



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2862/P1
TJD:jld:ph

P2

In: 11/21/11

RMR

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

D-note

✓ Regen

1 AN ACT *to repeal* 631.22 (title), (1), (2), (3), (4) and (5); *to renumber and amend*
2 631.22 (6); *to amend* 631.20 (2) (e); and *to create* 631.225 of the statutes;
3 **relating to:** readability of consumer insurance policies.

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 **SECTION 1.** 631.20 (2) (e) of the statutes is amended to read:
5 631.20 (2) (e) That its use would violate s. ~~631.22~~ 631.225.
6 **SECTION 2.** 631.22 (title), (1), (2), (3), (4) and (5) of the statutes are repealed.
7 **SECTION 3.** 631.22 (6) of the statutes is renumbered 631.225 (7) and amended
8 to read:

1 631.225 (7) A violation of this section does not void or render voidable any
2 portion of ~~an~~ a consumer insurance policy and is not a defense to an action under the
3 consumer insurance policy. ✓

****NOTE: The subsections of current law s. 631.22 appear to be overridden by the provisions in this draft, except for s. 631.22 (6). I have transferred this provision to the new section. Please review the new s. 631.225 (7) to ensure that it interacts with the new provisions as you intend.

4 **SECTION 4.** 631.225 of the statutes is created to read:

5 **631.225 Consumer insurance policy readability; access to policy. (1)**

6 DEFINITIONS. In this section:

7 (a) "Applicable text" includes all printed or electronic matter in a consumer
8 insurance policy except for all of the following:

- 9 1. The name and address of the insurer.
- 10 2. The name, number, or title of the consumer insurance policy.
- 11 3. The table of contents or index.
- 12 4. Captions and subcaptions.
- 13 5. Specification pages, schedules, or tables.
- 14 6. Any of the following language or terminology that the insurer certifies in
15 writing to the commissioner is entitled to be exempt from readability requirements:
 - 16 a. Any form language that is drafted to conform to the requirements of any
17 federal law, regulation, or agency interpretation.
 - 18 b. Any form language required by any collective bargaining agreement.
 - 19 c. Any medical terminology.
 - 20 d. Any words that are defined.
 - 21 e. Any form language required by state law or rule.
- 22 7. The title or name of a state or federal government organization or regulatory
23 entity that is required to be named within the consumer insurance policy.

or health care plan

or health care

income

income
1
2

(b) "Consumer insurance policy" means a life, disability, property, or casualty insurance policy or a certificate or a substitute for a certificate for group life, disability, property, or casualty insurance coverage, which is issued to a person for personal, family, or household purposes and a copy of which is customarily, in the insurance industry, delivered or required by law, rule, or agreement to be delivered, to the person obtaining insurance coverage.

****NOTE: This definition refers to a "disability" insurance policy. It is unclear whether this refers to health insurance only, disability income insurance only, or both. To be more clear, the term "disability" should probably be defined or given a cross-reference. Do you want to clarify the term "disability"?

4(d)

move

(7) "Syllable" means a unit of spoken language consisting of one or more letters of a word as divided by a generally accepted dictionary.

(2) MINIMUM READABILITY STANDARDS. (a) In addition to any other requirements and except as provided in sub. (3), no insurer may deliver or issue for delivery a consumer insurance policy in this state unless all of the following apply:

1. Except as provided under sub. (5), the applicable text achieves any of the following scores:

a. For consumer insurance policies, except individual or group annuities, life insurance policies, disability income policies, long-term care policies, or property and casualty insurance policies, a minimum score of 50 on the Flesch reading ease test as described in par. (b).

b. For all other consumer insurance policies not subject to subd. 1. a., a minimum score of 40 on the Flesch reading ease test as described in par. (b).

c. For the applicable type of consumer insurance policy, a score equivalent to a score under subd. 1. a. or b. on any other comparable test approved by the commissioner under par. (c).

4(c) "Health care plan" has the meaning given in § 628.36(2)(a)1.

④ the height of the type used ✓

1 2. The consumer insurance policy to be delivered to the consumer is an
2 electronic form or printed form that complies with all of the following:

3 a. If the consumer insurance policy is printed, it is in not less than 10-point
4 type, with spacing between lines at least as high as 10-point type, ✓ except for
5 specification pages, schedules, and tables.

****NOTE: There was a reference in subd. 2. a. to one-point leading, which I changed. Leading is the spacing between lines and my research indicated that one-point leading is an ambiguous phrase. The phrase can mean space for one-point type between lines, 10-point type between lines, or 11-point type between lines. Please advise how you would like the line spacing of the policies.

6 b. If the consumer insurance policy is electronic, it appears as it will in final
7 format and is in not less than a 10-point type except for specification pages,
8 schedules, and tables.

9 3. The consumer insurance policy is appropriately divided and captioned,
10 presented in a meaningful sequence, and the style, arrangement, and overall
11 appearance of the consumer insurance policy enhances its understandability.

12 4. If the consumer insurance policy contains more than 3,000 words or more
13 than 3 pages, the consumer insurance policy contains a table of contents or an index
14 of the principal sections of the policy.

15 5. The consumer insurance policy contains a section listing exclusions and
16 limitations, and if the exclusions and limitations also appear within the form, the
17 exclusions and limitations are given at least equal prominence with the rest of the
18 form language. This subdivision does not apply to a property and casualty insurance
19 policy as described in sub. (1) (b) ✓, an individual or group annuity, a life insurance
20 policy, a disability income policy, or a long-term care insurance policy.

****NOTE: You may want to ask OCI what policies this subdivision applies to. The last sentence exempts most of the policy types listed in the definition of consumer insurance policy, except for health insurance if, in fact, the term "disability" refers to

health insurance. If this requirement only applies to a few types of policies, it may be less confusing to just list the types of policies to which the requirement applies.

1 6. The consumer insurance policy defines words and expressions that are not
2 commonly understood and words and expressions the commonly understood
3 meaning of which is not intended by the policy language.

4 7. Cross-references between sections of the consumer insurance policy are
5 minimized.

6 8. The consumer insurance policy contains words and phrases written in active
7 voice. This subdivision does not apply to a property and casualty insurance policy
8 as described in sub. (1) (b),[✓] an individual or group annuity, a life insurance policy, a
9 disability income policy, or a long-term care insurance policy. ✓

****NOTE: Again, you may want to ask OCI what policies this subdivision applies to. If this requirement only applies to a few types of policies, it may be less confusing to just list the types of policies to which the requirement applies.

10 (b) A person measuring a Flesch reading ease test score for a consumer
11 insurance policy under this section shall use the following method:

12 1. a. For consumer insurance policies containing 10,000 words or less of
13 applicable text, analyze the entire form.

14 b. For consumer insurance policies containing more than 10,000 words,
15 analyze the entire form or analyze the readability of 2 200-word applicable text
16 samples per page that are separated by at least 20 printed lines.

17 2. Subject to subd. 5., count the number of words in the applicable text under
18 subd. 1. and divide by the total number of sentences in the text under subd. 1.
19 Multiply the resulting quotient by 1.015.

20 3. Subject to subd. 5., count the total number of syllables in the applicable text
21 under subd. 1. and divide by the total number of words in the text under subd. 1.
22 Multiply the resulting quotient by 84.6.

1 4. Subtract the sum of the figures calculated under subds. 2. and 3. from
2 206.835 to obtain the Flesch reading ease score for the consumer insurance policy.

3 5. For the counting of the applicable text under subds. 2. and 3., all of the
4 following apply:

5 a. Numbers and letters, when separated by spaces, a contraction, or a
6 hyphenated word are counted as one word.

7 b. A unit of words ending with a period, semicolon, or colon, but excluding
8 headings and captions, is counted as a sentence.

9 c. If a generally accepted dictionary shows 2 or more equally acceptable
10 pronunciations of a word, the pronunciation containing fewer syllables may be used.

11 (c) The commissioner may approve any other reading test for use as an
12 alternative to the Flesch reading ease test if that reading test is comparable in result
13 to the Flesch reading ease test.

14 **(3) EXEMPTIONS.** This section does not apply to any of the following:

15 (a) Any policy that is a security subject to federal jurisdiction.

16 (b) Any group policy, except any certificate issued under a group policy
17 delivered or issued in this state.

18 (c) Any group annuity contract that funds a pension, profit-sharing, or
19 deferred compensation plan.

20 (d) Renewals of consumer insurance policies whose terms are not altered in any
21 way except for changes in premium, monetary limits, or language required by federal
22 or state laws, regulations, or rules.

23 **(4) CERTIFICATION; REQUIRED INFORMATION.** (a) An officer of the insurer shall
24 provide with a filing of a consumer insurance policies that is subject to this section
25 a certificate signed by that officer stating that the consumer insurance policy that

1 is the subject of the filing meets the minimum reading ease score or that the
2 consumer insurance policy that is the subject of the filing has a score that is lower
3 than the minimum required score but the filing should be approved under sub. (5).

4 (b) 1. The insurer shall provide the actual readability score for each consumer
5 insurance policy in the cover letter of the filing or as a data element in an electronic
6 filing.

7 2. The insurer shall identify in the filing the method or computer program used
8 to determine the readability score.

9 (c) The commissioner may require the submission of further information to
10 verify the accuracy of the certification under par. (a).

11 **(5) EXEMPTION FOR LOWER SCORE.** The commissioner may approve a consumer
12 insurance policy with a lower score than the Flesch reading ease score required
13 under sub. (2) (a) 1. whenever the commissioner finds any of the following:

14 (a) The lower score will provide a more accurate reflection of the understanding
15 of a consumer insurance policy.

16 (b) The lower score is warranted by the nature of the particular form or type
17 or class of such forms.

18 (c) The lower score is caused by certain language that is drafted to conform to
19 the requirements of any state law, rule, or commissioner's interpretation.

20 **(6) INFORMATION TO CONSUMERS; POLICY ACCESS.** (a) Any insurer authorized to
21 offer a consumer insurance policy shall provide information on its Internet site
22 describing how an insured may request or access a paper or an electronic copy of his
23 or her insurance policy that is in force. Upon a request by an insured, an insurer shall
24 provide to the insured in the format requested by the insured a complete copy of the
25 consumer insurance policy that is in force and any modifications, amendments,

1 riders, and amendatory endorsements attached as that policy is filed with the
2 commissioner after the date of issuance of the insured's policy.

3 (b) Except for a consumer insurance policy that is an individual or group
4 annuity or a life, disability income, or long-term care insurance policy and except for
5 a consumer insurance policy that is offered by a town mutual under ch. 612, an
6 insurer that offers a consumer insurance policy shall advise each policyholder that
7 a printed or electronic copy of the complete in force consumer insurance policy with
8 all modifications, amendments, riders, and amendatory endorsements attached as
9 filed with the commissioner since the date of issue of the policy will be provided to
10 the policyholder either in electronic format within 5 business days of receipt by the
11 insurer of the request or by paper copy to be mailed within 10 business days of receipt
12 by the insurer of the request.

13 (c) Each day the requested copy of a consumer insurance policy is not sent to
14 the insured as requested may be considered as a separate violation of this subsection.

****NOTE: I did not add a delayed effective date to this draft. I realize that insurers were required to comply with these provisions as an administrative rule, but that as of February did not have to fully comply with the requirements. Should this draft have a delayed effective date to allow insurers to reword their consumer insurance policies to comply? If so, how long do you want them to have?

15

(END)

Insert 8-15 ✓

D-note

2011-2012 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-2862/P2ins
TJD:.....

1 INSERT 8-15

2 **SECTION 1. Initial applicability.**

3 (1) This act first applies to consumer insurance policies that are newly issued
4 or renewed on the effective date of this subsection.

5 **SECTION 2. Effective date.**

6 (1) This act takes effect on the first day of the 24th month beginning after
7 publication.

(END INSERT 8-15)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2862/P2dn

TJD:.....

date

JLD

To Fred Ludwig: ✓

Please review this preliminary draft to ensure it complies with your intent. ✓

Should you have any questions or redraft instructions, please contact me. ✓

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2862/P2dn
TJD:jld:rs

November 28, 2011

To Fred Ludwig:

Please review this preliminary draft to ensure it complies with your intent.

Should you have any questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2862/P2
TJD:jld:rs

In: 12/13/11 soon

RMR

~~PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION~~

2011 BILL

4 Regen

1 AN ACT *to repeal* 631.22 (title), (1), (2), (3), (4) and (5); *to renumber and amend*
2 631.22 (6); *to amend* 631.20 (2) (e); and *to create* 631.225 of the statutes;
3 **relating to:** readability of consumer insurance policies.

Insert ANALYSIS ✓

Analysis by the Legislative Reference Bureau

This is a preliminary draft. An analysis will be provided in a subsequent version of this draft.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

4 SECTION 1. 631.20 (2) (e) of the statutes is amended to read:
5 631.20 (2) (e) That its use would violate s. ~~631.22~~ 631.225.
6 SECTION 2. 631.22 (title), (1), (2), (3), (4) and (5) of the statutes are repealed.
7 SECTION 3. 631.22 (6) of the statutes is renumbered 631.225 (7) and amended
8 to read:

1 631.225 (7) A violation of this section does not void or render voidable any
2 portion of ~~an~~ a consumer insurance policy and is not a defense to an action under the
3 consumer insurance policy.

4 **SECTION 4.** 631.225 of the statutes is created to read:

5 **631.225 Consumer insurance policy readability; access to policy. (1)**

6 DEFINITIONS. In this section:

7 (a) "Applicable text" includes all printed or electronic matter in a consumer
8 insurance policy except for all of the following:

- 9 1. The name and address of the insurer.
- 10 2. The name, number, or title of the consumer insurance policy.
- 11 3. The table of contents or index.
- 12 4. Captions and subcaptions.
- 13 5. Specification pages, schedules, or tables.
- 14 6. Any of the following language or terminology that the insurer certifies in
15 writing to the commissioner is entitled to be exempt from readability requirements:
 - 16 a. Any form language that is drafted to conform to the requirements of any
17 federal law, regulation, or agency interpretation.
 - 18 b. Any form language required by any collective bargaining agreement.
 - 19 c. Any medical terminology.
 - 20 d. Any words that are defined.
 - 21 e. Any form language required by state law or rule.
- 22 7. The title or name of a state or federal government organization or regulatory
23 entity that is required to be named within the consumer insurance policy.

24 (b) "Consumer insurance policy" means a life, disability income, property, or
25 casualty insurance policy or health care plan or a certificate or a substitute for a

1 certificate for group life, disability income, property, casualty, or health care
2 insurance coverage, which is issued to a person for personal, family, or household
3 purposes and a copy of which is customarily, in the insurance industry, delivered or
4 required by law, rule, or agreement to be delivered, to the person obtaining insurance
5 coverage.

6 (c) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.

7 (d) "Syllable" means a unit of spoken language consisting of one or more letters
8 of a word as divided by a generally accepted dictionary.

9 **(2) MINIMUM READABILITY STANDARDS.** (a) In addition to any other requirements
10 and except as provided in sub. (3), no insurer may deliver or issue for delivery a
11 consumer insurance policy in this state unless all of the following apply:

12 1. Except as provided under sub. (5), the applicable text achieves any of the
13 following scores:

14 a. For consumer insurance policies, except individual or group annuities, life
15 insurance policies, disability income policies, long-term care policies, or property
16 and casualty insurance policies, a minimum score of 50 on the Flesch reading ease
17 test as described in par. (b).

18 b. For all other consumer insurance policies not subject to subd. 1. a., a
19 minimum score of 40 on the Flesch reading ease test as described in par. (b).

20 c. For the applicable type of consumer insurance policy, a score equivalent to
21 a score under subd. 1. a. or b. on any other comparable test approved by the
22 commissioner under par. (c).

23 2. The consumer insurance policy to be delivered to the consumer is an
24 electronic form or printed form that complies with all of the following:

1 a. If the consumer insurance policy is printed, it is in not less than 10-point
2 type, with spacing between lines at least as high as the height of the type used, except
3 for specification pages, schedules, and tables.

4 b. If the consumer insurance policy is electronic, it appears as it will in final
5 format and is in not less than a 10-point type except for specification pages,
6 schedules, and tables.

7 3. The consumer insurance policy is appropriately divided and captioned,
8 presented in a meaningful sequence, and the style, arrangement, and overall
9 appearance of the consumer insurance policy enhances its understandability.

10 4. If the consumer insurance policy contains more than 3,000 words or more
11 than 3 pages, the consumer insurance policy contains a table of contents or an index
12 of the principal sections of the policy.

13 5. The consumer insurance policy contains a section listing exclusions and
14 limitations, and if the exclusions and limitations also appear within the form, the
15 exclusions and limitations are given at least equal prominence with the rest of the
16 form language. This subdivision does not apply to a property and casualty insurance
17 policy as described in sub. (1) (b), an individual or group annuity, a life insurance
18 policy, a disability income policy, or a long-term care insurance policy.

19 6. The consumer insurance policy defines words and expressions that are not
20 commonly understood and words and expressions the commonly understood
21 meaning of which is not intended by the policy language.

22 7. Cross-references between sections of the consumer insurance policy are
23 minimized.

24 8. The consumer insurance policy contains words and phrases written in active
25 voice. This subdivision does not apply to a property and casualty insurance policy

1 as described in sub. (1) (b), an individual or group annuity, a life insurance policy, a
2 disability income policy, or a long-term care insurance policy.

3 (b) A person measuring a Flesch reading ease test score for a consumer
4 insurance policy under this section shall use the following method:

5 1. a. For consumer insurance policies containing 10,000 words or less of
6 applicable text, analyze the entire form.

7 b. For consumer insurance policies containing more than 10,000 words,
8 analyze the entire form or analyze the readability of 2 200-word applicable text
9 samples per page that are separated by at least 20 printed lines.

10 2. Subject to subd. 5., count the number of words in the applicable text under
11 subd. 1. and divide by the total number of sentences in the text under subd. 1.
12 Multiply the resulting quotient by 1.015.

13 3. Subject to subd. 5., count the total number of syllables in the applicable text
14 under subd. 1. and divide by the total number of words in the text under subd. 1.
15 Multiply the resulting quotient by 84.6.

16 4. Subtract the sum of the figures calculated under subds. 2. and 3. from
17 206.835 to obtain the Flesch reading ease score for the consumer insurance policy.

18 5. For the counting of the applicable text under subds. 2. and 3., all of the
19 following apply:

20 a. Numbers and letters, when separated by spaces, a contraction, or a
21 hyphenated word are counted as one word.

22 b. A unit of words ending with a period, semicolon, or colon, but excluding
23 headings and captions, is counted as a sentence.

24 c. If a generally accepted dictionary shows 2 or more equally acceptable
25 pronunciations of a word, the pronunciation containing fewer syllables may be used.

1 (c) The commissioner may approve any other reading test for use as an
2 alternative to the Flesch reading ease test if that reading test is comparable in result
3 to the Flesch reading ease test.

4 (3) EXEMPTIONS. This section does not apply to any of the following:

5 (a) Any policy that is a security subject to federal jurisdiction.

6 (b) Any group policy, except any certificate issued under a group policy
7 delivered or issued in this state.

8 (c) Any group annuity contract that funds a pension, profit-sharing, or
9 deferred compensation plan.

10 (d) Renewals of consumer insurance policies whose terms are not altered in any
11 way except for changes in premium, monetary limits, or language required by federal
12 or state laws, regulations, or rules.

13 (4) CERTIFICATION; REQUIRED INFORMATION. (a) An officer of the insurer shall
14 provide with a filing of a consumer insurance policies that is subject to this section
15 a certificate signed by that officer stating that the consumer insurance policy that
16 is the subject of the filing meets the minimum reading ease score or that the
17 consumer insurance policy that is the subject of the filing has a score that is lower
18 than the minimum required score but the filing should be approved under sub. (5).

19 (b) 1. The insurer shall provide the actual readability score for each consumer
20 insurance policy in the cover letter of the filing or as a data element in an electronic
21 filing.

22 2. The insurer shall identify in the filing the method or computer program used
23 to determine the readability score.

24 (c) The commissioner may require the submission of further information to
25 verify the accuracy of the certification under par. (a).

1 **(5) EXEMPTION FOR LOWER SCORE.** The commissioner may approve a consumer
2 insurance policy with a lower score than the Flesch reading ease score required
3 under sub. (2) (a) 1. whenever the commissioner finds any of the following:

4 (a) The lower score will provide a more accurate reflection of the understanding
5 of a consumer insurance policy.

6 (b) The lower score is warranted by the nature of the particular form or type
7 or class of such forms.

8 (c) The lower score is caused by certain language that is drafted to conform to
9 the requirements of any state law, rule, or commissioner's interpretation.

10 **(6) INFORMATION TO CONSUMERS; POLICY ACCESS.** (a) Any insurer authorized to
11 offer a consumer insurance policy shall provide information on its Internet site
12 describing how an insured may request or access a paper or an electronic copy of his
13 or her insurance policy that is in force. Upon a request by an insured, an insurer shall
14 provide to the insured in the format requested by the insured a complete copy of the
15 consumer insurance policy that is in force and any modifications, amendments,
16 riders, and amendatory endorsements attached as that policy is filed with the
17 commissioner after the date of issuance of the insured's policy.

18 (b) Except for a consumer insurance policy that is an individual or group
19 annuity or a life, disability income, or long-term care insurance policy and except for
20 a consumer insurance policy that is offered by a town mutual under ch. 612, an
21 insurer that offers a consumer insurance policy shall advise each policyholder that
22 a printed or electronic copy of the complete in force consumer insurance policy with
23 all modifications, amendments, riders, and amendatory endorsements attached as
24 filed with the commissioner since the date of issue of the policy will be provided to
25 the policyholder either in electronic format within 5 business days of receipt by the

1 insurer of the request or by paper copy to be mailed within 10 business days of receipt
2 by the insurer of the request.

3 (c) Each day the requested copy of a consumer insurance policy is not sent to
4 the insured as requested may be considered as a separate violation of this subsection.

5 **SECTION 5. Initial applicability.**

6 (1) This act first applies to consumer insurance policies that are newly issued
7 or renewed on the effective date of this subsection.

8 **SECTION 6. Effective date.**

9 (1) This act takes effect on the first day of the 24th month beginning after
10 publication.

11 (END)

1

INSERT ANALYSIS

* Under current law, a consumer insurance policy is a life, disability, property, or casualty insurance policy, or a certificate of a substitute for a certificate for group life, disability, property, or casualty insurance that is issued to a person, for a personal family, or household purpose and a copy of which is customarily delivered or required to be delivered to the person obtaining coverage. Current law requires that insurers only deliver consumer insurance policies that are coherent, written in commonly understood language, legible, appropriately divided and captioned by its various sections, and presented in a meaningful sequence. The commissioner of insurance (commissioner) is required to promulgate rules establishing standards for determining whether the consumer insurance policy complies with those requirements. The commissioner is allowed under current law to exempt a type of consumer insurance policy from the requirements if the commissioner finds that the type of consumer insurance policy is generally understood by persons to whom it is delivered. Currently, a violation of the readability requirements does not void or render voidable any portion of the insurance policy and is not a defense to an action under the policy.

This bill eliminates the current readability requirements for consumer insurance policies and substitutes other requirements. The bill clarifies that consumer insurance policies include both health care plans and disability income insurance policies. An insurer is prohibited from delivering or issuing a consumer insurance policy, except for an individual or group annuity, life insurance policy, disability income policy, long-term care policy, or property and casualty insurance policy, unless the score of the applicable text of that policy on the Flesch reading ease test is 50 or higher. All consumer insurance policies that are not required to have a Flesch reading ease score of 50 or higher must have a score of 40 or higher. However, a consumer insurance policy may have an equivalent score to the score required for the Flesch reading ease test if the commissioner approves a comparable test. Generally, under the bill, consumer insurance policies must comply with all of the following: if printed, the print of the policy is in not less than 10-point type with spacing between the lines at least as high as the height of the font with some exceptions; if electronic, the policy appears in final format in not less than 10-point type with some exceptions; the policy is appropriately divided and captioned, presented in a meaningful sequence, and the style, arrangement, and overall appearance of the policy enhances its understandability; if the policy contains more than 3,000 words or more than three pages, it has a table of contents or an index of principal sections; the policy contains a section listing exclusions and limitations and any exclusions or limitations also appearing within the form are given at least equal prominence with the rest of the language; the policy defines words and expressions not commonly understood and words and expressions of which the commonly understood meaning is not intended by the policy language; cross-references between policy sections are minimized; and the policy contains words and phrases written in active voice. Certain property and casualty policies; individual and group

ten

*

annuities; life insurance policies; disability income policies; and long-term care policies are exempt from the requirement to contain a section listing exclusions and limitations and give equal prominence to exclusion and limitation language and the requirement to have the words and phrases in the policy in active voice. The bill specifies a method for calculating a Flesch reading ease test score for a consumer insurance policy. The requirements of the bill do not apply to any policy that is a security subject to federal jurisdiction; any group policy, except any certificate issued under a group policy; any group annuity contract that funds a pension, profit-sharing, or deferred compensation plan; and renewals of policies for which the terms are not altered except in certain ways.

The bill requires an officer of the insurer to certify that the consumer insurance policy that is the subject of the filing meets the minimum reading ease score or has a score lower than the minimum required score but should be approved under an exemption. The commissioner may approve a consumer insurance policy with a lower score than is required if the commissioner finds that the lower score will provide a more accurate reflection of the understanding of a consumer insurance policy, that the lower score is warranted by the nature of a particular form or type of class of form, or that the lower score is caused by certain language that is drafted to conform to state law, rule, or commissioner interpretation. The officer of the insurer is also required by the bill to provide to the commissioner the actual readability score and the method or computer program used to determine the score. *

The bill also requires any insurer authorized to offer a consumer insurance policy to provide information on its Internet site describing how an insured may request or access a paper or electronic copy of a policy. Upon a request by an insured, an insurer must provide, in the format requested, a complete copy of the consumer insurance policy that is in force and any modifications, amendments, riders, and amendatory endorsements attached as that policy is filed with the commissioner. An insurer that offers a consumer insurance policy except for an individual or group annuity, or a life, disability income, or long-term care insurance policy and except for a policy offered by a town mutual, must advise each policyholder that a printed or electronic copy of the consumer insurance policy with all modifications, amendments, riders, and amendatory endorsements attached as filed with the commissioner will be provided to the policy within five business days of the request if in electronic format or within 10 business days of the request if by mail. As in current law, a violation of the provisions of the bill does not void or render voidable any portion of a consumer insurance policy and is not a defense to an action under the consumer insurance policy.

ten
(END INSERT ANALYSIS)

Dodge, Tamara

From: Ludwig, Frederic
Sent: Monday, January 09, 2012 5:31 PM
To: Dodge, Tamara
Subject: RE: Draft review: LRB 11-2862/P1 Topic: Readability of insurance policies
 Hi Tami,

I was smart/stupid (depending on which way you want to look at this... I can guess which way you might likely see it...) and ran the draft by another group of knowledgeable stakeholders. I've included changes Sandy would like to request below, with some explanation in case you need some additional info. Unfortunately am not able to boil down any further at the moment, as I'm eyes deep in mining right now and have the distinct honor of heading to Hurley tomorrow for Wednesday's big hearing...

Once again, thank you for your patience and work on this. Let me know if you have any further questions/concerns, and I'll do what I can to answer/triage them.

Fred

Next to some of the summary points (in black), we've added some thoughts or questions (in blue). There are 5 areas that are considered more "priority." Those are highlighted in yellow, which all should be incorporated as changes to the draft.

We compared the bill to Ins. 6.07, and also kept in mind federal requirements coming down the pike in the health reform law.

Setting the Score:

- Sets the Flesch Reading Score at 50 for health care plans.
- Sets the Flesch Reading Score at 40 for all other consumer policies (individual or group annuity, life insurance policy, disability income policy, long-term care policy, or property and casualty insurance policy)

Requirements:

- ① • Appropriate type size, appropriately divided and captioned, in meaningful sequence, style and appearance enhance understandability—consider including "meaningful access for limited English proficient and disability populations." See more on this below under "additions."
- ✓ ② • Section lists exclusions and limitations (applies only to health policies, not all other consumer insurance policies)-- Make sure the language of 631.225(2)5 Minimum Readability Standards, "the consumer insurance policy contains a *section* listing exclusions and limitations..." is interpreted to mean that **all** exclusionary language should appear in **one section** of the policy. I would recommend the language of Ins 6.07(4)(a)5 be "It contains a **single section** listing exclusions or the exclusions are listed within the form and given at least equal prominence including same type size."
- Includes definitions, active voice (applies only to health policies, not all other consumer insurance policies)
- Insurers are to include on their websites how to request a policy-paper or electronic
 - Insurers have 10 business days to deliver a paper copy, 5 business days to deliver an electronic copy
 - An electronic copy of the policy (with modifications, riders, amendments and amendatory endorsements attached) is available upon request
 - There is one exception for Town Mutuals to escape this electronic access requirement under 631.225(6)(b)—this language should be removed. There is absolutely no need for an explanation why Town Mutuals cannot meet the electronic policy delivery requirement. In fact,

in this era of "free market" health care as argued by the current commissioner of insurance, if an insurer can't modernize or compete, the free market will ensure they don't remain in business.

- 4 ○ Section 631.225(6)(c)—Each day that a requested copy is not sent **may** be considered as a separate violation—recommend changing "may" to "shall."

5 • Effective date is **2 years** after publication (after complete health exchange implementation), and even then, it only applies to newly issued or renewed on the effective date—is this delay necessary? It would make more sense to integrate new language into policies before they are included in the exchanges in 2014.

- Exceptions at the discretion of OCI to "undo" the bill language:

- 6 ○ Edit the language of 631.225(5) that says, "the commissioner may approve a consumer insurance policy with a lower score than is required if the commissioner finds that the lower score will provide a more accurate reflection of the understanding of a consumer insurance policy, that the lower score is warranted by the nature of a particular form or type of class of form, or that the lower score is caused by certain language that is drafted to conform to state law, rule or **commissioner interpretation.**" While consistent with Ins. 6.07(7), there is an excess of discretion granted to OCI to waive readability standards here. Recommend that a lower readability score be considered only when the language of state law or rule may require certain phraseology. Delete entirely "commissioner interpretation."

- 7 ○ Delete the language on line 17 on page 7, another instance of discretion to Commissioner: The Bill creates an exception to the Flesch score: 631.225(2)(8)(b)(5)(c) (line 17 on page 7) "the commissioner may approve any other reading test for use as an alternative to the Flesch reading ease test if that reading test is comparable in result to the Flesch reading ease test." While this is consistent with Ins 6.07(4)(c), it again minimizes compliance with consistent readability determinations. There is really no reason to introduce alternative reading score calculations. Stick with the method described in the statute.

- 8 ○ Delete the language that grants exemptions in section 631.225(3)(d) to any consumer insurance policy that is a renewal whose terms are not altered in any way...but then states that changes in premiums, monetary limits or languages required by federal or state laws, regulations or rules are not considered "changes." Again, while this is consistent with 6.07(5) (d), it is overbroad in waiving compliance, and can be deleted.

Additions:

1. There is no stated enforcement mechanism or reference to enforcement in the bill. In fact, 631.225(7) states only that, "A violation of this section does not void or render voidable any portion of a consumer insurance policy and is not a defense to an action under the consumer insurance policy." I'm assuming penalties under 601.41 serve as the main enforcement proceedings for any violation of this rule (and would explicitly list that in this section.) Or would typical OCI enforcement actions that are published monthly for agents and companies comprise the bulk of the enforcement?

2. When drafting this bill, keep in mind the language of the health reform law, especially language on the establishment of exchanges and qualified health plans. The language thus far says: (b) Accessibility and readability requirements. All applications, forms, and notices must be written in plain language and provided in a manner that: (1) Provides meaningful access to limited English proficient individuals; and (2) Ensures effective communication for people with disabilities. (155.230 **Paragraph** 76 FR 41916). I would recommend including language into the readability bill that addresses "meaningful access" for these two populations of Wisconsin health care consumer.

3. I would also keep in mind any new legislation that is needed to get Wisconsin into compliance with federal independent review standards (right now, thanks to emergency rules, WI does not meet the independent review and external appeals required by health reform.) There are timelines and deadlines that will be established for insurers to deliver plan documents and policy language should it follow a denial determination. We would want the bills to be consistent.

From: Dodge, Tamara
Sent: Tuesday, December 06, 2011 3:11 PM
To: Ludwig, Frederic
Subject: RE: Draft review: LRB 11-2862/P1 Topic: Readability of insurance policies

Fred,

Some of the list is accurate and some is not accurate. See my notes in blue incorporated below in the list from Erin Aagesen.

Tami

Tamara J. Dodge

Attorney
Wisconsin Legislative Reference Bureau
P.O. Box 2037
Madison, WI 53701-2037
(608) 267 - 7380
tamara.dodge@legis.wisconsin.gov

From: Ludwig, Frederic
Sent: Monday, December 05, 2011 4:04 PM
To: Dodge, Tamara
Subject: FW: Draft review: LRB 11-2862/P1 Topic: Readability of insurance policies

Catching up on emails from last week and caught one re: the readability of insurance policies draft. Does the list below appear to be accurate?

From: Erin Aagesen [mailto:erin@wisconsinliteracy.org]
Sent: Thursday, December 01, 2011 1:14 PM
To: Ludwig, Frederic
Cc: michele@wisconsinliteracy.org; Paul Smith
Subject: Re: Draft review: LRB 11-2862/P1 Topic: Readability of insurance policies

Hi all -

I've gone through this document in detail, and made a list summarizing the main provisions as I see them. Hopefully, this will help us react to the basic information. Frederic, please let me know if I have interpreted anything inaccurately.

- Requires all language to be written at a Flesch score of 50 and above for consumer insurance policies, disability policies and property and casualty policies

This is not correct. First, "consumer insurance policy" is a generic term under which many of the types of insurance mentioned in the draft fall. (Disability income policies and property and casualty policies are types of consumer insurance policies.) The score of 50 or above applies to essentially only health care plans as I understand the definition from the rule. The list of insurance policies listed in sub. (2) (a) 1. a. (page 3, lines 14-17) are the exceptions to the minimum score of 50.

- Some policies may be written at a score of 40 and above. (I'm not sure I understand which policies fall under this category?)

The score of 40 and above applies to those policies exempted from the minimum of 50, which would be the entire list. So, consumer insurance policies that are individual or group annuities, life insurance policies, disability income policies, long-term care policies, or property and casualty policies are subject to the minimum score of 40.

- Written information must be at least 10 point font, which spacing between lines at least as high as the height of the type used

- The appearance of the document must enhance its understandability (how will this be measured?)

As this draft is written, the commissioner (or OCI) will be responsible for enforcement if the appearance of the document doesn't enhance the understandability. I don't know if the commissioner would set forth a specific standard for this.

- If a document contains more than 3,000 words, or more than 3 pages, there must be a table of contents or index

- For insurance policies containing more than 10,000 words, the entire form must be analyzed using Flesch Kincaid (how to do this is spelled out to keep the piece timeless)

This is not quite correct. The entire form must be analyzed if under or equal to 10,000 words. If the form is more than 10,000 words, either the entire form is analyzed or samples of each page are analyzed as described on page 5, lines 8-9 of the draft.

- A score lower than 50 is acceptable if it helps to aid understanding of a particular piece (how will this be measured?)

The commissioner would decide whether a lower score is acceptable. I don't know whether the commissioner would set forth a specific standard for this.

- Insurers providing consumer insurance policies must have information on its website describing how an insured may request or access a paper or electronic copy of his or her insurance policy.

- Insurer must provide this information within 5 days of the request.

The deadline of 5 days only applies to health care plans and property and casualty insurance that is provided electronically in response to the insured's request. Health care plans and property and casualty insurers have 10 days to provide the information by mail. Other types of consumer insurance policies don't have a specific deadline for providing the information.

If these are indeed the main provisions, then I think this content looks good. I would just like more clarification about the exemptions to the rule.

Erin Aagesen, MS, MPH
Health Literacy Coordinator
Wisconsin Literacy, Inc.
211 S. Paterson St., Suite 260
Madison, WI 53703
608.661.0207

www.HealthLiteracyWisconsin.org



State of Wisconsin
2011 - 2012 LEGISLATURE



LRB-2862/1
TJD:jld:rs

In: 1/19/12

RMR

2011 BILL

Dnote

X

Regen

1 AN ACT *to repeal* 631.22 (title), (1), (2), (3), (4) and (5); *to renumber and amend*
2 631.22 (6); *to amend* 631.20 (2) (e); and *to create* 631.225 of the statutes;
3 **relating to:** readability of consumer insurance policies.

Analysis by the Legislative Reference Bureau

Under current law, a consumer insurance policy is a life, disability, property, or casualty insurance policy, or a certificate of a substitute for a certificate for group life, disability, property, or casualty insurance that is issued to a person, for a personal, family, or household purpose and a copy of which is customarily delivered or required to be delivered to the person obtaining coverage. Current law requires that insurers only deliver consumer insurance policies that are coherent, written in commonly understood language, legible, appropriately divided and captioned by its various sections, and presented in a meaningful sequence. The commissioner of insurance (commissioner) is required to promulgate rules establishing standards for determining whether the consumer insurance policy complies with those requirements. The commissioner is allowed under current law to exempt a type of consumer insurance policy from the requirements if the commissioner finds that the type of consumer insurance policy is generally understood by persons to whom it is delivered. Currently, a violation of the readability requirements does not void or render voidable any portion of the insurance policy and is not a defense to an action under the policy.

This bill eliminates the current readability requirements for consumer insurance policies and substitutes other requirements. The bill clarifies that

BILL

consumer insurance policies include both health care plans and disability income insurance policies. An insurer is prohibited from delivering or issuing a consumer insurance policy, except for an individual or group annuity, life insurance policy, disability income policy, long-term care policy, or property and casualty insurance policy, unless the score of the applicable text of that policy on the Flesch reading ease test is 50 or higher. All consumer insurance policies that are not required to have a Flesch reading ease score of 50 or higher must have a score of 40 or higher.

However, a consumer insurance policy may have an equivalent score to the score required for the Flesch reading ease test if the commissioner approves a comparable test.

Generally, under the bill, consumer insurance policies must comply with all of the following: if printed, the print of the policy is in not less than ten-point type with spacing between the lines at least as high as the height of the font with some exceptions; if electronic, the policy appears in final format in not less than ten-point type with some exceptions; the policy is appropriately divided and captioned, presented in a meaningful sequence, and the style, arrangement, and overall appearance of the policy enhances its understandability; if the policy contains more than 3,000 words or more than three pages, it has a table of contents or an index of principal sections; the policy contains a section listing exclusions and limitations and any exclusions or limitations also appearing within the form are given at least equal prominence with the rest of the language; the policy defines words and expressions not commonly understood and words and expressions of which the commonly understood meaning is not intended by the policy language; cross-references between policy sections are minimized; and the policy contains words and phrases written in active voice. Certain property and casualty policies; individual and group annuities; life insurance policies; disability income policies; and long-term care policies are exempt from the requirement to contain a section listing exclusions and limitations and give equal prominence to exclusion and limitation language and the requirement to have the words and phrases in the policy in active voice. The bill specifies a method for calculating a Flesch reading ease test score for a consumer insurance policy. The requirements of the bill do not apply to any policy that is a security subject to federal jurisdiction; any group policy, except any certificate issued under a group policy; any group annuity contract that funds a pension, profit-sharing, or deferred compensation plan; and renewals of policies for which the terms are not altered except in certain ways.

The bill requires an officer of the insurer to certify that the consumer insurance policy that is the subject of the filing meets the minimum reading ease score or has a score lower than the minimum required score but should be approved under an exemption. The commissioner may approve a consumer insurance policy with a lower score than is required if the commissioner finds that the lower score will provide a more accurate reflection of the understanding of a consumer insurance policy, that the lower score is warranted by the nature of a particular form or type of class of form, or that the lower score is caused by certain language that is drafted to conform to state law, rule, or commissioner interpretation. The officer of the insurer is also required by the bill to provide to the commissioner the actual readability score and the method or computer program used to determine the score.

NOT the language ensures effective Communication for individuals with a disability or with limited English proficiency

and

and

single

or

BILL

The bill also requires any insurer authorized to offer a consumer insurance policy to provide information on its Internet site describing how an insured may request or access a paper or electronic copy of a policy. Upon a request by an insured, an insurer must provide, in the format requested, a complete copy of the consumer insurance policy that is in force and any modifications, amendments, riders, and amendatory endorsements attached as that policy is filed with the commissioner. An insurer that offers a consumer insurance policy except for an individual or group annuity, or a life, disability income, or long-term care insurance policy and except for a policy offered by a town mutual, must advise each policyholder that a printed or electronic copy of the consumer insurance policy with all modifications, amendments, riders, and amendatory endorsements attached as filed with the commissioner will be provided to the policy within five business days of the request if in electronic format or within ten business days of the request if by mail. As in current law, a violation of the provisions of the bill does not void or render voidable any portion of a consumer insurance policy and is not a defense to an action under the consumer insurance policy.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

1 **SECTION 1.** 631.20 (2) (e) of the statutes is amended to read:

2 631.20 (2) (e) That its use would violate s. ~~631.22~~ 631.225.

3 **SECTION 2.** 631.22 (title), (1), (2), (3), (4) and (5) of the statutes are repealed.

4 **SECTION 3.** 631.22 (6) of the statutes is renumbered 631.225 (7) and amended
5 to read:

6 631.225 (7) A violation of this section does not void or render voidable any
7 portion of ~~an~~ a consumer insurance policy and is not a defense to an action under the
8 consumer insurance policy.

9 **SECTION 4.** 631.225 of the statutes is created to read:

10 **631.225 Consumer insurance policy readability; access to policy. (1)**

11 DEFINITIONS. In this section:

12 (a) "Applicable text" includes all printed or electronic matter in a consumer
13 insurance policy except for all of the following:

BILL

- 1 1. The name and address of the insurer.
- 2 2. The name, number, or title of the consumer insurance policy.
- 3 3. The table of contents or index.
- 4 4. Captions and subcaptions.
- 5 5. Specification pages, schedules, or tables.
- 6 6. Any of the following language or terminology that the insurer certifies in
7 writing to the commissioner is entitled to be exempt from readability requirements:
 - 8 a. Any form language that is drafted to conform to the requirements of any
9 federal law, regulation, or agency interpretation.
 - 10 b. Any form language required by any collective bargaining agreement.
 - 11 c. Any medical terminology.
 - 12 d. Any words that are defined.
 - 13 e. Any form language required by state law or rule.
- 14 7. The title or name of a state or federal government organization or regulatory
15 entity that is required to be named within the consumer insurance policy.
 - 16 (b) "Consumer insurance policy" means a life, disability income, property, or
17 casualty insurance policy or health care plan or a certificate or a substitute for a
18 certificate for group life, disability income, property, casualty, or health care
19 insurance coverage, which is issued to a person for personal, family, or household
20 purposes and a copy of which is customarily, in the insurance industry, delivered or
21 required by law, rule, or agreement to be delivered, to the person obtaining insurance
22 coverage.
 - 23 (c) "Health care plan" has the meaning given in s. 628.36 (2) (a) 1.
 - 24 (d) "Syllable" means a unit of spoken language consisting of one or more letters
25 of a word as divided by a generally accepted dictionary.

BILL

1 (2) MINIMUM READABILITY STANDARDS. (a) In addition to any other requirements
2 and except as provided in sub. (3), no insurer may deliver or issue for delivery a
3 consumer insurance policy in this state unless all of the following apply:

4 1. Except as provided under sub. (5), the applicable text achieves any of the
5 following scores:

6 a. For consumer insurance policies, except individual or group annuities, life
7 insurance policies, disability income policies, long-term care policies, or property
8 and casualty insurance policies, a minimum score of 50 on the Flesch reading ease
9 test as described in par. (b).

10 b. For all other consumer insurance policies not subject to subd. 1. a., a
11 minimum score of 40 on the Flesch reading ease test as described in par. (b).

12 c. For the applicable type of consumer insurance policy, a score equivalent to
13 a score under subd. 1. a. or b. on any other comparable test approved by the
14 commissioner under par. (c).

15 2. The consumer insurance policy to be delivered to the consumer is an
16 electronic form or printed form that complies with all of the following:

17 a. If the consumer insurance policy is printed, it is in not less than 10-point
18 type, with spacing between lines at least as high as the height of the type used, except
19 for specification pages, schedules, and tables.

20 b. If the consumer insurance policy is electronic, it appears as it will in final
21 format and is in not less than a 10-point type except for specification pages,
22 schedules, and tables.

23 3. The consumer insurance policy is appropriately divided and captioned,
24 presented in a meaningful sequence, and the style, arrangement, and overall
25 appearance of the consumer insurance policy enhances its understandability.

the language ensures effective communication for individuals with
a disability or with limited English proficiency

BILL

↑ including the same type size

1 4. If the consumer insurance policy contains more than 3,000 words or more
2 than 3 pages, the consumer insurance policy contains a table of contents or an index
3 of the principal sections of the policy.

4 5. The consumer insurance policy contains a ^{Single} section listing exclusions and
5 limitations, and if the exclusions and limitations also appear within the form, the
6 exclusions and limitations are given at least equal prominence with the rest of the
7 form language. This subdivision does not apply to a property and casualty insurance

8 policy as described in sub. (1) (b), an individual or group annuity, a life insurance
9 policy, a disability income policy, or a long-term care insurance policy.

10 6. The consumer insurance policy defines words and expressions that are not
11 commonly understood and words and expressions the commonly understood
12 meaning of which is not intended by the policy language.

13 7. Cross-references between sections of the consumer insurance policy are
14 minimized.

15 8. The consumer insurance policy contains words and phrases written in active
16 voice. This subdivision does not apply to a property and casualty insurance policy
17 as described in sub. (1) (b), an individual or group annuity, a life insurance policy, a
18 disability income policy, or a long-term care insurance policy.

19 (b) A person measuring a Flesch reading ease test score for a consumer
20 insurance policy under this section shall use the following method:

21 1. a. For consumer insurance policies containing 10,000 words or less of
22 applicable text, analyze the entire form.

23 b. For consumer insurance policies containing more than 10,000 words,
24 analyze the entire form or analyze the readability of 2 200-word applicable text
25 samples per page that are separated by at least 20 printed lines.

BILL

1 2. Subject to subd. 5., count the number of words in the applicable text under
2 subd. 1. and divide by the total number of sentences in the text under subd. 1.
3 Multiply the resulting quotient by 1.015.

4 3. Subject to subd. 5., count the total number of syllables in the applicable text
5 under subd. 1. and divide by the total number of words in the text under subd. 1.
6 Multiply the resulting quotient by 84.6.

7 4. Subtract the sum of the figures calculated under subds. 2. and 3. from
8 206.835 to obtain the Flesch reading ease score for the consumer insurance policy.

9 5. For the counting of the applicable text under subds. 2. and 3., all of the
10 following apply:

11 a. Numbers and letters, when separated by spaces, a contraction, or a
12 hyphenated word are counted as one word.

13 b. A unit of words ending with a period, semicolon, or colon, but excluding
14 headings and captions, is counted as a sentence.

15 c. If a generally accepted dictionary shows 2 or more equally acceptable
16 pronunciations of a word, the pronunciation containing fewer syllables may be used.

17 ✓ (c) The commissioner may approve any other reading test for use as an
18 alternative to the Flesch reading ease test if that reading test is comparable in result
19 to the Flesch reading ease test.

20 **(3) EXEMPTIONS.** This section does not apply to any of the following:

21 (a) Any policy that is a security subject to federal jurisdiction.

22 (b) Any group policy, except any certificate issued under a group policy
23 delivered or issued in this state.

24 (c) Any group annuity contract that funds a pension, profit-sharing, or
25 deferred compensation plan.

BILL

1 (d) Renewals of consumer insurance policies whose terms are not altered in any
2 way except for changes in premium, monetary limits, or language required by federal
3 or state laws, regulations, or rules.

4 (4) CERTIFICATION; REQUIRED INFORMATION. (a) An officer of the insurer shall
5 provide with a filing of a consumer insurance policies that is subject to this section
6 a certificate signed by that officer stating that the consumer insurance policy that
7 is the subject of the filing meets the minimum reading ease score or that the
8 consumer insurance policy that is the subject of the filing has a score that is lower
9 than the minimum required score but the filing should be approved under sub. (5).

10 (b) 1. The insurer shall provide the actual readability score for each consumer
11 insurance policy in the cover letter of the filing or as a data element in an electronic
12 filing.

13 2. The insurer shall identify in the filing the method or computer program used
14 to determine the readability score.

15 (c) The commissioner may require the submission of further information to
16 verify the accuracy of the certification under par. (a).

17 (5) EXEMPTION FOR LOWER SCORE. The commissioner may approve a consumer
18 insurance policy with a lower score than the Flesch reading ease score required
19 under sub. (2) (a) 1. whenever the commissioner finds any of the following:

20 (a) The lower score will provide a more accurate reflection of the understanding
21 of a consumer insurance policy.

22 (b) The lower score is warranted by the nature of the particular form or type
23 or class of such forms.

24 (c) The lower score is caused by certain language that is drafted to conform to
25 the requirements of any state law, ^{or} rule, or commissioner's interpretation.

that

MINOR

BILL

1 **(6) INFORMATION TO CONSUMERS; POLICY ACCESS.** (a) Any insurer authorized to
2 offer a consumer insurance policy shall provide information on its Internet site
3 describing how an insured may request or access a paper or an electronic copy of his
4 or her insurance policy that is in force. Upon a request by an insured, an insurer shall
5 provide to the insured in the format requested by the insured a complete copy of the
6 consumer insurance policy that is in force and any modifications, amendments,
7 riders, and amendatory endorsements attached as that policy is filed with the
8 commissioner after the date of issuance of the insured's policy.

9 (b) Except for a consumer insurance policy that is an individual or group
10 annuity or a life, disability income, or long-term care insurance policy and except for
11 a consumer insurance policy that is offered by a town mutual under ch. 612, an
12 insurer that offers a consumer insurance policy shall advise each policyholder that
13 a printed or electronic copy of the complete in force consumer insurance policy with
14 all modifications, amendments, riders, and amendatory endorsements attached as
15 filed with the commissioner since the date of issue of the policy will be provided to
16 the policyholder either in electronic format within 5 business days of receipt by the
17 insurer of the request or by paper copy to be mailed within 10 business days of receipt
18 by the insurer of the request.

19 (c) Each day the requested copy of a consumer insurance policy is not sent to
20 the insured as requested may be considered as a separate violation of this subsection.

SECTION 5. Initial applicability.

22 (1) This act first applies to consumer insurance policies that are newly issued
23 or renewed on the effective date of this subsection.

SECTION 6. Effective date.

BILL

1 (1) This act takes effect on the first day of the 24th month beginning after
2 publication.

3

(END)

D-note

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2862/2dn

TJD: A:...

JLD

Date

To Fred Ludwig:

Please review this version of the draft to ensure it complies with your intent. The most recent commenter on the draft is correct that penalties under s. 601.41, and also s. 601.64, would apply to the readability requirements. I did not add an explicit reference to s. 601.41 as requested because I believe it creates the inference that those sections do not generally apply to all insurance provisions, which they do. I also wonder if a reference only to s. 601.41 would limit the penalties to that provision even if other penalties would apply, such as those under s. 601.64.

The commenter also referred to federal independent review standards. This draft does not address that issue as it seems beyond the current scope of the draft. If you would like this issue addressed, I will need further, more specific instructions.

Should you have any questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-2862/2dn
TJD:jld:ph

January 25, 2012

To Fred Ludwig:

Please review this version of the draft to ensure it complies with your intent. The most recent commenter on the draft is correct that penalties under s. 601.41, and also s. 601.64, would apply to the readability requirements. I did not add an explicit reference to s. 601.41 as requested because I believe it creates the inference that those sections do not generally apply to all insurance provisions, which they do. I also wonder if a reference only to s. 601.41 would limit the penalties to that provision even if other penalties would apply, such as those under s. 601.64.

The commenter also referred to federal independent review standards. This draft does not address that issue as it seems beyond the current scope of the draft. If you would like this issue addressed, I will need further, more specific instructions.

Should you have any questions or redraft instructions, please contact me.

Tamara J. Dodge
Legislative Attorney
Phone: (608) 267-7380
E-mail: tamara.dodge@legis.wisconsin.gov

Basford, Sarah

From: Rep.Pasch

Sent: Monday, February 13, 2012 8:42 AM

To: LRB.Legal

Subject: Draft Review: LRB 11-2862/2 Topic: Readability of insurance policies

Please Jacket LRB 11-2862/2 for the ASSEMBLY.

2/13/2012