relation to the insured or legal status with respect to the insured, or for any other reason.

(2) Preparation of report. The commissioner shall submit a report on the social and financial impact of any health insurance mandate, contained in any bill affecting an insurance mandate created, expanded or continued by the bill:

(a) Permit a person insured under the policy, plan or contract to obtain treatment or services from a particular type of health care provider, including, but not limited to, requiring a health maintenance organization, preferred provider plan, limited service health organization or other plan to selects a particular type of health care provider for participation in the plan.

(b) Provide coverage for the treatment of a particular disease, condition or other health care need.

(c) Provide coverage of a particular type of health care treatment or service, or of equipment, supplies or drugs used in connection with a health care treatment or service.

(d) Provide coverage for particular persons because of their relation to the insured or legal status with respect to the insured, or for any other reason.

(3) Contents of report. (a) Social impact factors. Any report prepared under sub. (2) shall assess to the extent possible all of the following social impact factors which are relevant to the type of health insurance mandate created, expanded or continued by the bill:

1. The portion of this state’s residents who use the treatments or services covered by the health insurance mandate.

2. The extent to which individuals under subd. 1 use these treatments or services.

3. The availability of insurance coverage for these treatments or services.

4. The number of persons who would be eligible for coverage under the health insurance mandate, and the availability of insurance coverage for these persons without the health insurance mandate.

(b) Financial impact factors. Any report prepared under sub. (2) shall assess to the extent possible all of the following financial impact factors which are relevant to the type of health insurance mandate created, expanded or continued by the bill:

1. Whether the health insurance mandate may increase or decrease the costs of the treatments or services covered by the health insurance mandate.

2. Whether the health insurance mandate would increase the use of the treatments or services covered by the health insurance mandate.

3. Whether any increased use under subd. 2 would substitute for more expensive treatments or services.

4. The impact of the health insurance mandate on total costs of health care in this state.

5. Whether the health insurance mandate may increase the administrative costs to insurance companies and the premium costs to policyholders.

601.425 Product liability insurance reports. (1) Requirement. Each insurer authorized to write product liability insurance shall file an annual product liability insurance report complying with this section with the commissioner on or before May 1 of each year.

(2) Contents. The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering insureds located in this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums earned for product liability insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom product liability insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

1. Reported claims other than paid claims.

2. Paid claims that have not been paid in full.

3. Incurred but not reported claims.

4. The amounts paid in product liability claims.

5. The number of legal actions filed.

6. Total number of claims closed without payment.

7. Total claims closed with payment.

8. Total number of verdicts or judgments for defendants.

9. Total number of verdicts or judgments for plaintiffs.

10. Total number of verdicts or judgments for plaintiffs.

11. Total number of verdicts or judgments for plaintiffs.

(3) Other insurance excluded. If product liability insurance coverage includes premises and operations insurance or any other insurance delivered as a part of a package with product liability insurance, only information relating to the product liability insurance portion of the coverage shall be included in the report filed under sub. (1).

(4) Period of report. The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

(5) Summary. The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

(6) Rules, adjustments and exclusions. The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting
requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the product liability insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

(7) PUBLIC RECORDS. Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person, manufacturer or seller involved.

(8) NO LIABILITY OR CAUSE OF ACTION. There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employees, or the commissioner for any good faith act or omission under this section.

History: 1985 a. 314.

601.427 Medical malpractice insurance reports. (1) REQUIREMENT. Each insurer authorized to write medical malpractice insurance shall file an annual medical malpractice insurance report complying with this section with the commissioner on or before May 1 of each year.

(2) CONTENTS. The report filed under sub. (1) shall contain the name of the insurer and all of the following information for policies covering residents of this state for each group of policies with effective dates within a particular calendar year:

(a) The total dollar amount of premiums earned for medical malpractice insurance coverage both for primary coverage and for excess coverage.

(b) The number of insureds from whom medical malpractice insurance coverage premiums were collected.

(c) The number and amount of all reserves established for all of the following:

1. Reported claims other than paid claims.
2. Paid claims that have not been paid in full.
3. Incurred but not reported claims.

(d) The amounts paid in medical malpractice claims.

(e) Net investment gain or loss and other income gain or loss allocated to medical malpractice insurance, computed by the formula used in the annual insurance expenses exhibit for allocation among lines of business.

(f) The actual expenses attributable to medical malpractice insurance reported as loss adjustment expenses and all other expenses.

(g) Total number of claims reported.

(h) Total claims closed without payment.

(i) Total claims closed with payment.

(j) Total number of legal actions filed.

(k) Total number of verdicts or judgments for defendants.

(L) Total number of verdicts or judgments for plaintiffs.

(m) Total amounts awarded plaintiffs.

(2m) BASIS FOR REPORTING. The report filed under sub. (1) shall contain the information required under sub. (2) for each classification used for rating purposes, except that the information required by sub. (2) (e), (f) and (g) shall be reported on a cumulative basis for all classifications.

(3) OTHER INSURANCE EXCLUDED. If medical malpractice insurance coverage includes premises and operations insurance or any other insurance delivered as a part of a package with medical malpractice insurance, only information relating to the medical malpractice insurance portion of the coverage shall be included in the report filed under sub. (1).

(4) PERIOD OF REPORT. The report filed under sub. (1) shall provide all required information updated as of the last day of the calendar year preceding the year in which the report is filed. The report shall include required information for policies with effective dates within calendar years beginning with calendar year 1979 and ending with the 2nd calendar year preceding the year in which the report is filed. Effective with filings in 1991, the report shall exclude required information for policies with effective dates within any calendar year commencing more than 11 years prior to January 1 of the year in which the report is filed.

(5) SUMMARY. The commissioner shall provide a summary of the information contained in the 2 most recent filings of reports under sub. (1) in the biennial report to the governor and the legislature under s. 15.04 (1) (d).

(6) RULES, ADJUSTMENTS AND EXCLUSIONS. The commissioner may, by rule, establish the form of the report filed under sub. (1), including the manner of reporting the elements of the report. The commissioner may, by rule, require reports to include information in addition to that specified in this section. The commissioner may adjust the reporting requirements for any insurer for which the requirements of this section are burdensome. The commissioner may determine that no report need be filed if the medical malpractice insurance issued by an insurer is of such a small amount that its reporting would be burdensome to the insurer or would be of no statistical significance.

(7) PUBLIC RECORDS. Notwithstanding subch. II of ch. 19, the commissioner shall make the reports filed under sub. (1) available to the public in a manner that does not reveal the name of any person involved.

(8) NO LIABILITY OR CAUSE OF ACTION. There shall be no liability on the part of and no cause of action shall arise against any insurer for reporting in good faith under this section or any insurer's agents or employees, or the commissioner for any good faith act or omission under this section.


601.429 Disability insurance reports. The office of health care information may require each insurer, as defined in s. 600.03 (27), authorized to write disability insurance to do all of the following:

(1) Submit to the office of health care information the information specified in s. 153.05 (7) submitted on uniform patient billing forms regarding reported claims for health care services which insureds who are residents of this state obtain in another state.

(2) Accept uniform patient billing forms, as defined under s. 153.01 (9), from hospitals and ambulatory surgery centers under s. 153.05 (4).

History: 1987 a. 399.

601.43 Examinations and alternatives. (1) POWER TO EXAMINE. (a) Insurers, other licensees and other persons subject to regulation. Whenever the commissioner deems it necessary in order to inform himself or herself about any matter related to the enforcement of chs. 600 to 647, the commissioner may examine the affairs and condition of any licensee or person under s. 15.04 (1) (d).

(b) Collateral examinations. So far as reasonably necessary for an examination under par. (a), the commissioner may examine the accounts, records, documents or evidences of transactions, so far as they relate to the examinee, of any of the following:

1. An officer, manager, general agent, employee, or person who has executive authority over or is in charge of any segment of the examinee's affairs.
2. A person controlling or having a contract under which the person has the right to control the examinee whether exclusively or with others.

3. A person who is under the control of the examinee, or a person who is under the control of a person who controls or has a right to control the examinee whether exclusively or with others.

4. An individual association, as defined in s. 601.42 (1), which contracts with the examinee to provide health care services.

(c) Availability of records. On demand every examinee under par. (a) shall make available to the commissioner for examination any of its own accounts, records, documents or evidences of transactions and any of those of the persons listed in par. (b). Failure to do so shall be deemed to be concealment of records under s. 645.41 (8), except that if the examinee is unable to obtain accounts, records, documents or evidences of transactions, failure shall not be deemed concealment if the examinee terminates immediately the relationship with the other person.

(d) Delivery of records to the office. On order of the commissioner any licensee or permittee under chs. 600 to 647 shall bring to the office for examination such records as the order reasonably requires.

(2) Duty to examine. (a) Insurers and rate service organizations. The commissioner shall examine every domestic insurer and every licensed rate service organization.

(b) On request. Whenever the commissioner is requested by verified petition signed by 25 persons interested as shareholders, policyholders or creditors of an insurer alleging that there are grounds for formal delinquency proceedings, the commissioner shall forthwith examine the insurer as to any matter alleged in the petition. Whenever the commissioner is requested to do so by the board of directors of a domestic insurer, the commissioner shall examine the insurer as soon as reasonably possible.

(c) Specific requirements. The commissioner shall examine insurers as otherwise required by law.

(3) Audits or actuarial evaluations. In lieu of all or part of an examination under sub. (1) or (2), or in addition to it, the commissioner may order an independent audit by certified public accountants or actuarial evaluation by actuaries approved by the commissioner of any person subject to the examination requirement. Any accountant or actuary selected is subject to rules respecting conflicts of interest promulgated by the commissioner. Any audit or evaluation under this section is subject to s. 601.44, so far as appropriate.

(4) Alternatives to examination. In lieu of all or part of an examination under this section, the commissioner may accept the report of an audit already made by certified public accountants or actuarial evaluation by actuaries approved by the commissioner, or the report of an examination made by the insurance department of another state or of the examination by another government agency in this state, the federal government or another state.

(5) Purpose and scope of examination. An examination may but need not cover comprehensively all aspects of the examinee's affairs and condition. The commissioner shall determine the exact nature and scope of each examination, and in doing so shall take into account all relevant factors, including but not limited to the length of time the examinee has been doing business, the length of time the examinee has been licensed in this state, the nature of the business being examined, the nature of the accounting records available and the nature of examinations performed elsewhere. The examination of an alien insurer shall be limited to insurance transactions and assets in the United States unless the commissioner orders otherwise after finding that extraordinary circumstances necessitate a broader examination.

History: 1977 c. 203; 1977 c. 393 ss. 43; 1979 c. 89; 1979 c. 102 ss. 70, 71, 236 (6), (8); 1979 c. 177; 1981 c. 26; 1983 a. 358; 1985 a. 26; 1987 a. 247.

601.44 Conducting examinations. (1) Order of examination. For each examination under s. 601.43, the commissioner shall issue an order stating the scope of the examination and designating the examiner in charge. Upon demand a copy of the order shall be exhibited to the examinee.

(2) Access to examinee. Any examiner authorized by the commissioner shall, so far as necessary to the purposes of the examination, have access at all reasonable hours to the premises and to any books, records, files, securities, documents or property of the examinee and to those of persons under s. 601.43 (1) (b) so far as they relate to the affairs of the examinee.

(3) Cooperation. The officers, employees and agents of the examinee and of persons under s. 601.43 (1) (b) shall comply with every reasonable request of the examiners for assistance in any matter relating to the examination. No person may obstruct or interfere with the examination in any way other than by legal process.

(4) Correction of books. If the commissioner finds the accounts or records to be inadequate for proper examination of the condition and affairs of the examinee or improperly kept or posted, the commissioner may employ experts to rewrite, post or balance them at the expense of the examinee.

(5) Report on examination. The examiner in charge of an examination shall make a proposed report of the examination which shall include such information and analysis as is ordered in sub. (1), together with the examiner's recommendations. Preparation of the proposed report may include conferences with the examinee or the examinee's representatives at the option of the examinee in charge. The proposed report shall remain confidential until filed under sub. (6).

(6) Adoption and filing of examination report. The commissioner shall serve a copy of the proposed report upon the examinee. Within 20 days after service, the examinee may serve upon the commissioner a written demand for a hearing on the contents of the report. If a hearing is demanded, the commissioner shall give notice and hold a hearing under ch. 227, except that on demand by the examinee the hearing shall be private. Within 60 days after the hearing or if no hearing is demanded then within 60 days after the last day on which the examinee might have demanded a hearing, the commissioner shall adopt the report with any necessary modifications and file it for public inspection, or the commissioner shall order a new examination.

(7) Copy for examinee. The commissioner shall forward a copy of the examination report to the examinee immediately upon adoption, except that if the proposed report is adopted without change, the commissioner need only so notify the examinee.

(8) Copies for board. The examinee shall forthwith furnish copies of the adopted report to each member of its board.

(9) Copies for other persons. The commissioner may furnish, without cost or at a price to be determined by him, a copy of the adopted report to the insurance commissioner of each state in the United States and of each foreign jurisdiction in which the examinee is authorized to do business, and to any other interested person in this state or elsewhere.

(10) Report as evidence. In any proceeding by or against the examinee or any officer or agent thereof the examination report as adopted by the commissioner shall be admissible as evidence of the facts stated therein. In any proceeding commenced under ch. 645, the examination report whether
adopted by the commissioner or not shall be admissible as evidence of the facts stated therein. In any proceeding by or against the examinee, the facts asserted in any report properly admitted in evidence shall be presumed to be true in the absence of contrary evidence.

History: 1977 c. 205 s. 102; 1979 c. 102 ss. 72, 236 (6), (17).

601.45 Examination costs. (1) COSTS TO BE PAID BY EXAMINEES. The reasonable costs of examinations under ss. 601.43 and 601.44 shall be paid by examinees except as provided in sub. (4), either on the basis of a system of billing for actual salaries and expenses of examiners and other appropriated expenses, including office overhead, or by a system of regular annual billings to cover the costs relating to a group of companies, or a combination of such systems, as the commissioner may by rule prescribe. Additional funding, if any, shall be governed by s. 601.32. The commissioner shall schedule annual hearings under s. 601.41 (5) to review current problems in the area of examinations.

(2) DUTY TO PAY. The amount payable under sub. (1) shall become due 10 days after the examinee has been served a detailed account of the costs.

(3) DEPOSIT. The commissioner may require any examinee, before or from time to time during an examination, to deposit with the state treasurer such deposits as the commissioner deems necessary to pay the costs of the examination. Any deposit and any payment made under subs. (1) and (2) shall be credited to the appropriation under s. 20.145 (1) (g) in the percentage specified in that paragraph.

(4) EXEMPTIONS. On the examinee's request or on the commissioner's own motion, the commissioner may pay all or part of the costs of an examination from the appropriation under s. 20.145 (1) (g), whenever the commissioner finds that because of the frequency of examinations or other factors, imposition of the costs would place an unreasonable burden on the examinee. The commissioner shall include in his or her annual report information about any instance in which the commissioner applied this subsection.

(5) RETALIATION. Deposits and payments under this section shall not be deemed to be a tax or license fee within the meaning of any statute. If any other state charges a per diem fee for examination of examinees domiciled in this state, any examinee domiciled in that other state shall be required to pay the same fee when examined by the insurance office of that state.

History: 1977 c. 29; 1979 c. 102; 1981 c. 20.

601.46 Commissioner's records and reports. (1) RECORD MAINTENANCE. The commissioner shall maintain the records required by law and those necessary to provide for the continued effective operation of the office, to constitute an adequate and proper recording of its activities and to protect the rights of the people of this state. The records shall be preserved in the office except as provided in s. 16.61.

(2) RECORD OF PROCEEDINGS AND ACTIVITIES. The commissioner shall maintain a permanent record of proceedings and important activities, including a concise statement of the condition of each insurer visited or examined, and including a record of all certificates of authority and licenses issued.

(3) ANNUAL REPORTS. Prior to September 1 of each year, the commissioner shall submit a report to the governor and to the chief clerk of each house of the legislature, for distribution to the legislature under s. 13 172 (2), which shall include, for the preceding calendar year:

(a) The chart and explanation prepared under s. 601.19;
(b) A general review of the insurance business in this state, including a report on emerging regulatory problems, developments and trends;
(c) A summary of the complaints made to or processed by the office about insurers, agents and others connected with insurance, and information about their disposition;
(d) A summary of rules promulgated and circular letters distributed;
(e) A list of all insureds authorized to do business in this state during the year, with appropriate and useful information concerning them; including a list of insurers organized, admitted, merged or withdrawn;
(f) A list of all revocations of licenses or certificates of authority and the reasons therefor;
(g) The changes made in chs. 600 to 647;
(h) A summary of receipts and expenses, including the information required to be included by s. 601.45 (4);
(i) The kind and amount of insurance carried in all state insurance funds under chs. 604 to 607 together with the amount of premiums collected, the source and nature of any other income, and the disbursements made. The report shall state separately the premiums, losses, the kind and amount of insurance carried on state property, and on other than state property; and
(j) Such other information on the general conduct and condition of insurers doing business in this state as the commissioner or the governor deems necessary or as is prescribed by law.

(4) PUBLIC INSPECTION. All records and reports shall be open to public inspection unless specifically otherwise provided by statute or by rule.

(5) COPIES OF RECORDS. The commissioner shall provide to any person on request certified or uncertified copies of any record in the department that is open to public inspection.

History: 1971 c. 40 ss. 82, 95; 1973 c. 117; 1975 c. 41 s. 52; 1977 c. 319 s. 43; 1979 c. 89, 102, 221; 1981 c. 20 s. 2202 (26) (g); 1983 a. 358 s. 14; 1987 a. 186.

601.47 Publications. (1) GENERAL. The commissioner may prepare books, pamphlets and other publications relating to insurance and sell them in the manner and at the prices the commissioner determines. The cost of publication and distribution may be paid from the appropriation under s. 20.145 (1) (g).

(2) ANNUAL REPORT. The commissioner shall determine the form for and have printed the report required in s. 601.46 (3), in number sufficient to meet all requests for copies. The commissioner shall distribute copies upon request to any person who pays the reasonable price thereof determined under sub. (1).

(3) FREE DISTRIBUTION. The commissioner may furnish free copies of the publications prepared under subs. (1) and (2) to public officers and libraries in this state and elsewhere. The cost of free distribution shall be charged to the appropriation under s. 20.145 (1) (g).

History: 1971 c. 125; 1979 c. 102 ss. 75, 236 (6).

601.48 Participation in organizations. (1) NATIONAL ASSOCIATION OF INSURANCE COMMISSIONERS. The commissioner and the office of the commissioner shall maintain close relations with the commissioners of other states and shall participate in the activities and affairs of the national association of insurance commissioners and other organizations so far as it will, in the judgment of the commissioner, enhance the purposes of chs. 600 to 647. The actual and necessary expenses incurred thereby shall be reimbursed out of the appropriation under s. 20.145 (1) (g).

(2) CONSULTATION IN REGULATION. The commissioner may exchange information and data and consult with other persons in order to improve and carry out insurance regulation.

History: 1977 c. 319 s. 43; 1979 c. 89; 1979 c. 102 s. 236 (14); 1979 c. 177; 1983 a. 358 s. 14.
601.49 Access to records. The commissioner shall have access to the records of any agency of the state government or of any political subdivision thereof which the commissioner may wish to consult in discharging his or her duties.

History: 1979 c. 102.

601.51 Provision of certified copies and notices. (1) Certified copies. On request of any insurer authorized to do a surety business and its payment of the fee under s. 601.31 (1), the commissioner shall mail a certified copy of its certificate of authority to any designated public officer in this state who requires such a certificate before accepting a bond. That public officer shall file it. Whenever a certified copy has been furnished to a public officer it is unnecessary, while the certificate remains effective, to attach a copy of it to any instrument of suretyship filed.

(2) Notice of revocation of certificate. Whenever the commissioner revokes the certificate of authority of any insurer authorized to do a surety business, the commissioner shall immediately give notice thereof to each officer who was served with a certified copy under sub. (1).

History: 1975 c. 375, 421; 1979 c. 102 s. 237; 1981 c. 20 s. 2202 (26) (a).

Legislative Council Note, 1975: This continues the substance of s. 204.04 (1) and (2) [Bill 642-S].

601.53 Insolvency notices. (1) Insurers doing a surety business. Whenever any authorized insurer doing a surety business has filed a petition for receivership, or is in the hands of a receiver under ch. 645 or otherwise or the commissioner has reason to believe the company is in financial difficulty or has unreasonably failed to carry out any of its contracts, the commissioner shall immediately notify every circuit judge and the clerks of all courts of record in the state. Upon the receipt of the notice it is the duty of circuit judges and clerks of courts of record to notify and require every financial that has filed a bond on which the company is surety, forthwith to file a new bond with a new surety.

(2) Other. The commissioner as liquidator of an insurer shall send notices as provided in s. 645.47.

History: 1975 c. 375, 421; 1977 c. 449 s. 497.

Legislative Council Note, 1975: Sub. (1) continues the substance of s. 204.04 (3) Sub. (2) is new and is a useful cross reference. [Bill 642-S]

SUBCHAPTER V

PROCEDURES AND ENFORCEMENT

601.61 Auxiliary procedural powers. The commissioner may administer oaths, take testimony, issue subpoenas and take depositions in connection with any hearing, meeting, examination, investigation or other proceeding that the commissioner may conduct.

History: 1979 c. 102 s. 236 (6).

601.62 Hearings. (1) Hearing required. Whenever chs. 600 to 647 expressly so provide, the commissioner shall hold a hearing before issuing an order.

(2) Special insurance hearings. Chapter 227 shall apply to all hearings under chs. 600 to 647, except those for which special procedures are prescribed.

(3) Adjudicatory hearings. In addition to the requirements of ch. 227, the following provisions apply:

(a) Subsequent hearings. Whenever an order is issued without a hearing, any person aggrieved by the order may demand a hearing within 20 days after receiving notice of the order. Failure to demand a hearing within the period prescribed therefor is waiver of a hearing. The demand shall be in writing and shall be served on the commissioner by delivering a copy to the commissioner or by leaving it at the commissioner's office. The commissioner shall thereupon hold a hearing not less than 10 nor more than 30 days after service of the demand.

(c) Reduction and extension of periods. Upon request of the person demanding the hearing or of any other aggrieved person, the commissioner may reduce or extend the period prescribed by par. (a) for holding a hearing.

(4) Fees in investigations and hearings. The fees for stenographic services in investigations, examinations and hearings may not exceed the sum provided for like services in the circuit court. The fees of officers, witnesses, interpreters and stenographers on behalf of the commissioner or the state shall be paid by the state treasurer upon the warrant of the department of administration, authorized by the certificate of the commissioner, and shall be charged to the appropriation under s. 20.145 (1) (g).

(5) Immunity from prosecution. No natural person is excused from attending and testifying or from producing any document or record before the commissioner, or from giving evidence against himself or herself, in any proceeding instituted by the commissioner, on the ground that the testimony or evidence required from the person may tend to incriminate the person or subject the person to a penalty or forfeiture; but no such person may be criminally prosecuted for or on account of any transaction, matter or thing concerning which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, except that the person testifying is not exempt from prosecution and punishment for perjury, false swearing or contempt committed in testifying.

History: 1975 c. 371; 1975 c. 414 ss. 27, 28; 1975 c. 421; 1977 c. 203 ss. 81, 82, 102; 1977 c. 339 ss. 30, 43; 1979 c. 89; 1983 a. 358 s. 14.

Legislative Council Note on sub. (5), 1975: This replaces ss. 207.13 and 201.53 (11) and (12) [repealed by this act]. Section 207.13 was in the unfair insurance business methods chapter but applied in terms to "any hearing.. This new provision is even broader in proceedings covered. It is modeled after the securities act provision (s. 551.56 (3) of the statutes) with one phrase deleted because s. 601.18 makes it unnecessary, and other changes, some editorial and one limiting the scope of the immunity to criminal prosecution. Other similar provisions are to be found in s. 93.17 (department of agriculture), s. 97.20 (10) (same; food regulation), s. 111.07 (employment relations commission), 196.48 (public service commission), and s. 972.08 (criminal proceedings). Section 201.53 (11) and (12) only applied in terms to s. 201.53, which contained a miscellaneous group of provisions, mostly concerning unfair marketing practices, but it applied very broadly to all proceedings and, apparently, even informal requests for information. [Bill 16-S]

601.63 Notice and effective date of orders. (1) Notice to person addressed by order. Notice of any order by the commissioner shall be served under s. 227.48.

(2) Notification to agents of revocation of certificate of authority of insurer. Upon issuance of any order limiting, suspending or revoking an insurer's authority to do business in this state, the commissioner shall notify by mail all agents of the insurer of whom the commissioner has record. The commissioner shall also publish a class 1 notice of the order under ch. 985.

(3) Delay of effective date. Except as provided in sub. (4) or as expressly provided otherwise by statute, all orders of the commissioner shall take effect 10 days after notice under sub. (1) or at a later date specified in the order.

(4) Suspension of order. Whenever a hearing is demanded under s. 601.62 (3) (a) or a rehearing is requested under s. 227.49, the commissioner may suspend the order or any part thereof until after the hearing or rehearing. If the commissioner refuses to suspend the order, any person aggrieved thereby may seek a court order under ch. 813 to restrain enforcement of the order until after the hearing or rehearing.

(5) Actions subject to approval or disapproval. (a) Required approval. Whenever the law requires the commissioner's approval for a certain action, the action is not effective until expressly approved. The approval is deemed
refused if the commissioner does not act within 60 days after receiving the application for approval.

(b) Reserved disapproval. Whenever the law provides that a certain action does not become effective if disapproved by the commissioner within a certain period, the action may be made effective prior to the expiration of the period by being affirmatively approved by the commissioner.

(c) Specific provisions. Paragraphs (a) and (b) do not apply to the extent that the law specifically provides otherwise.

History: 1971 c. 40 s. 93; Sup. Ct. Order, 67 W (2d) 776; 1975 c. 218; 1975 c. 414 s. 28; 1977 c. 26; 1977 c. 203 ss. 83, 84, 104; 1979 c. 102; 1985 a. 182 s. 57.

### 601.64 Enforcement procedure.

1. Injunction. Whenever a person fails to comply with an order issued under s. 601.41 (4), the commissioner may, in the name of the state, commence an action to obtain an order under ch. 813 directing the person to comply with the commissioner's order, and restraining the person from further violation thereof. The commissioner may, whenever the commissioner deems it advisable, seek an injunction under ch. 813 as an alternative to issuing an order under s. 601.41 (4).

2. Compellative forfeitures. If a person does not comply with an order issued under s. 601.41 (4) within 2 weeks after the commissioner has given the person notice of the commissioner's intention to proceed under this subsection, the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.

### 601.65 Marketing firm forfeitures.

1. In this section "firm" means a person that markets insurance but does not include an insurer.

2. A firm is liable for a forfeiture of not more than $1,000 for each violation by an insurance agent of a provision of a rule promulgated under or an order issued under chs. 600 to 655 if the violation is in connection with an insurance policy or if the firm's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.

3. If a provision of a rule promulgated under or an order issued under chs. 600 to 655 is in connection with an insurance policy or if the firm's methods and practices in the conduct of business endanger, or financial resources are inadequate to safeguard, the legitimate interests of customers and the public, the commissioner may, after a hearing, in whole or in part revoke, suspend or limit the license.

4. If a firm regularly utilizes the insurance agent to market insurance policies or group certificates, the insurance agent is employed by or is under contract with the firm.

5. The insurance agent is employed by or is under contract with the firm.

6. The insurance agent is employed by or is under contract with the firm.

7. The insurance agent is employed by or is under contract with the firm.

8. The insurance agent is employed by or is under contract with the firm.

9. The insurance agent is employed by or is under contract with the firm.

### 601.71 Enforcement of policyholder rights.

When the commissioner is satisfied that any nondomestic insurer which no longer has a certificate of authority in this state does or omits to do any act whereby the rights of policyholders who are residents of this state, or who hold contracts issued or delivered in this state, are adversely affected, or whereby its ability to carry out its contracts with those policyholders is impaired, the commissioner may, with the agreement of the attorney general, bring an action in the name of the state on behalf of all policyholders so situated for the purpose of enforcing their rights. The attorney general shall act as attorney for the state in the action and the expenses shall be borne as in other civil actions in behalf of the state. Upon service of the complaint the insurer shall file with the commissi-
sioner the names and addresses of all policyholders so situated. A notice of the action shall be mailed to every such policyholder either by the commissioner or by the insurer, as the commissioner determines. Any policyholder affected by the action may intervene.

History: 1979 c. 102.

601.72 Service of process through state officer. (1) GENERAL. Under procedures specified in s. 601.73, the commisioner is by law constituted attorney, except in cases in which the proceeding is to be brought by the state against an insurer or intermediary other than a risk retention group or risk purchasing group, in which event the secretary of state is by law constituted attorney, to receive service of summons, notices, orders, pleadings and all other legal process relating to any court or administrative agency in this state:

(a) Authorized insurers. For all insurers authorized to do business in this state, while authorized to do business in this state, and thereafter in any proceeding arising from or related to any transaction having any connection with this state;

(b) Surplus lines insurers. For all insurers as to any proceeding arising out of any contract that is permitted by s. 618.41, or out of any certificate, cover note or other confirmation of such insurance;

(c) Unauthorized insurers. For all insurers or other persons doing an unauthorized insurance business in this state, including but not limited to risk purchasing groups, as to any proceeding arising out of the unauthorized transaction; and

(d) Risk purchasing groups and nonresident intermediaries. For all risk purchasing groups or nonresident intermediaries as to any proceeding arising out of insurance activities within this state or out of insurance activities related to policies on risks within this state.

(2) APPOINTMENT OF ATTORNEY. Except as provided in sub. (2m), every licensed insurer by applying for and receiving a certificate of authority, every surplus lines insurer by entering into a contract subject to the surplus lines law, and every unauthorized insurer by doing an insurance business in this state, is deemed to have irrevocably appointed the commissioner and secretary of state as the insurer’s attorneys in accordance with sub. (1).

(2m) RISK RETENTION GROUPS AND RISK PURCHASING GROUPS. A risk retention group or risk purchasing group may not do an insurance business or engage in any insurance activity in this state until it registers with the commissioner and designates the commissioner as its agent for the purposes described in sub. (1). The commissioner may prescribe the form of registration under this subsection. If a risk retention group or risk purchasing group fails to designate the commissioner as required by this subsection, the commissioner is appointed agent for the risk retention group or risk purchasing group as provided in sub. (2).

(3) OTHERS AFFECTED. The commissioner and secretary of state shall also be attorneys for the executors, administrators, or personal representatives, receivers, trustees or other successors in interest of the persons specified in sub. (1).

(4) FEES. Litigants serving process on the commissioner under this section shall pay the fees specified in s. 601.31 (1) (p).

(5) ORDINARY MEANS OF SERVICE. The right to substituted service under this section does not limit the right to serve summons, notice, orders, pleadings, demands or other process upon any person in any manner provided by law.

History: 1971 c. 260; 1975 c. 371; 1977 c. 203 s. 104; 1979 c. 102 ss. 80, 236 (18), 237; 1981 c. 20 s. 2202 (26) (a); 1987 c. 247.

Legislative Council Note on sub. (1) (d), 1975: Under s. 628.04 (created by this act), Wisconsin takes an important step in liberalizing prevailing licensing laws by not requiring residence for unrestricted Wisconsin intermediaries’ licen- cees. As a correlative measure, however, the reach of the Wisconsin courts and administrative agencies is extended to all such nonresidents. [Bill 16-5]

601.73 Procedure for service of process through state officer. (1) REQUIREMENTS FOR EFFECTIVE SERVICE. Service upon the commissioner or secretary of state under s. 601.72 is service on the principal, if:

(a) Two copies of the process are left in the hands or office of the commissioner or secretary of state respectively; and

(b) The commissioner or secretary of state mails a copy of the process to the person served according to sub. (2) (b).

(2) COMMISSIONER’S ACTION. (a) Records. The commissioner and secretary of state shall give receipts for and keep records of all process served through them.

(b) Process mailed. The commissioner or secretary of state shall send immediately by certified mail to the person served at the person’s last-known principal place of business or residence or post-office address one copy of any process received and shall retain the other copy.

(c) Default judgment. No plaintiff or complainant is entitled to a judgment by default in any proceeding in which process is served under ss. 601.72 and 601.73 until the expiration of 20 days from the date of mailing of the process under par. (b).

(3) PROOF OF SERVICE. A certificate by the commissioner or the secretary of state, showing service made upon the commissioner or secretary of state, and attached to a copy of the process presented for that purpose is sufficient evidence of the service.

History: 1971 c. 189; 1977 c. 203 ss. 87, 103; 1979 c. 102

Legislative Council Note, 1979: [Repeal of (1) (c)] In its original form, the procedures of ss. 601.72 and 601.73 for substituted service of process through the commissioner or secretary of state required, in s. 601.73 (1) (b), the serving party to also mail a copy of the process to the person served, as additional assurance that this substituted service would provide actual notice. Sub. (1) (c) then required filing of an affidavit of compliance with (1) (a) and (b) to make the service effective. It may have been cumbersome, but it was logical. Some time later, the requirement of mailing by the serving party was eliminated by an amendment (ch. 189, laws of 1971) that did not go through the Insurance Laws Revision Committee, and did not make the necessary collateral changes. It makes little sense for the serving party to have to provide an affidavit as to what the public official does under (1) (b). Moreover, under (1) (b) the service is not complete anyway unless the public official does perform the statutory duty. Thus, the affidavit seems unnecessary and, because service is not complete without mailing by the public official, no further requirement seems needed. The reasonable solution, therefore, is to repeal (1) (c) [Bill 146-S]

SUBCHAPTER VI

FIRE DEPARTMENT DUES

601.93 Payment of dues. (1) Any insurer doing a fire insurance business in this state shall pay fire department dues equal to 2% of the amount of all premiums which, during the preceding calendar year, have been received by, or have been agreed to be paid to, the company for insurance against loss by fire, including insurance on property exempt from taxation.

(2) Every insurer doing a fire insurance business in this state shall, before March 1 in each year, file with the commissioner a statement, showing the amount of premiums upon fire insurance due for the preceding calendar year. Return premiums may be deducted in determining the premium on which the fire department dues are computed. Payments of quarterly installments of the total estimated payment for the then current calendar year under this subsection are due on or before April 15, June 15, September 15 and December 15. On March 1 the insurer shall pay any additional amounts due for the preceding calendar year. Overpayments will be credited on the amount due April 15. The commissioner shall, prior to May 1 each year, report to the department of industry, labor and human relations the amount of dues paid under this subsection and to be paid under s. 101.573 (1).
(3) In this section, "fire insurance" includes insurance against loss of or damage to:
(a) Notes, acceptances or any other valuable papers or documents, resulting from any cause, except while in the mail or in the custody or possession of and being transported by any carrier for hire; and
(b) Personal property of individuals when written under an all-risk type of policy commonly known as the "personal property floater", whenever these risks are written in conjunction with insurance against burglary or theft.

History: 1971 c. 154; 1975 c. 372 ss. 5, 38; 1975 c. 421; Stats. 1975 s. 601.93; 1977 c. 29; 1979 c. 34, 102, 177, 221; 1981 c. 28; 1987 a. 166.

601.93 Penalties. (1) Late Payment. An insurer that fails to make quarterly payments under s. 601.93 (2) of at least 25% of either the total fire dues paid for the previous calendar year or 80% of the actual fire dues for the current calendar year is liable, in addition to the amount due, for interest of 1.5% of the amount due and unpaid for each month or part of a month that the amount due, together with any interest, remains unpaid.

(2) Negligence. An insurer that fails to pay an amount due, or file a statement required, under s. 601.93 (2), unless the insurer shows that the failure is due to reasonable cause and not due to willful neglect, is liable for the greater of the following amounts:
(a) Five hundred dollars.
(b) Five percent of the amount due for each month or fraction of a month during which the failure continues, but not more than 25% of the amount due.

History: 1987 a. 166.