

Chapter Ins 6

GENERAL

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|----------|--|-----------|---|
| Ins 6.01 | Foreign company to operate 2 years before admission. | Ins 6.59 | Licensing of individuals as agents, reinsurance intermediaries, or managing general agents (s. 628.04, Stats.). |
| Ins 6.02 | Company to transact a kind of insurance 2 years before admission. | Ins 6.595 | Exemption of licensing of individuals as intermediaries. |
| Ins 6.03 | Domestication of nondomestic insurer. | Ins 6.60 | Prohibited business practices. |
| Ins 6.05 | Filing of insurance forms. | Ins 6.61 | Intermediary records. |
| Ins 6.06 | Minimum documentation in support of rate filings. | Ins 6.62 | Filing requirements for multiple employer trusts and associations. |
| Ins 6.07 | Insurance policy language simplification. | Ins 6.63 | Regulation charge. |
| Ins 6.08 | Claimant representatives. | Ins 6.66 | Proper exchange of business. |
| Ins 6.09 | Prohibited acts by captive agents of lending institutions and others. | Ins 6.67 | Unfair discrimination in life and disability insurance. |
| Ins 6.10 | Property and casualty premium restrictions. | Ins 6.68 | Unfair discrimination based on geographic location or age of risk. |
| Ins 6.11 | Insurance claim settlement practices. | Ins 6.70 | Combinations of lines and classes of insurance. |
| Ins 6.12 | Qualification of actuaries. | Ins 6.72 | Risk limitations. |
| Ins 6.13 | Open records; privileged or confidential records. | Ins 6.74 | Suretyship and risk limitations of surety obligations. |
| Ins 6.17 | Regulation of surplus lines insurance. | Ins 6.75 | Classifications of insurance. |
| Ins 6.18 | Reporting and payment of tax by unauthorized insurers transacting business in violation of law. | Ins 6.76 | Grounds for disapproval of and authorized clauses for fire, inland marine and other property insurance forms. |
| Ins 6.19 | Reporting and taxation of directly placed unauthorized insurance. | Ins 6.77 | Exemption from mid-term cancellation requirements. |
| Ins 6.20 | Investments of insurance companies. | Ins 6.78 | Exemption from filing of rates. |
| Ins 6.25 | Joint underwriting and joint reinsurance associations. | Ins 6.785 | Exemption from rate filing requirements. |
| Ins 6.30 | Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. | Ins 6.79 | Advisory councils and committees. |
| Ins 6.31 | Interpretations of the instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. | Ins 6.80 | Retention of records. |
| Ins 6.35 | Petroleum storage environmental cleanup fund; exclusions from reimbursement. | Ins 6.85 | Notification of a person's right to file a complaint with the commissioner. |
| Ins 6.40 | Proxies, consents and authorizations of domestic stock insurers. | Ins 6.90 | Prohibited uses of senior-specific designations. |
| Ins 6.41 | Insider trading of equity securities of domestic stock insurers. | Ins 6.91 | Definitions. |
| Ins 6.42 | Initial statement of beneficial ownership of securities. | Ins 6.92 | Individual navigators. |
| Ins 6.43 | Statement of changes in beneficial ownership of securities. | Ins 6.93 | Registration of navigator entities. |
| Ins 6.50 | Kinds of individual intermediary or agent licenses. | Ins 6.95 | Registration of certified application counselors, nonnavigator assisters and nonnavigator assister entities. |
| Ins 6.51 | Group life and disability coverage termination and replacement. | Ins 6.96 | Prohibited business practices. |
| Ins 6.52 | Biographical data relating to company officers and directors. | Ins 6.97 | Navigator, nonnavigator assister, navigator entity, and nonnavigator assister entity records. |
| Ins 6.54 | Prohibited classification of risks for rating purposes. | Ins 6.98 | Prohibition of uses of designations. |
| Ins 6.55 | Discrimination based on sex, unfair trade practice. | Ins 6.99 | Exemption. |
| Ins 6.57 | Appointment of insurance agents by insurers. | | |
| Ins 6.58 | Licensing of insurance intermediary firms as insurance agents. | | |

Ins 6.01 Foreign company to operate 2 years before admission. Experience has demonstrated that until a company has engaged in the business of insurance for at least 2 years there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact business in Wisconsin will be considered until it has continuously transacted the business of insurance for at least 2 years immediately prior to the making of such application for license.

History: 1-2-56.

Ins 6.02 Company to transact a kind of insurance 2 years before admission. (1) Experience has demonstrated that until a company has engaged in a kind of insurance or in another kind of insurance of the same class for at least 2 years, there is not a sufficient basis upon which to form a judgment as to whether its methods and practices in the conduct of its business in such kind of insurance or another kind in the same class of insurance, are such as to safeguard the interests of its policyholders and the people of this state. Therefore, no application of a foreign insurance company or mutual benefit society for a license to transact a kind of insurance business in Wisconsin will be considered until it has continuously transacted that kind of insurance, or another kind of insurance in the same class of insurance as that for which it makes such application for at least 2 years immediately prior to making such application. For the purposes hereof, insurance is divided into kinds of insurance according to the provisions of s. Ins 6.75, each subsection setting forth a separate kind, and into classes of insurance upon the basis of and including the said kinds as follows:

- (a) Fire insurance includes the kinds in s. Ins 6.75 (2) (a).
- (b) Life insurance includes the kinds in s. Ins 6.75 (1) (a) and (b) but excluding all insurance on the health of persons other than that authorized in s. 627.06, Stats., and s. Ins 6.70.
- (c) Casualty insurance includes the kinds in s. Ins 6.75 (2) (c) through (n).

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in s. Ins 6.75 (1) (c) or (2) (c) if the applicant company has transacted any of the kinds of insurance in s. Ins 6.75 (1) (a) and (b) or (2) (d), (e), (k) and (n) continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in s. Ins 6.75 (1) (c) or (2) (c).

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76; am. Register, March, 1979, No. 279, eff. 4-1-79; corrections made under s. 13.93 (2m) (b) 7., Stats., Register, June, 1997, No. 498.

Ins 6.03 Domestication of nondomestic insurer. (1) **PURPOSE.** Under s. 611.223 (1) (a), Stats., a nondomestic insurer may apply to the commissioner to become a domestic insurer. In accordance with s. 611.223 (1) (b), Stats., this section specifies the contents of the application needed from a nondomestic insurer to obtain a certificate of incorporation and certificate of authority to be a domestic insurer.

(2) **SCOPE.** This section applies to each nondomestic insurer which submits to the commissioner under s. 611.223 (1) (a), Stats., an application for a certificate of incorporation and a certificate of authority for domestic insurers.

(3) **REQUIRED CONTENTS OF THE APPLICATION.** The application for a certificate of incorporation and a certificate of authority shall

be filed in accordance with s. 611.223 (1) (a), Stats., and shall include the following information:

(a) Information on the corporation and officers and directors, including all of the following:

1. The names, and for the preceding 10 years all addresses and all occupations of all existing and proposed directors and officers;
2. Certified copies of the articles and bylaws of the corporation and of any proposed amendments thereto in conjunction with the change of domicile;
3. All agreements relating to the corporation to which any existing or proposed director or officer is a party;
4. The present and proposed compensation of existing and proposed directors and officers; and
5. The holding company information required in s. Ins 40.03 (3) if the insurer must report this information under s. 617.11 (1), Stats.

(b) The applicant's plan for conducting the insurance business, including any proposed changes to the applicant's current manner of conducting the insurance business, containing all of the following information:

1. A description of the geographical area in which the applicant conducts business;
2. The types of insurance the applicant writes;
3. The applicant's marketing methods;
4. A summary of the applicant's policies on reinsurance business ceded, including information regarding retentions, maximum risks, types of contracts such as pro rata, excess of loss, and any other information which may be material to this part of the applicant's operation;
5. A summary of the applicant's policies on assumed reinsurance including information regarding retentions, maximum risks, types of business, types of contracts to be issued, and other factors which may be material to this part of the applicant's operations;
6. A brief summary of the applicant's investment policy;
7. The applicant's annual statements for the three most recent years and a projection of the anticipated operating results of the corporation at the end of the next five years of operation, based on reasonable assumptions of loss experience, premium and other income, operating expenses and acquisition costs; and
8. To the extent requested by the commissioner, the applicant's method of establishing premium rates.

(c) A certificate from the authority which regulates the insurance industry in the applicant's state of domicile, stating that the authority has given all requisite approvals and that the applicant's corporation is in good standing with the authority and in compliance with the laws of the state of domicile; and

(d) Any other relevant information required by the commissioner from an applicant.

(4) APPLICATION MATERIAL; FEES. (a) An insurer may obtain materials for application for a certificate of incorporation and certificate of authority by requesting them from the commissioner of insurance, P.O. Box 7873, Madison, Wisconsin 53707-7873.

(b) In accordance with s. 601.31 (1) (a), Stats., an insurer shall submit a \$100 fee to the commissioner at the same time that the insurer submits the application for the certificates of incorporation and authority.

(5) ISSUANCE OF CERTIFICATE. (a) The commissioner shall issue within 180 days of receiving a completed application submitted in accordance with s. 611.223 (1) (a), Stats., a certificate of incorporation and a certificate of authority to the insurer submitting the application if the commissioner determines that the insurer satisfies the requirements of s. 611.223 (1) (a) 1. to 3., Stats. A failure by the commissioner to issue the certificate of incorporation and a certificate of authority within 180 days does not constitute acceptance of the application.

(b) In accordance with s. 601.31 (1) (b), Stats., an insurer shall submit a \$100 fee to the commissioner upon issuance of the certificate of incorporation and certificate of authority.

History: Cr. Register, May, 1989, No. 401, eff. 6-1-89; correction in (3) (a) 5. made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530.

Ins 6.05 Filing of insurance forms. (1) PURPOSE. This section interprets and implements ss. 601.42, 631.20, 631.22 and 631.61, Stats.

(2) SCOPE. The requirements of this section shall apply to forms subject to s. 631.01, Stats., for the lines of insurance listed in s. Ins 6.75, except s. Ins 6.75 (2) (b) and (k).

(3) DEFINITIONS. (a) "Affiliated insurer" means an insurer which is a member or subscriber to a rate service organization licensed under s. 625.32, Stats., and which has authorized the rate service organization to file forms on its behalf.

(b) "Certificate of compliance and readability" means a document in substantially identical format to Appendix A which is signed by an officer of the insurer.

(c) "Certificate of readability" means a written statement signed by an officer of the insurer stating that the form is subject to s. Ins 6.07 and that the form meets the minimum standards set forth in that section.

(d) "OCI" means the office of the commissioner of insurance.

(e) "Submission" means a filing under s. 631.20, Stats., or any request received by the office of the commissioner of insurance for approval of a single form or combination of forms.

(f) "Transmittal document" means a document substantially identical in format to the form established by standards adopted by the National Association of Insurance Commissioners (NAIC), on which an insurer shall list information about each form submitted for approval.

Note: A copy of the transmittal document may be obtained at no cost from the Office of the Commissioner of Insurance, P.O. Box 7873, Madison WI 53707-7873, or at the Office's web address: oci.wi.gov.

(4) FILING PROCEDURE. (a) Each paper submission of forms shall include all of the following:

1. A properly completed insurance transmittal document in duplicate.

2. A properly completed certificate of compliance and readability in substantially identical format as in Appendix A.

3. A filing letter that contains the following information:

a. In the case of a form that alters or replaces a previously approved form, a description of the change.

b. One copy of each form in final format exactly as it will be offered for issuance or delivery in the state of Wisconsin, except for hypothetical data and other appropriate variable material.

5. If a form contains variable material or language, a written description identifying the range of the variable material or language.

6. A second copy of each form, if the insurer requires an OCI stamped copy for its records.

7. A copy of the previously approved form clearly marked "for reference only" if the current form is to supercede the previously approved form.

8. If the submission of forms is filed by a third-party on behalf of an insurer, a letter from the insurer, authorizing the third-party to file forms on its behalf.

9. A self-addressed return envelope of sufficient size to return one copy of the materials in subsd. 1. and 6., to the insurer.

(b) Each electronic submission of forms shall include all of the following:

1. All of the data elements on the transmittal document.

2. A properly completed certificate of compliance and readability in substantially identical format as in Appendix A.

3. A filing letter that contains all of the following information:

a. In the case of a form that alters or replaces a previously filed form, a description of the changes.

b. The form number and approval or filing date of any form superseded by the new form.

4. One copy of each form in final electronic format exactly as it will be offered for issuance or delivery in the state of Wisconsin, except for hypothetical data and other appropriate variable material.

5. If a form contains variable material or language, a written description identifying the range of the variable material or language.

6. A copy of the previously approved or filed form clearly marked “for reference only” if the current form is to supersede the previously approved or filed form.

7. If the submission of forms is filed by a third-party on behalf of an insurer, a letter from the insurer authorizing the third-party to file forms on its behalf.

(c) A submission filed by a rate service organization will be considered as filed on behalf of all affiliated insurers.

(5) **INSURER RECORDS.** Each insurer shall maintain a file of all forms approved or filed under s. 631.20, Stats., for use in Wisconsin until all exposure on the risks insured against has terminated. The file is subject to examination and the commissioner may request that any portion of the file be available for review within ten days of a written request.

(6) **INCOMPLETE FILING.** The commissioner shall reject without further review any filing which does not include all of the items in sub. (4) (a) and (b).

(7) **PENALTY.** Insurers violating the provision of this rule by using unapproved or unfiled forms shall be subject to the penalties in s. 601.64, Stats. Each form issued to an individual policyholder shall constitute a separate violation.

History: Cr. Register, July, 1958, No. 31, eff. 8-1-58; am. (3), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1977, No. 263, eff. 12-1-77; r. and recr. (4), Register, January, 1980, No. 289, eff. 2-1-80; am. (4) (a), (b) (intro.) and 7., Register, February, 1982, No. 314, eff. 3-1-82; cr. (4) (c) and (d), Register, July, 1982, No. 319, eff. 8-1-82; r. and recr. December, 1987, No. 384, eff. 1-1-88; r. (5), renum. (6) to (8) to be (5) to (7), Register, July, 1989, No. 403, eff. 8-1-89; CR 10-076: am. (3) (b), (4) (a) (intro.), 1. to 5., 8., 9., (5), (6), (7), renum. (3) (d), (e), (f) to be (3) (f), (d), (e) and am., renum. (4) (b) to be (4) (c), cr. (4) (b) Register January 2011 No. 661, eff. 2-1-11.

Ins 6.05 Appendix A

CERTIFICATE OF COMPLIANCE AND READABILITY

I _____, (name), an officer of _____ (company name), hereby certify that I have authority to bind and obligate the company by filing this (these) form(s). I further certify that, to the best of my information, knowledge and belief:

1. The accompanying form(s) as identified by the attached listing comply(ies) with all applicable provisions of the Wisconsin Statutes and with all applicable administrative rules of the Commissioner of Insurance;
2. The form(s) does (do) not contain any inconsistent, ambiguous, or misleading clauses;
3. The form(s) does (do) not contain specification or conditions that unreasonably or deceptively limit the risk purported to be assumed in the general coverage of the policy form(s);
4. The only variations from a form currently on file with the commissioner of insurance and the only unconventional policy provisions are clearly marked or otherwise indicated pages _____ of the attached form(s) or in an attachment; and
5. The attached form(s) is (are) in final printed format or typed facsimile and is (are) as will be offered for issuance or delivery in Wisconsin after approval by the Commissioner of Insurance, except for hypothetical data and other appropriate variable material.
6. If this form is a consumer insurance policy, the text of the form(s) meet(s) the minimum reading ease score or, if authorized by the commissioner, the score is lower than the minimum required by s. Ins 6.07 (4) (a) 1., Wis. Adm. Code. Product used to determine the Flesch score: _____.

I understand that the commissioner of insurance will rely on this certification regarding the forms filed, and should it be determined that the policy form(s) does(do) not comply with the applicable laws, regulations, filing requirements and product standards or that this certification is materially false or incorrect, appropriate corrective and disciplinary action, including retroactive disapproval, as authorized by law, may be taken by the commissioner against the company and the officer completing this certification.

(signature)

(title)

(date)

Individual responsible for this filing:

Name: _____ Title: _____

Address: _____

Phone Number: _____ Date: _____

Ins 6.06 Minimum documentation in support of rate filings. (1) **PURPOSE.** The purpose of this section is to establish the minimum supplementary rate information required to be submitted with rate filings to the commissioner. Statutes interpreted or implemented by this section are ss. 601.42 (1g), 625.01, 625.02 (3), and 625.11, Stats.

(2) **SCOPE.** Except as provided in sub. (4), any insurer or rate service organization which is subject to s. 625.13 (1), Stats., and is filing rates for any kind or line of direct insurance in this state shall include, in that filing, the supplementary rate information required by sub. (5) or (6).

(3) **DEFINITIONS.** (a) A “frequency trend factor” means any factor which adjusts the past number of paid or incurred claims to reflect more accurately the number of claims that can be expected to develop during the period the proposed rates will be used.

(b) A “loss adjustment factor” means any factor used to modify or adjust the actual losses paid or incurred during the period under examination or review.

(c) A “loss development factor” means any factor used either to adjust the reported amount of incurred losses to include incurred but not reported losses or to correct errors in the estimation of loss reserves for reported claims that have not been paid, or both.

(d) A “premium adjustment factor” means any factor used to modify or adjust the actual premiums earned during the period under examination or review.

(e) A “rate level factor” means any factor that adjusts prior earned premiums to the premiums that would have been earned if the present rates had been in effect throughout the period under examination or review.

(f) A “severity trend factor” means any factor which adjusts the past average claim amount to reflect more accurately the average claim amount that can be expected to develop during the period the proposed rates will be used.

(4) **EXEMPTIONS.** (a) Life and disability insurance as defined in s. Ins 6.75 (1), disability insurance as defined in s. Ins 6.75 (2) (c), title insurance as defined in s. Ins 6.75 (2) (h), mortgage guaranty insurance as defined in s. Ins 6.75 (2) (i), municipal bond insurance as defined in s. Ins 3.08 (3) (e), and worker’s compensation insurance as defined in s. Ins 6.75 (2) (k) are exempt from the provisions of this section.

(b) All companies licensed under ch. 612, Stats., are exempt from the provisions of this section.

(c) The commissioner may, upon written application, exempt an insurer from full or partial compliance with this rule.

(5) **SUPPLEMENTAL RATE INFORMATION.** A rate filing and accompanying supplemental rate information shall be appropriately organized for the kind, class or line of business for which the filing is being made. Except as provided in sub. (6), all rate filings shall include the following supplementary rate information:

(a) 1. At least 3 separate and consecutive years of both Wisconsin and aggregate of all states’ experience showing:

- a. Premiums earned;
- b. Losses paid;
- c. Separate reserves for reported but unpaid losses; and
- d. Reserves for losses incurred but not reported.

2. If any of the information required by subd. 1. is omitted or less than 3 years’ experience is provided, an explanation shall be submitted.

(b) An explanation of the rate-making procedures including a description of any statistical data and actuarial methods utilized; or a statement of facts and other detailed information which explain judgments used; or a statement as to how the rates of the filing company compare with those of the competition, providing detail where the rates are substantially higher or lower; or any combination.

(c) Explanation of the permissible or target loss ratio, including an explanation of how any investment income has been taken into account.

(d) When used, any premium adjustment factors and loss adjustment factors by year and an explanation of methods and judgments underlying each factor. Loss adjustment factors include but are not limited to loss development factors, frequency trend factors, and severity trend factors. Premium adjustment factors include but are not limited to rate level factors.

(6) **OTHER SUPPLEMENTAL RATE INFORMATION.** The commissioner may accept supplemental information other than that required by sub. (5) if the insurer or rate service organization can demonstrate to the commissioner that this information fully supports the rate filing and complies with s. 625.11, Stats.

(7) **USE OF RATE SERVICE ORGANIZATION RATES.** A member of or subscriber to a rate service organization licensed under s. 625.32, Stats., shall file supplementary rate information if its rates deviate from those filed on its behalf by the rate service organization. Such a filing shall be as required by subs. (5) and (6).

(8) **ADDITIONAL INFORMATION.** The commissioner may require additional rate filing information if the commissioner determines that the original filing does not explain the proposed rate. Such additional information shall be provided within 30 days of the request.

History: Cr. Register, March, 1988, No. 387, eff. 4–1–88; am. (5) (a) 1. intro. and (9), Register, November, 1988, No. 395, eff. 12–1–88; r. (9) and Appendix, Register, January, 1995, No. 469, eff. 2–1–95; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530.

Ins 6.07 Insurance policy language simplification.

(1) **PURPOSE.** The purpose of this rule is to establish minimum standards for legibility, coherence and understandability in consumer insurance policies delivered or issued for delivery in the state of Wisconsin on or after the effective dates stipulated in sub. (8). Sections of statutes interpreted or implemented by this rule are ss. 631.20 (2) (a) and 631.22, Stats.

(2) **SCOPE.** This rule shall apply to “consumer insurance policies” as defined in sub. (3) and not exempted under sub. (5).

(3) **DEFINITIONS.** (a) In this section “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 purpose and a copy of which is customarily, in the insurance industry, delivered or is required by law, rule or agreement to be delivered to the person obtaining insurance coverage.

(b) The term “text” as used in this section shall include all printed or electronic matter except the following:

1. The name and address of the insurer; the name, number or title of the consumer insurance policy; the table of contents or index; captions and subcaptions; specification pages, schedules or tables; and

2. Any such form language that is drafted to conform to the requirements of any federal law, regulation or agency interpretation; any form language required by any collectively bargained agreement; any medical terminology; any words which are defined in the form; and any form language required by state law or regulation; provided, however, the insurer identifies the language or terminology excepted by this subdivision and certifies, in writing to the commissioner, that the language or terminology is entitled to be excepted by this subdivision.

(4) **MINIMUM STANDARDS.** (a) In addition to any other requirements of law, no consumer insurance policy, unless excepted under sub. (5), shall be delivered or issued for delivery in this state on or after the dates such forms must be approved under this section, unless:

1. The text achieves a minimum score of 50 for those policies labeled as Medicare supplement policies as defined by s. Ins 3.39 and a minimum score of 40 for all other policies included under

this rule, on the Flesch reading ease test as described in par. (b), or an equivalent score on any other comparable test as provided in par. (c) or this subsection unless a lower score is authorized under sub. (7);

2. It is printed, except for specification pages, schedules and tables, in not less than 10 point type, one point leaded;

3. It is appropriately divided and captioned, presented in a meaningful sequence, and the style, arrangement and overall appearance of the policy enhance its understandability;

4. It contains a table of contents or an index of the principal sections of the policy if the policy contains more than 3,000 words or if the policy has more than 3 pages;

5. 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;

6. It defines words and expressions which are not commonly understood, or whose commonly understood meaning is not intended;

7. Cross-referencing between sections of the policy is maintained at a minimum.

(b) For the purpose of this section, a Flesch reading ease test score shall be measured by the following method:

1. For consumer insurance policies containing 10,000 words or less of text, the entire form shall be analyzed. For such forms containing more than 10,000 words, the readability of two 200-word samples per page may be analyzed instead of the entire form. The samples shall be separated by at least 20 printed lines.

2. The number of words and sentences in the text shall be counted and the total number of words divided by the total number of sentences. The figure obtained shall be multiplied by a factor of 1.015.

3. The total number of syllables shall be counted and divided by the total number of words. The figure obtained shall be multiplied by a factor of 84.6.

4. The sum of the figures computed under subs. 2. and 3. subtracted from 206.835 equals the Flesch reading ease score for the consumer insurance policy.

5. For purposes of subs. 2., 3., and 4., the following procedures shall be used:

a. A contraction, hyphenated word, or numbers and letters, when separated by spaces, shall be counted as one word;

b. A unit of words ending with a period, semicolon, or colon, but excluding headings and captions, shall be counted as a sentence; and

c. A syllable means a unit of spoken language consisting of one or more letters of a word as divided by an accepted dictionary. Where the dictionary shows 2 or more equally acceptable pronunciations of a word, the pronunciation containing fewer syllables may be used.

6. The title or name of a state or federal government organization or regulatory entity that is required to be used within the policy form may be excluded from the Flesch readability score.

(c) Any other reading test may be approved by the commissioner for use as an alternative to the Flesch reading ease test if it is comparable in result to the Flesch reading ease test.

(5) EXEMPTIONS. This section does not apply to:

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

(b) Any group policy; however, this shall not exempt any certificate issued pursuant to a group policy delivered or issued for delivery in this state;

(c) Any group annuity contract that serves as a funding vehicle for pension, profit-sharing or deferred compensation plans;

(d) Renewal policies whose terms are not altered in any way. Changes in premium, monetary limits or language required by federal and state laws and regulations adopted after the effective date of this rule are not alterations under this section.

(e) Any form used in exchange, pursuant to a contractual provision, for an individual life policy delivered or issued for delivery on a form approved prior to the date that the form must be approved under this section.

(6) CERTIFICATION. Filings subject to this section shall be accompanied by a certificate signed by an officer of the insurer stating that it meets the minimum reading ease score or stating that the score is lower than the minimum required but should be approved in accordance with sub. (7). The actual readability score for each form shall be stated in the cover letter or as a data element in an electronic filing and the insurer shall fully identify the method or computer program used to determine the readability score. To confirm the accuracy of any certification, the commissioner may require the submission of further information to verify the certification in question.

(7) POWERS OF THE COMMISSIONER. The commissioner may authorize a lower score than the Flesch reading ease score required in sub. (4) (a) 1., whenever, at the sole discretion of the commissioner, it is found that a lower score: will provide a more accurate reflection of the understandability of a consumer insurance policy; is warranted by the nature of a particular form or type or class of such forms; or is caused by certain language which is drafted to conform to the requirements of any state law, rule or commissioner's interpretation.

(8) EFFECTIVE DATE. (a) This section shall apply to the following consumer insurance policies no later than 6 months after December 1, 1980:

1. Private passenger automobile.
2. Homeowners,
3. Dwelling fire,
4. Individual disability excluding disability income,
5. Medicare supplement,
6. Individual life and annuity.

(b) This section shall apply to the following consumer insurance policies no later than 12 months after December 1, 1980.

1. Renewal policies with altered terms,
2. Group disability certificates,
3. Disability income,
4. All consumer insurance policies not included under pars. (a) and (c) of this subsection.

(c) This section shall apply to all Town Mutual insurers and also other insurers whose written premiums for the most recent calendar year did not exceed \$500,000 statewide, no later than 18 months after December 1, 1980, regardless of the requirements under pars. (a) and (b).

(d) Any consumer insurance policy that has been approved prior to the effective date of this rule and meets the standards set by this rule need not be refiled for approval but may continue to be lawfully delivered or issued for delivery in this state upon the filing with the commissioner of a list of the forms and accompanied by a certificate for each form in the manner provided in sub. (6).

(e) The dates in pars. (a), (b), (c) and (d) may be extended at the commissioner's sole discretion, but not beyond May 8th, 1982.

History: Cr. Register, November, 1980, No. 299, eff. 12-1-80; CR 10-076: am. (3) (b) (intro.), 2., (4) (a) 5., (5) (a), (c), (6), (8) (d), r. and recr. (4) (a) 1., 2., cr. (4) (a) 8., (b) 6., (d), (9) Register January 2011 No. 661, eff. 2-1-11; EmR1101: eff. 2-9-11; CR 11-021: r. and recr. (4) (a) (intro.), 1., 2., 5., r. (4) (a) 8., (d), (9) Register August 2011 No. 668, eff. 9-1-11.

Note: The treatment of s. Ins 6.07 by CR 10-076 first apply to policies issued or renewed eight months following February 1, 2011.

Ins 6.08 Claimant representatives. (1) PURPOSE. This section provides limited regulatory guidelines concerning the activities of claimant representatives. This section also protects insurance consumers from practices that the commissioner finds to be unfair trade practices. The commissioner finds as unfair trade practices those practices in which a claimant representative

requires property to be repaired by a specified repair facility or contractor for repairs, receives compensation for the referral of business to a repair facility or contractor for repairs, operates as a repair facility or contractor for repairs, participates in the insurance claim payments to a repair facility or contractor for repairs, fails to disclose to the consumer the method of compensation and fails to provide the consumer with copies of contracts entered into between the claimant representative and consumer. This section requires a claimant representative to disclose his or her method and manner of compensation to the consumer and prohibits a claimant representative from engaging in practices that create potential conflicts of interest. This section implements and interprets s. 628.34 (11) and (12), Stats. This section is in addition to, and does not affect, s. 757.30, Stats.

(2) **SCOPE.** This section applies to all claimant representatives transacting business in this state.

(3) **DEFINITIONS.** As used in this section:

(a) “Contractor for repairs” means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for a building, dwelling or structure.

(b) “Claimant representative” means any person, except an attorney licensed to practice law in the state, who receives compensation from a claimant in exchange for representing or advising the claimant in negotiations for the settlement of a claim against an insurer arising out of the coverage provided by an insurance policy. A claimant representative does not include a person whose sole service to the claimant is to provide to the claimant an estimate or appraisal for repairs.

(c) “Repair facility” means the person, firm or corporation performing the repair work or furnishing the materials for the repair work, or both, for tangible personal property other than a building, dwelling or structure.

(4) **DISCLOSURE REQUIREMENTS.** (a) No claimant representative may accept compensation for performing services for or otherwise assisting a claimant with an insurance claim unless, prior to performing any services and prior to the claimant’s assuming any obligation to pay for adjusting services, the claimant representative clearly and conspicuously discloses and explains to the claimant in writing the method and manner of receiving and accounting for compensation for services performed.

(b) A claimant representative shall submit to the claimant a copy of any written contract entered into between the claimant representative and claimant within 5 working days after the contract is signed by the claimant. A claimant representative shall commit to writing any oral agreement entered into between the claimant representative and claimant and shall submit a copy of the writing to the claimant within 10 working days after the agreement is made.

(5) **PROHIBITED PRACTICES.** (a) No claimant representative may require that repairs of property be performed by a specific repair facility or contractor for repairs.

(b) No claimant representative may receive any compensation from a repair facility or contractor for repairs for referring business to the repair facility or contractor for repairs.

(c) No claimant representative may operate as a repair facility or contractor for repairs or participate in any manner in the insurance claim payments to a repair facility or contractor for repairs.

History: Cr. Register, October, 1988, No. 394, eff. 11-1-88.

Ins 6.09 Prohibited acts by captive agents of lending institutions and others. (1) **PURPOSE.** This rule implements and interprets applicable statutes, including but not limited to ch. 628, Stats., prohibiting concerted acts of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance as unfair methods of competition and as unfair or deceptive acts or practices in the business of insurance.

(2) **DEFINITIONS.** (a) *Agent.* A natural person, other than a captive agent, holding a valid and current certificate of registration as an insurance agent and one or more valid and current licenses to represent one or more admitted insurers in the solicitation and sale of policies of insurance in this state.

(b) *Borrower.* Any person, firm, association, or corporation which obtains, other than in the regular course of its trade or business, a loan of money or credit from a lending institution on the security of real or personal property in return for a promise to repay the consideration at a time subsequent.

(c) *Captive agent.* An agent who is a director, officer, or employee of the lending institution which, in connection with a loan transaction, holds or acquires a security interest in real or personal property of a borrower.

(d) *Lending institution.* Any person, firm, association, or corporation, whether or not licensed or chartered by any agency of government, which in the regular course of business lends money or credit to a borrower on the security of real or personal property in return for the borrower’s promise to repay the consideration at a time subsequent.

(e) *Policy of insurance.* Any policy, certificate or memorandum of insurance affording in whole or in part any one or more of the kinds of insurance described, respectively, in any paragraph of s. Ins 6.75 (2).

(3) **DECLARATION OF POLICY.** (a) Every borrower in this state should be afforded a reasonable opportunity to purchase any policy of insurance, the form, content, and provisions of which have previously been approved by the office of the commissioner of insurance for use in this state, for the purpose of providing insurance coverage on real or personal property required by a lending institution to be placed in force by the borrower at the borrower’s expense to protect its security interest in such real or personal property.

(b) Every borrower in this state should be afforded a reasonable opportunity to purchase a policy of insurance, from any insurer and through any agent currently licensed by the office of the commissioner of insurance to issue or sell in this state, which is designed to protect and which affords protection for security interests in real or personal property and which is required by a lending institution to be placed in force by the borrower at the borrower’s expense for such purpose.

(c) At the minimum, every borrower in this state should be afforded the opportunity at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy affording adequate limits of insurance with respect to such property provided that such replacement policy has been approved for use in this state, and the insurer currently licensed by the office of the commissioner of insurance.

(4) **PROHIBITED ACTS.** Each of the following acts is declared to constitute the commission, by concerted action, of an act of boycott, coercion, or intimidation resulting in or tending to result in unreasonable restraint of the business of insurance and is prohibited:

(a) *Refusal to accept policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent’s lending institution in real or personal property of the borrower if such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution has refused or then refuses to accept for such purpose the policy of any insurer licensed in this state, the form, content, and provisions of which have previously been approved as appropriate for the insurance of such security interest on the property of such borrower by the office of the commissioner of insurance for use in this state.

(b) *Restriction on replacement of existing policy.* 1. The solicitation or sale by a captive agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of such captive agent's lending institution in real or personal property of the borrower if such lending institution then imposes or enforces any requirement or condition, whether or not assented thereto by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

2. The solicitation or sale by an agent of any policy of insurance to a borrower or to a lending institution for the account of any borrower under which coverage is afforded for the security interest of any lending institution in real or personal property of such borrower if such agent knows or in the exercise of reasonable care should have known that such lending institution then imposes or enforces any requirement or condition, whether or not assented to by a borrower, which abrogates or otherwise penalizes or restricts the right of any borrower, exercisable at any time within 30 days following initial inception of coverage and at any time within 30 days prior to any annual anniversary date of any existing policy effectively to substitute for an existing policy insuring real or personal property of the borrower in which the lending institution has a security interest any other policy approved by the office of the commissioner of insurance which affords adequate limits of insurance with respect to such property.

(5) **FREE CHOICE OF INSURANCE: TOWN MUTUAL INSURERS.** (a) A person may not disapprove, under s. 628.34 (5), Stats., a policy of insurance issued by a town mutual insurer licensed in this state based wholly or partially on the ground that:

1. The insurer does not have an acceptable rating with a rating service or publication;
2. The policy of insurance is assessable; or
3. The financial condition of the insurer is unacceptable, unless the condition constitutes a violation of s. Ins 13.06 or 13.09.

(b) A person may disapprove a policy issued by a town mutual insurer based wholly or partially on the ground that it does not have a mortgagee clause in the form permitted under s. Ins 13.04 (7) (b).

(6) **NONAPPLICATION.** The provisions of this rule shall not apply to renewal of any policy of insurance where the obligation of the borrower to procure insurance for the security interest of the lending institution accrued prior to the effective date of this rule.

History: Cr. Register, December, 1968, No. 156, eff. 1-1-69; am. (1), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1) and (2) (e), eff. 6-22-76; am. (1) and (2) (e), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (e), Register, March, 1979, No. 279, eff. 4-1-79; renum. (5) to be (6), cr. (5), Register, May, 1986, No. 365, eff. 6-1-86.

Ins 6.10 Property and casualty premium restrictions. (1) **PURPOSE.** This section requires insurers who may return a premium that is less than the pro rata unearned premium

to disclose this to the insured. This section also establishes prohibitions concerning specified practices relating to premiums. This section implements and interprets ss. 227.10 (1), 601.01 (2), 625.13 (1), 628.34 (1), (3), (11), and (12), 631.20 and 631.36 (2), Stats.

(2) **SCOPE.** This section applies to all lines or classes of insurance classified as property and casualty insurance in s. Ins 6.75 (2), except lines or classes of insurance providing disability insurance under s. Ins 6.75 (2) (c) and (k).

(3) **DEFINITIONS.** In this section:

(a) "Pro rata unearned premium" means the pro rata portion of the written premium covering the unexpired portion of the policy term for which the written premium has been charged by the insurer to the policyholder.

(b) "Written premium" means the entire amount of premium charged a policyholder for the term of the policy.

(4) **PREMIUM IN EXCESS OF PRO RATA EARNED PREMIUM: FILING, RESTRICTIONS, DISCLOSURES.** (a) An insurer shall file with the commissioner in accordance with s. 625.13, Stats., and s. Ins 6.06 any schedule of return premium applicable in the event of policy cancellation wherein the return of premium is less than the pro rata unearned premium for that policy form. The rate filing shall include the basis of the premium calculation in the event of a policy cancellation.

(b) Subject to par. (c), in any policy under which an insurer may return a premium that is less than the pro rata unearned premium, the insurer shall provide the policyholder with a separate written notice that the policyholder may pay a substantial penalty if the policyholder cancels the policy prior to its expiration date. No insurer may return a premium that is less than the pro rata unearned premium until at least 10 days after the insurer mails or delivers this written notice to the policyholder.

(c) Notwithstanding pars. (a) and (b), no insurer may return to the policyholder a premium that is less than the pro rata unearned premium if the insurer initiates cancellation or for a cancellation due to the nonpayment of premium.

(5) **MISCELLANEOUS PREMIUM PROHIBITION.** No insurer may initiate cancellation of one policy solely to apply the pro rata unearned premium of that policy to the balance due on another policy.

History: Cr. Register, August, 1989, No. 404, eff. 10-1-89; am. (2), Register, April, 1992, No. 436, eff. 5-1-92.

Ins 6.11 Insurance claim settlement practices.

(1) **PURPOSE.** This rule is to promote the fair and equitable treatment of policyholders, claimants and insurers by defining certain claim adjustment practices which are considered to be unfair methods and practices in the business of insurance. The rule implements and interprets applicable statutes including but not limited to ss. 601.04 (3), 601.01 (2), and 645.41 (3), Stats.

(2) **SCOPE.** This rule applies to the kinds of insurance identified in s. Ins 6.75, transacted by insurers as defined in s. 600.03 (27), Stats., and nonprofit service plans subject to ch. 613, Stats.

(3) **UNFAIR CLAIM SETTLEMENT PRACTICES.** (a) Any of the following acts, if committed by any person without just cause and performed with such frequency as to indicate general business practice, shall constitute unfair methods and practices in the business of insurance:

1. Failure to promptly acknowledge pertinent communications with respect to claims arising under insurance policies.
2. Failure to initiate and conclude a claims investigation with all reasonable dispatch.
3. Failure to promptly provide necessary claims forms, instructions and reasonable assistance to insureds and claimants under its insurance policies.
4. Failure to attempt in good faith to effectuate fair and equitable settlement of claims submitted in which liability has become reasonably clear.

5. Failure upon request of a claimant, to promptly provide a reasonable explanation of the basis in the policy contract or applicable law for denial of a claim or for the offer of a compromise settlement.

6. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

7. Failure to affirm or deny coverage of claims within a reasonable time after proof of loss has been completed.

8. Failure to settle a claim under one portion of the policy coverage in order to influence a settlement under another portion of the policy coverage.

9. Except as may be otherwise provided in the policy contract, the failure to offer settlement under applicable first party coverage on the basis that responsibility for payment should be assumed by other persons or insurers.

10. Compelling insureds and claimants to institute suits to recover amounts due under its policies by offering substantially less than the amounts ultimately recovered in suits brought by them.

11. Refusing payment of claims solely on the basis of the insured's request to do so without making an independent evaluation of the insured's liability based upon all available information.

12. Failure, where appropriate, to make use of arbitration procedures authorized or permitted under any insurance policy.

13. Adopting or making known to insureds or claimants a policy of appealing from arbitration awards in favor of insureds or claimants for the purpose of compelling them to accept settlements or compromises less than the amount awarded in arbitration.

(b) Any of the following acts committed by any person shall constitute unfair methods and practices in the business of insurance:

1. Knowingly misrepresenting to claimants pertinent facts or policy provisions relating to coverages involved.

2. Failure to make provision for adequate claims handling personnel, systems and procedures to effectively service claims in this state incurred under insurance coverage issued or delivered in this state.

3. Failure to adopt reasonable standards for investigation of claims arising under its insurance policies.

4. Violating the requirements established in s. 632.85, Stats.

(4) PROMPT DEFINED. Except where a different period is specified by statute or rule and except for good cause shown, the terms "prompt" and "promptly" as used in this rule shall mean responsive action within 10 consecutive days from receipt of a communication concerning a claim.

(5) PENALTY. The commission of any of the acts listed in sub. (3) (a) or (b) 2. or 3. shall subject the person to revocation of license to transact insurance in this state. Violations of this rule or any order issued thereunder shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; am. (1), Register, September, 1973, No. 213, eff. 10-1-73; am. (2), Register, February, 1974, No. 218, eff. 3-1-74; emerg. am. (2), eff. 6-22-76; am. (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, April, 1992, No. 436, eff. 5-1-92; cr. (3) (b) 4., Register, February, 2000, No. 530, eff. 3-1-00.

Ins 6.12 Qualification of actuaries. (1) PURPOSE. (a) The purpose of this rule is to protect the interests of insurers, insureds, insurance beneficiaries, insurance claimants, insurance company stockholders, and trustees, employers, covered employees, retired employees and terminated employees of employee welfare funds by establishing requirements for use of the terms actuary or actuarial. This rule interprets and implements ss. 601.41, 601.42, 601.43, Stats., and ch. 628, Stats.

(b) It is not the purpose of this rule to require any insurer or rate service organization to employ an actuary except as may be otherwise required by statute or other administrative rule, nor does this

rule require that filings under ch. 625, Stats., be prepared or submitted by a qualified actuary. Further, this rule is not intended to prohibit the strictly internal use by insurers of job titles containing the term actuary.

(2) SCOPE. This rule shall apply to all reports or representations subject to supervision by the commissioner of insurance.

(3) SIGNATURE AS AN ACTUARY. No document filed with this office which requires the signature of an actuary will be accepted unless the person signing as an actuary is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(4) ACTUARIAL REPRESENTATION. No person in any representation made to the public or to this office in respect to any matter subject to this rule shall use the word actuary or actuarial to indicate a degree of professional competence unless that person is a member of the American academy of actuaries or has otherwise demonstrated actuarial competence to the commissioner.

(5) LEVEL OF COMPETENCY. No member of the American academy of actuaries or a person who has otherwise demonstrated actuarial competence to the commissioner shall use the word actuary or actuarial in any presentation subject to this rule unless he or she is qualified to give the actuarial advice required or requested.

(6) PENALTY. Violations of this rule or any order issued thereunder shall subject the person to s. 601.64, Stats., or other applicable statute.

History: Cr. Register, October, 1971, No. 190, eff. 11-1-71; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (3) to (5) made under s. 13.93 (2m) (b) 5., Stats., Register, April, 1992, No. 436, eff. 5-1-92; corrections in (1) (a) made under s. 13.93 (2m) (b) 7., Stats., Register October 2006 No. 610.

Ins 6.13 Open records; privileged or confidential records. (1) Records of the office of the commissioner of insurance are subject to subch. II of ch. 19, Stats., and are open to inspection as required under subch. II of ch. 19, Stats.

(2) The office of the commissioner may withhold and retain as confidential any record which may be withheld and retained as confidential under subch. II of ch. 19, Stats., including, but not limited to, a record which may be withheld or which is privileged under any law or the rules of evidence, as attorney-work product under the rules of civil procedure, as attorney-client privileged material under s. 905.03, Stats., as a medical record under ss. 146.81 to 146.84, Stats., or as privileged under s. 601.465, Stats.

(3) The office, under s. 601.465, Stats., may refuse to disclose and prevent any person from disclosing, in response to a request for production, deposition, subpoena, or otherwise, information obtained from the National Association of Insurance Commissioners or another state's insurance department under pledge of confidentiality or for the purpose of conducting an investigation or examination or obtained, produced or created in the course of an inquiry under s. 601.42, Stats., or examination under s. 601.43, Stats. This privilege applies to information obtained, produced or created before or after the effective date of s. 601.465, Stats., and regardless of whether an inquiry, investigation or examination has been concluded, except it does not apply to a document which is an adopted examination report.

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73; am. (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (2) (a), (4) and (5), made under s. 13.93 (2m) (b) 5., Stats., Register, April, 1992, No. 436, eff. 5-1-92; r. and rec. Register, July, 1993, No. 451, eff. 8-1-93.

Ins 6.17 Regulation of surplus lines insurance. (1) PURPOSE. This rule implements and interprets ss. 601.42, 601.72, 601.73, 618.41 and 618.43, Stats., for the purpose of facilitating the regulation of surplus lines insurance business in this state.

(2) PROHIBITED PLACEMENT. No licensed surplus lines agent may place contracts of insurance with any unauthorized insurer:

(a) For the classes of insurance specified by s. Ins 6.75 (2) (h), (i) and (k), and

(b) For any kind of insurance not specifically authorized by any of the other paragraphs of s. [Ins 6.75](#).

(3) RESPONSIBILITIES OF SURPLUS LINES AGENT. Every licensed surplus lines agent who procures surplus lines insurance shall:

(a) Forward promptly to the policyholder a completed copy of a Surplus Lines Insurance Proposal in a form substantially as in Appendix 1 to this rule.

(b) When applicable, forward promptly to the policyholder a notice that the unauthorized insurer with which the insurance is to be placed is not on the list of unauthorized nondomestic insurers which the commissioner believes to be reliable and solid, along with notice of any other deficiencies of the insurer of which the agent has knowledge.

(c) Keep in his or her office in this state a full and true record of each surplus lines insurance contract procured by him or her, evidenced by a copy of the daily report or other documents to show at least the following information:

1. Amount of the insurance and perils insured against;
2. Brief general description of property insured and where located;
3. Gross premium charged;
4. Return premium paid, if any;
5. Rate of premium charged upon the several items of property;
6. Effective date of the contract, and the terms thereof;
7. Name and post-office address of the insured;
8. Name and home office address of the insurer;

9. Amount collected from the insured; and

10. A copy of the notice required by par. (b).

(d) The record required by par. (d) shall be open at all times to examination by the commissioner without notice, and shall be so kept available and open to the commissioner for 3 years (5 years for notice required by par. (b)) next following the expiration or cancellation of the contract.

(4) ADVERTISING BY SURPLUS LINES AGENT. A surplus lines agent may advertise the availability of services in procuring, on behalf of persons seeking insurance, contracts with insurers not holding a certificate of authority in Wisconsin, but such advertisements shall not refer to any particular unauthorized insurer or insurers.

(5) REPORT AND PAYMENT OF TAX—SURPLUS LINES INSURANCE. All premium tax collected by the surplus lines agent shall be reported and forwarded to the commissioner on or before March 1, for all insurance procured, renewed or continued during the preceding calendar year with unauthorized insurers. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(6) PENALTY. Any violation of this rule shall subject the agent to immediate revocation of the agent's surplus lines license and to other forfeitures and penalties provided by s. [601.64](#), Stats.

History: Cr. [Register, December, 1973, No. 216](#), eff. 1-1-74; am. (1), [Register, May, 1975, No. 233](#), eff. 6-1-75; emerg. am. (2) (a) and (b), eff. 6-22-76; am. (2) (a) and (b), [Register, September, 1976, No. 249](#), eff. 10-1-76; am. (2) (a) and (b), [Register, March, 1979, No. 279](#), eff. 4-1-79; r. (3) (c), renum. (3) (d) and (e) to be (3) (c) and (d), am. (4), (6) and appendix 1, [Register, August, 1982, No. 320](#), eff. 9-1-82; corrections in (3) (c) (intro.) made under s. 13.93 (2m) (b) 5., Stats., [Register, April, 1992, No. 436](#), eff. 5-1-92.

Ins 6.17 Appendix 1

SURPLUS LINES INSURANCE PROPOSAL

Name and address of applicant

Date

Dear:

Proposal No.

You have asked that I procure the following insurance coverage on your behalf:

Type of Insurance

Limits of Coverage

I can procure the coverage desired from the following insurer(s) at the premium listed:

Insurer(s) — Name and Address % of Total Risk

Premium Quoted

This insurance is with an insurer which has not obtained a certificate of authority to transact a regular insurance business in the state of Wisconsin, and will be issued and delivered as a surplus lines coverage pursuant to s. [618.41](#), Stats. The insurance is regulated by the Commissioner of Insurance only as provided in ss. [618.41](#) and [618.43](#), Stats. Section [618.43 \(1\)](#), Stats., requires payment by the policyholder of a 3% tax on gross premium (except for Ocean Marine Insurance on which the tax is one-half of 1%). The tax in this instance amounts to \$_____. If the above transaction is not satisfactory, please advise immediately.

Sincerely yours,

Name and address of licensed surplus lines agent

Note: 2011 Wisconsin Act 224 changed the tax rate for surplus lines insurance which is ocean marine insurance to the same 3% rate for all other surplus lines insurance. Any previous reference to a ½ of 1% rate for ocean marine insurance in this rule is not enforceable as that insurance is now taxed at the same 3% rate for all surplus lines insurance.

Ins 6.17 Appendix 2
REPORT OF SURPLUS LINES INSURANCE
 Year Ending December 31, 2_____

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 2_____.

| Agent | | Business address, including zip code | | | Date | |
|-------------------------------|------------------------|--------------------------------------|------------------------|--------------------------------|------------------------|--------------------------------------|
| Proposal No. and Date* (1) | Name of Insured (2) | Name of Insurance Company (3) | Contract Number (4) | Term and Effective Date (5) | Premium Charged (6) | 3%** Premium Tax Collected (7) |

| | | |
|--|-------------------------------------|----------|
| *Proposals are to be numbered consecutively. | Premium Collected During Year | \$ _____ |
| **1/2 of 1% for Ocean Marine Insurance | Tax Due @ 3%**—Total | _____ |
| | Column (7) | \$ _____ |
| | Amount Enclosed | \$ _____ |

Note: 2011 Wisconsin Act 224 changed the tax rate for surplus lines insurance which is ocean marine insurance to the same 3% rate for all other surplus lines insurance. Any previous reference to a 1/2 of 1% rate for ocean marine insurance in this rule is not enforceable as that insurance is now taxed at the same 3% rate for all surplus lines insurance.

Ins 6.18 Reporting and payment of tax by unauthorized insurers transacting business in violation of law.

(1) PURPOSE. This rule implements and interprets ss. 601.42, 610.11 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from unauthorized insurers transacting business in violation of Wisconsin law.

(2) REPORTING AND PAYMENT OF TAX BY UNAUTHORIZED INSURERS TRANSACTING BUSINESS IN VIOLATION OF LAW. All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state written, renewed or continued during the preceding calendar year by an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 1 to this rule.

(3) PENALTY. Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

Ins 6.19 Reporting and taxation of directly placed unauthorized insurance. (1) PURPOSE.

This rule implements and interprets ss. 601.42, 618.42 and 618.43, Stats., for the purpose of facilitating the reporting and collection of tax due the state of Wisconsin from persons who directly procure or renew insurance in an unauthorized insurer.

(2) REPORTING DIRECTLY PLACED UNAUTHORIZED INSURANCE. The procurement or renewal of insurance from any unauthorized insurer shall be reported within 60 days to the commissioner on a form substantially the same as Appendix 1 to this rule.

(3) REPORTING AND PAYMENT OF TAX FOR DIRECTLY PLACED UNAUTHORIZED INSURANCE. All premium tax shall be reported and forwarded to the commissioner on or before March 1, for all insurance which applies to exposures located wholly or partially within this state procured, renewed or continued during the preceding calendar year in an unauthorized insurer. The report shall be made on a form substantially the same as Appendix 2 to this rule.

(4) PENALTY. Any violation of this rule shall subject the person violating the same to s. 601.64, Stats.

History: Cr. Register, December, 1973, No. 216, eff. 1-1-74.

**Ins 6.18 Appendix 1
PREMIUM TAX REPORT
Year Ending December 31, 2**

Unauthorized Insurance on Wisconsin Risks — Sections 610.11 and 618.43, Statutes

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 2____.

| Insurance Company | | Address, including zip code | | |
|----------------------------------|-------------------------|--|--------------------------------|----------------------------------|
| Numbers or Names of Risks (1) | Type of Coverage (2) | Name(s) and address(es) of Wisconsin agent(s) who assisted in procurement (3) | Total Premium Received* (4) | 5% Tax on Total Premium** (5) |

*Include all premium which can be allocated to a Wisconsin exposure, excluding move-in business and business placed with your company by a Wisconsin Surplus Lines agent

**2% for Ocean Marine Insurance

Premium Income from Wisconsin Risks—\$ _____
Total Column (4)

Tax Due @ 5%**—Total Column (5) \$ _____
Amount Enclosed \$ _____

The undersigned, as an officer of the above-named insurance company, certifies that the report is true and correct according to the best of his or her information, knowledge, and belief.

Name

Title Date

Note: 2011 Wisconsin Act 224 changed the penalty tax rate for surplus lines insurance which is ocean marine insurance to the same 5% penalty rate for all other surplus lines insurance. Any previous reference to a 2% penalty rate for ocean marine insurance in this rule is not enforceable as that rate is now the same 5% penalty rate for all surplus lines insurance.

**Ins 6.19 Appendix 1
NOTICE OF DIRECTLY PLACED UNAUTHORIZED INSURANCE**

To: Commissioner of Insurance
State of Wisconsin
P.O. Box 7873
Madison, WI 53707-7873

1. Name of Person or Organization Insured
2. Address of Insured
3. Contract Number
4. Effective Date
5. Expiration Date
6. Name and Address of Insurance Company
7. Description or Type of Coverage
8. Premium Charged

The undersigned certifies that this report is true and correct according to the best of his or her information, knowledge, and belief.

_____, 2_____

Note: This report, pursuant to s. 618.42 (2), Stats., must be filed with the Commissioner of Insurance within 60 days after effectuation of any new or renewal insurance contract independently procured from an unauthorized insurer. A separate report is required for each new or renewal insurance contract. A 3% Tax on the premiums charged for such contracts during the calendar year ending December 31 must be paid to the Commissioner on or before March 1 next succeeding.

**Ins 6.19 Appendix 2
PREMIUM TAX REPORT**
Year Ending December 31, 2____

Directly Placed Unauthorized Insurance — Sections 618.42 and 618.43, Wisconsin Statutes
This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before
March 1, 2

| Person or Organization Insured | | | Address, including zip code | | | Date |
|--------------------------------|-----------------------|------------------------|--|--|------------------------|---------------------------|
| Contract Number (1) | Effective Date (2) | Expiration Date (3) | Name and Address of Insurance Company (4) | Description or Type of Coverage (5) | Premium Charged (6) | 3% Tax on Premium* (7) |

*1/2 of 1% for Ocean Marine Insurance

| | |
|------------------------|----------|
| Premium Charged— | |
| Total Column (6) | \$ _____ |
| Tax Due @ 3%*— | |
| Total Column (7) | \$ _____ |
| Amount Enclosed | \$ _____ |

The undersigned certifies that this report is true and correct according to the best of his or her information, knowledge, and belief.

_____, 2____

Note: 2011 Wisconsin Act 224 changed the tax rate for surplus lines insurance which is ocean marine insurance to the same 3% rate for all other surplus lines insurance. Any previous reference to a 1/2 of 1% rate for ocean marine insurance in this rule is not enforceable as that insurance is now taxed at the same 3% rate for all surplus lines insurance.

Ins 6.20 Investments of insurance companies.

(1) **PURPOSE.** The purpose of this rule is to implement and interpret ch. 620, Stats., for the purpose of establishing procedures and requirements for investments of insurance companies.

(2) **SCOPE.** This rule shall apply to all insurers subject to ch. 620, Stats.

(3) **DEFINITIONS.** As used in this rule:

(a) “Call option” means an option contract under which the holder of the option contract has the right, in accordance with the terms of the contract, to purchase, or to make a cash settlement in lieu thereof, the amount of the underlying financial instrument covered by the option contract.

(b) “Financial futures contract” means an exchange-traded agreement to make or take delivery, or to make cash settlement in lieu thereof, of a specified amount of financial instruments on or before a specified date or period of time, under terms and conditions regulated by the commodity futures trading commission.

(c) “Financial instrument” means a security, currency, or index of a group of securities or currencies.

(d) “Financial options contract” means options on a financial futures contract and any other option contract for a financial instrument which is traded on an exchange, board of trade, or an over-the-counter market regulated under the laws of the United States.

(e) “Fixed charges” includes interest on all debt, and amortization of debt discount.

(f) “Money market mutual fund” means a fund that meets the conditions of 17 Code of Federal Regulations Par. 270.2a-7, under the Investment Company Act of 1940 (15 USC 80a-1 et seq.), as amended or renumbered.

(g) “Net earnings available for fixed charges” means income after allowance for operating and maintenance expenses, depreciation and depletion, and taxes other than federal and state income taxes, but without allowance for extraordinary nonrecurring items of income or expense appearing in the regular financial statements of the issuing company. If the issuing company has acquired, prior to the date of investment, substantially all the assets of another company by purchase, merger, consolidation or otherwise, the net earnings available for fixed charges of the other company for the portion of the test period that preceded acquisition may be included in accordance with a consolidated earnings statement covering the period.

(h) “Net earnings available for fixed charges and dividends” shall be determined in the same manner as “net earnings available for fixed charges” but after allowance for federal and state income taxes.

(i) “Preferred dividend requirements” include dividends at the maximum prescribed rate on all stock ranking as to dividends on parity with or prior to that being acquired, whether or not the dividends are cumulative.

(j) “Put option” means an option contract under which the holder of the contract has the right, in accordance with the terms of the contract, to sell, or to make a cash settlement in lieu thereof, the amount of the underlying financial instrument covered by the put option contract.

(k) “Real estate” or “real property” includes leaseholds.

(L) “Repurchase transaction” means a transaction in which an insurer purchases securities from a business entity which is obligated to repurchase the purchased securities or equivalent securities from the insurer at a specified price, either within a specified period or upon demand.

(4) GENERAL LIMITATIONS ON RESTRICTED INSURERS. No insurer restricted under s. 620.03, Stats., may invest thereafter in any of the following classes of assets except by permission of the commissioner:

(a) Any securities of an issuer who has defaulted on any payment on any debt security within the previous 5 years;

(b) Any asset under s. 620.22 (9), Stats., or

(c) Any financial futures contract or financial options contract.

(5) SPECIAL LIMITATIONS ON RESTRICTED INSURERS OTHER THAN TOWN MUTUALS. An insurer which is restricted under s. 620.03, Stats., and which is not a town mutual, shall not invest:

(a) *Evidences of indebtedness.* In evidences of indebtedness under s. 620.22 (1), Stats., unless they are lawfully authorized and:

1. They are rated AAA, AA or A by Fitch Investors Service, Inc. or by Standard & Poor's Corporation, or Aaa, Aa or A by Moody's Investors Service, Inc.; or

2. They are evidences of indebtedness of a municipally owned public utility of this state created pursuant to section 3 of article XI of the constitution, and the net book value of the property pledged as security for the bonds has been established or approved by the public service commission and the total issue of the bonds does not exceed 50% of the net book value of such property; or

3. They are payable from revenues of a public utility or railroad owned by or held for the benefit of any governmental unit in the United States or Canada, if they are adequately secured by mortgage or lien on property or by specific pledge or revenues, and lawful authorizing resolutions or ordinance of the governing body of the unit require that during the life of the evidence of indebtedness the rates, fees, tolls or charges together with any other revenues pledged shall at all times produce revenues sufficient to pay all expenses of operation and maintenance, interest as promised and the principal sum when due; or

4. They are evidences of indebtedness of public utilities in the United States or Canada and are either adequately secured by mortgage, pledge or other collateral, or have had net earnings available for fixed charges that for the previous 3 fiscal years have averaged per year not less than 1 1/2 times the average annual fixed charges; or

5. They are evidences of indebtedness of a United States or Canadian private corporation, and they are either adequately secured by mortgage, pledge or other collateral, or are issued by a corporation which has had net earnings available for fixed charges that have averaged for the previous 5 years and equalled for each of the previous 2 years an annual amount which exceeded average annual fixed charges by at least 50%, or 25% in the case of corporations engaged primarily in wholesale or retail merchandising, installment, commercial and consumer financing, factoring or small loan business.

(b) *Equipment securities.* In equipment securities or in certificates of an equipment trust under sub. (8) (b) unless the obligor's net earnings have averaged at least 2 times its average annual fixed charges for the previous 3 years.

(c) *Real estate loans.* In real estate loans:

1. On the security of encumbered property, but property shall not be deemed encumbered because of unpaid but not delinquent assessments and taxes, mineral, oil or timber rights, easements for public highways, private roads, railroads, telegraph, telephone, electric light and power lines, drains, sewers or other similar easements, liens for service and maintenance of water rights when not delinquent, party wall agreements, building restrictions, or other restrictive covenants or conditions, with or without a reversionary clause, or leases under which rents or profits are reserved to the owner;

2. In excess of 2/3 of the fair market value, including buildings covered by the mortgage. If the value of buildings constitute part of the security, the buildings must be insured adequately to

protect the insurer's security interest. The 2/3 limitation shall not apply to any loan fully insured by a federal insurance corporation; nor

3. On the security of a leasehold interest in real property unless it is unencumbered except by rentals owed to the owner of the fee, has at least 25 years yet to run, and then for no more than 50% of the fair market value of the leasehold less the present value of all rentals due upon it to the owner of the fee.

(d) *Preferred shares.* In preferred shares unless the issuing company has had, disregarding fixed charges on indebtedness and dividend requirements on preferred stock for the retirement of which provision has been made at the date of the investment, net earnings:

1. Available for fixed charges and dividends that during the previous 5 fiscal years have averaged not less than twice the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

2. Available for fixed charges and dividends that for each of the previous 3 fiscal years have been not less than 1 1/2 times the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

3. Available to meet preferred dividend requirements of the previous 5 years, after allowance for fixed charges and federal and state income taxes, that have averaged not less than 3 times the preferred dividend requirements.

(e) *Common stock.* In common stock except:

1. In accordance with a plan of acquisition proposed by the insurer and approved by the commissioner; and

2. In common stocks which are authorized securities for NASDAQ, the automated quotation system of the National Association of Securities Dealers.

(f) *Real property.* In any investment under s. 620.22 (4) or (5), Stats., except with prior written approval of the commissioner.

(g) *Limitations on amount of investment.* 1. Except as permitted under subd. 2., more than 3% of assets in securities of any single issuer unless it obtains the prior written permission of the commissioner or unless the investment is in securities of the government of the United States or its instrumentalities or in securities guaranteed by the full faith and credit of the United States; or

2. More than 10% of assets in the securities of one state, of one instrumentality of a state, or of one governmental unit of a state.

(6) TOWN MUTUAL INSURANCE COMPANIES. (a) Town mutual insurance companies authorized to operate under the provisions of ch. 612, Stats., are restricted insurers and are subject to the restrictions of ss. 612.36 and 620.03 (1), Stats., sub. (4) and other applicable provisions of this section. The commissioner may grant exemptions under s. 620.03 (2), Stats.

(b) *Permitted investments.* Except as permitted by pars. (c), (d) and (e) a town mutual insurer may only invest in one or more of the following:

1. Treasury bonds, treasury notes, treasury bills or any other direct obligations of the United States Government or agencies or instrumentalities of the United States Government with a final maturity 15 years or less, except that no part of the amount determined under this paragraph shall be invested in zero coupon bonds or collateralized mortgage obligations;

2. Demand deposit, interest bearing accounts and certificates of deposit in financial institutions, including banks, savings and loan associations and credit unions, except that the amount of an insurer's investment with each such financial institution shall be limited to the total amount eligible for insurance under the financial institution's depositor insurance program;

3. Bonds of any United State or Canadian corporation that at the time of purchase have a "BBB" or better rating from Standard and Poor's Corporation or Moody's Investment Service or bonds rated "1" by the National Association of Insurance Commissioners Securities Valuation Office, except that no part of the amount

determined under this paragraph shall be invested in zero coupon bonds, collateralized mortgage obligations, payment in kind bonds or bonds with a final maturity of more than 15 years;

4. Bonds of any United States municipality that at the time of purchase have a “BBB” or better rating from Standard and Poors Corporation or Moody’s Investment Service or bonds rated “1” by the National Association of Insurance Commissioners Securities Valuation Office with a final maturity of 15 years or less, except that no amount shall be invested in zero coupon bonds;

5. No more than an aggregate of 10% of assets in preferred stock of any United States or Canadian corporation that at the time of purchase has a “BBB” or better rating from Standard and Poor’s Corporation or Moody’s Investment Service or preferred stock rated “1” by the National Association of Insurance Commissioners Securities Valuation Office; or

6. No more than an aggregate of 10% of assets in money market mutual funds.

(c) A town mutual insurer may invest in assets permitted under par. (d) only if on December 31 of the preceding year its assets invested in accordance with par. (b) are an amount at least equal to the sum of its liabilities plus the greater of:

1. 50% of the net written premiums and assessments for the 12-month period ending December 31;
2. 33% of the gross written premiums and assessments for the 12-month period ending December 31; or
3. \$300,000.

(d) A town mutual insurer may invest assets in excess of the amount determined under par. (c) in one or more of the following:

1. Unrated bonds of a Wisconsin municipality or political subdivision not included in par. (b). Any bonds purchased under this subdivision must be direct obligations of the municipality or political subdivision, and no investment shall be made in unrated industrial revenue or industrial development bonds. Such investments shall not exceed 3% of assets in any single issue or 10% of assets in a single issuer or its affiliates;

2. Bonds with a final maturity of more than 15 years that would otherwise be classified within par. (b) 1., 3. or 4.

3. An aggregate of no more than 25% of the insurer’s assets in one or more of the following:

a. Stock which is either common stock or preferred stock of a licensed insurance company domiciled in this state which reinsured town mutual insurers in this state at the time it converted from a mutual insurance corporation to a stock insurance corporation.

b. Common or preferred stock or convertible securities of any United States, Canadian or foreign corporation not included in par. (b) that are traded on a federally regulated securities exchange.

c. Any mutual fund that invests in common or preferred stock or convertible securities of any United States, Canadian or foreign corporation not included in par. (b) that has a minimum four-star rating from Morningstar Mutual Funds Inc. A town mutual insurer shall not exceed 10% of assets in any single family of mutual funds.

4. Any subsidiaries formed to provide services ancillary to the town mutual insurer’s insurance operations. Subsidiaries are considered ancillary subsidiaries if they are engaged principally in insurance-related activities such as acting as an insurance agent or providing claims adjusting services. A town mutual insurer may invest in a subsidiary only with the prior written approval of the commissioner and the investment may not exceed the amount approved by the commissioner or 10% of assets, whichever is less.

5. Any mutual fund not included in par. (b) or this paragraph that has a minimum four-star rating from Morningstar Mutual Funds Inc. Total investment under this paragraph shall not exceed 10% of assets in any single family of mutual funds and 25% of assets in aggregate.

6. Real property needed for the convenient transaction of the insurer’s business, provided that the insurer obtains the prior written approval of the commissioner.

7. Real estate loans on property meeting the requirements of sub. (5) (c) and investment in real estate partnerships. Any investment in real estate partnerships shall be with the prior approval of the commissioner.

8. Collateralized mortgage obligations or tranche bonds whose principal repayment is divided into multiple categories of preferential repayment classes, with final maturities of not more than 20 years for the entire mortgage obligation. Such investments shall not exceed 3% of assets in any single issue or 10% of assets in the aggregate.

9. Investments not otherwise permitted by this paragraph, and not specifically prohibited by statute or rule, to the extent of not more than 5% of the insurer’s assets.

(e) *Town mutual insurer reinsurer stock; grandfather provision.* A town mutual insurer is not required to divest stock described in par. (d) 3. a. which is held by the town mutual insurer on December 31, 1995. Any such stock:

1. Is an authorized investment;
2. Is not an asset invested in accordance with par. (b) for the purpose of determining under par. (c) whether an investment is authorized under par. (d); and
3. Shall be included for the purpose of determining compliance with the aggregate limit under par. (d) 3. The town mutual insurer is required under par. (f) to divest itself of any other investments which otherwise qualify under par. (d) 3. until it is in compliance or until the only investment qualifying under par. (d) 3. is the stock held on December 31, 1995.

(f) *Limitations on amount of investment.* A town mutual insurer may not invest:

1. Except as permitted under subd. 2., more than 3% of assets in securities of any single issuer unless it obtains the prior written permission of the commissioner or unless the investment is in securities of the government of the United States or its instrumentalities or in securities guaranteed by the full faith and credit of the United States; or

2. More than 10% of assets in the securities of one state, of one instrumentality of a state, or of one governmental unit of a state.

(g) *Transition and divestment.* Except as provided under par. (e), a town mutual insurer shall divest any investment which does not meet the requirements of pars. (b) to (f) due to decline in the rating of a bond or mutual fund, the insurer’s size, limitations on investments or any other reason, within three years of its noncompliance, unless otherwise permitted or required by the commissioner. In addition, the commissioner may permit a longer period for divestment by approving a plan for transition to compliance with this rule as adopted on the effective date of this rule (1996).

(h) *Authorization of investments by the board of directors.* 1. The board of directors of a town mutual shall adopt a written plan for acquiring and holding investments and for engaging in investment practices which specifies guidelines as to the quality, maturity, diversification of investments and other specifications including investment strategies intended to assure that the investments and investment practices are appropriate for the business conducted by the insurer, its liquidity needs and the amount of its surplus. The board shall review and assess the company’s technical and administrative capabilities and expertise with regard to investments before adopting a written plan concerning any investment strategy or investment practice. The board shall give due consideration to all commissions and expenses associated with each investment, and the effect of such costs on anticipated returns and on liquidity.

2. All investments acquired and held under this section shall be acquired and held under the supervision and direction of the

board of directors of the town mutual insurer. The town mutual insurer board of directors shall require that all investments be authorized or approved by the board or a committee of the board charged with the responsibility to supervise and direct its investments in accordance with delegations, standards, limitations, and investment objectives prescribed by the board.

3. For all mutual funds held by a town mutual insurer, the insurer shall maintain in its records the fund's prospectus and latest issued annual financial statement.

(7) BONDS PERMISSIBLE. Bonds permissible under s. 620.22 (1), Stats., include:

(a) Direct obligations of the United States or Canada, or of other governmental units therein;

(b) Obligations payable from and adequately secured by specifically pledged revenues of such governmental units or their instrumentalities, including corporations owned by or operated for such units; and

(c) Evidences of indebtedness of any solvent corporation of the United States or Canada.

(8) ADDITIONAL AUTHORIZED INVESTMENTS. An insurer may, in addition to investments authorized by s. 620.22 (1) to (7), Stats., invest its assets in the following classes of investments, up to the limits stated, and in the case of insurers that are subject to special restrictions under s. 620.03, Stats., in accordance with any other rules made applicable to them:

(a) Mortgage bonds of farm loan banks authorized under the federal farm loan act, and debentures issued by the banks for cooperatives established pursuant to the farm credit act of 1933, as amended;

(b) Equipment securities or certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale;

(c) The purchase and ownership of machinery or equipment, which is or will become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than 5 years but the aggregate of such investments shall not exceed 3% of the insurer's assets;

(d) Loans upon the collateral security of any securities that the insurer could lawfully purchase, but not exceeding 90% of the market value of the securities up to an amount which, together with like securities owned, does not exceed the limits on the purchase of such securities;

(e) Evidences of indebtedness not otherwise authorized of the kind which if held by a bank would be eligible for discount, rediscount, purchase or sale by federal reserve banks or other government agencies having similar powers and functions but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(f) Shares of savings and loan associations to the extent that they are insured or guaranteed by the United States government or any agency thereof;

(g) The cash surrender values of life insurance policies of companies authorized to do business in Wisconsin;

(h) For a company authorized to transact a credit insurance business, the claims and demands that it has guaranteed;

(i) For a company authorized to transact a title insurance business, materials and plant necessary for the convenient transaction of business — not exceeding 50% of minimum capital or 5% of assets, whichever is greater;

(j) Direct obligations of foreign governments but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(k) Loans, securities or investments in countries other than the United States and Canada which are of substantially the same kinds, classes and investment grades as those eligible for investment under ch. 620, Stats., and supplementary rules, but the

aggregate of such investments shall not exceed 2% of the insurer's assets;

(L) Direct obligations of the international bank for reconstruction and development, the inter-American development bank, the African development bank and the Asian development bank but the aggregate of such investments shall not exceed 2% of the insurer's assets;

(m) For an insurer doing business in a foreign country, the assets needed to meet its obligations in the foreign country in the kinds of securities within the foreign country that would be permissible investments if made in this state; and

(n) Shares of investment companies or investment trusts registered under the Federal Investment Company Act of 1940, 15 USC 80a-1 et seq., as amended — regarded as part of the common stock portfolio of the insurer; and

(o) Financial futures contracts and financial options contracts, provided that:

1. Such contracts shall be entered into to protect the investment portfolio of an insurer against the risk of changing asset values or interest rates, to enhance its liquidity, to aid in cash flow management, as a substitute for cash market transactions, and for any other purpose consistent with the investment objectives for the assets of insurers stated in s. 620.01, Stats.;

2. The aggregate market value of all financial futures contracts outstanding may not exceed 10% of the insurer's admitted assets;

3. An insurer may purchase put options or sell call options only with regard to financial futures contracts or financial instruments owned by, or which may be obtained through exercise of warrants or conversion rights held by the insurer;

4. An insurer may purchase call options or sell put options on financial futures contracts or financial instruments only if the amount of the instrument which may be acquired upon exercise of the option, when aggregated with current holdings, would be an authorized investment under s. 620.22 (1) to (7), Stats., or this subsection, and would not exceed the limitations specified in s. 620.23, Stats., or this section;

5. The board of directors or its authorized committee shall first approve the insurer's plan relating to such investments, which plan must contain specific policy objectives and strategies, establish aggregate maximum limits in such investments and internal control procedures, and identify the duties, expertise and limits of authority of personnel authorized by the board of directors to engage in such transactions on behalf of the insurer; and

6. A copy of the insurer's plan shall be filed with the commissioner 30 days prior to its effective date. The commissioner may disapprove the plan within the 30-day period.

(9) CHANGES IN QUALIFICATION OF INVESTMENTS. Any investment originally made under s. 620.22 (9), Stats., may thereafter be considered as falling within any other class of investment for which it subsequently qualifies.

(10) VALUATION. (a) *General.* Security valuations contained in "Valuations of Securities", issued by the Committee on Valuation of Securities of the National Association of Insurance Commissioners, will be followed in implementing this chapter.

(b) *Insurance policies.* Insurance policies purchased under sub. (8) (g) will be valued at their cash surrender value.

(c) *Claims and demands guaranteed by insurer.* When an insurer authorized to sell credit insurance purchases, under sub. (8) (h), claims and demands it has guaranteed, it shall value them at face value or at cost, whichever is less, and shall set up a separate and adequate "loss reserve for guaranteed claims purchased" in an amount satisfactory to the commissioner.

History: Cr. emerg. eff. 5-2-72; cr. Register, July, 1972, No. 199, eff. 8-1-72; am. (5) (a) 1., Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. (5) (g), cr. (6) (c), Register, December, 1974, No. 228, eff. 1-1-75; emerg. am. (6) (a), eff. 6-22-76, am. (6) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (8) (intro.), (b), (c), (e), (j), (k) and (l), Register, August, 1981, No. 308, eff. 9-1-81; reprinted to correct printing error in (8) (f), Register, March, 1983, No. 327; correction in (9) made

under s. 13.93 (2m) (b) 7., Stats., Register, December, 1984, No. 348; renum. (3) (a) to (e) to be (3) (e) to (h) and (j), cr. (3) (a) to (d), (i), (4) (c) and (8) (o), am. (4) (a) and (b) and (8) (n), Register, April, 1987, No. 376, eff. 5-1-87; am. (8) (l), Register, October, 1990, No. 418, eff. 11-1-90; corrections in (4) (b) and (6) (b) 3. made under s. 13.93 (2m) (b) 5. and 7., Stats., Register, April, 1992, No. 436; renum. (3) (f) to (j) to be (3) (g) to (k), cr. (3) (f), (L), (6) (d) to (h), am. (5) (intro.), (6) (a), r. and recr. (5) (g), (6) (b), (c), Register, December, 1996, No. 492, eff. 1-1-97.

Ins 6.25 Joint underwriting and joint reinsurance associations. (1) **PURPOSE.** This section, pursuant to s. 625.04, Stats., is intended to encourage an active, economical and efficient insurance market; to provide for the regulation of marketing practices; and to exempt certain insurers and organizations from the provisions of s. 625.33, Stats., with respect to joint underwriting or joint reinsurance.

(2) **SCOPE.** Subsection (3) applies to joint underwriting and joint reinsurance involving the insurance of risks associated with:

- (a) Nuclear energy.
- (b) Commercial aircraft.
- (c) Aircraft products liability.
- (d) Crude oil production and processing.
- (e) Municipal bonds.

(f) Commercial property policies insuring property damage, business interruption, extra expense, rents and other time element coverages, for any policy whose total property damage limit is an amount not less than \$50,000,000.

(g) Excess and umbrella liability with limits in excess of \$25 million to risks with underlying coverage or self-insured for a minimum of \$25 million.

(3) **PERSONS EXEMPTED.** If any of the following joint underwriting associations and joint reinsurance associations is licensed as a rate service organization under s. 625.32, Stats., each insurer-member thereof shall be exempted from the provisions of s. 625.33, Stats., with respect to agreements between or among insurer-members to adhere to certain rates and rules in providing insurance or reinsurance as members of such association:

- (a) Aircraft products insurance association
- (b) Industrial risk insurers
- (c) Mutual atomic energy liability underwriters
- (d) Mutual atomic energy reinsurance pool
- (e) American nuclear insurers
- (f) Nuclear energy property insurance association
- (g) Municipal bond insurance association
- (h) American excess insurance association.

(4) **LIMITATION ON MEMBERSHIP DISCIPLINARY ACTION.** No person may impose any penalty or other adverse consequence for failure of any insurer to adhere to the rates or rules of any joint underwriting association or joint reinsurance association of which the insurer is a member, except termination of or expulsion of the insurer from membership in the association.

(5) **PENALTY.** Violations of this section shall be subject to s. 601.64, Stats.

History: Cr. Register, September, 1973, No. 213, eff. 10-1-73; am. (2) and (3), Register, August, 1974, No. 224, eff. 9-1-74; am. (3) (e), Register, May, 1975, No. 233, eff. 6-1-75; am. (3), Register, February, 1976, No. 242, eff. 3-1-76; am. (3) (e), Register, November, 1978, No. 275, eff. 12-1-78; cr. (2) (f), Register, January, 1983, No. 325, eff. 2-1-83; emerg. cr. (2) (g) and (3) (h), eff. 12-12-86; am. (1), (2) (intro.) to (e), (4) and (5), cr. (2) (g) and (3) (h), Register, May, 1987, No. 377, eff. 6-1-87.

Ins 6.30 Instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. For the purpose of establishing uniformity in classifications of expenses of fire and marine and casualty and surety insurers recorded in statements and reports filed with and statistics reported to the commissioner of insurance, all such insurers shall observe the instructions set forth below. These instructions shall not apply to single line accident and health insurance companies, assessment accident and health associations, hospital and medical service or indemnity organizations, single line title insurance companies, or town mutual insurance companies.

(1) **PART I. (a) List of operating expense classifications for annual statement purposes for fire and marine and casualty and surety insurers.**

1. Claim Adjustment Services:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
 2. Commission and Brokerage:
 - a. Direct
 - b. Reinsurance Assumed
 - c. Reinsurance Ceded
 - d. Contingent-Nete. Policy and Membership Fees
 3. Allowances to Managers and Agents
 4. Advertising
 5. Boards, Bureaus and Associations
 6. Surveys and Underwriting Reports
 7. Audit of Assureds' Records
 8. Salaries
 9. Employee Relations and Welfare
 10. Insurance
 11. Directors' Fees
 12. Travel and Travel Items
 13. Rent and Rent Items
 14. Equipment
 15. Printing and Stationery
 16. Postage, Telephone and Telegraph, Exchange and Express
 17. Legal and Auditing
 18. Taxes, Licenses and Fees:
 - a. State and Local Insurance Taxes
 - b. Insurance Department Licenses and Fees
 - c. Payroll Taxes
 - d. All Other (excluding Federal and Foreign Income and Real Estate)
 19. Real Estate Expenses
 20. Real Estate Taxes
 21. Miscellaneous
- (b) *Instructions relating to operating expense classifications.*

1. Claim Adjustment Services

- a. Direct

Include the following expenses when in connection with the investigation and adjustment of policy claims:

Independent Adjusters: Fees and expenses of independent adjusters or settling agents.

Legal: Fees and expenses of lawyers for legal services in the defense, trial, or appeal of suits, or for other legal services.

Bonds: Premium costs of bonds.

Appeal Costs and Expenses: Appeal bond premiums; charges for printing records; charges for printing briefs; court fees incidental to appeals.

General Court Costs and Fees: Entry fees and other court costs, and other fees not includable in Losses. Note: Interest and costs assessed as part of or subsequent to judgment are includable in Losses.

Medical Testimony: Fees and expenses of medical witnesses for attendance or testimony at trials or hearings ("Medical" includes physicians, surgeons, chiropractors, chiropodists, dentists, osteopaths, veterinarians, and hospital representatives).

Expert Witnesses: Fees and expenses of expert witnesses for attendance or testimony at trials or hearings.

Lay Witnesses: Fees and expenses of lay witnesses for attendance or testimony at trials or hearings.

Service of Process: Constables', sheriffs' and other fees and expenses for service of process, including subpoenas.

Transcripts of Testimony: Stenographers' fees and fees for transcripts of testimony.

Medical Examinations: Fees for medical examinations, fees for performing autopsies, fees for impartial examination, x-rays, etc., for the purpose of trial and determining questions of liability. This does not include fees for medical examinations, x-rays, etc., made to determine necessary treatment, or made solely to determine the extent or continuation of disability, or first aid charges, as such fees and charges are includable in Losses.

Miscellaneous: Costs of appraisals, expert examinations, surveys, plans, estimates, photographs, maps, weather reports, detective reports, audits, credit or character reports, watchperson. Charges for hospital records and records of other kinds, notary fees, certified copies of certificates and legal documents. Charges for Claim Adjustment Services by underwriting syndicates, pools and associations.

Exclude:

Compensation to employees (see Salaries).

Expenses of salaried employees (see Travel and Travel Items).

Items includable in Allowances to Managers and Agents.

Payments to State Industrial Commissions (see Taxes, Licenses and Fees).

Payments to claim adjusting organizations except where the expense is billed specifically to individual companies (see Boards, Bureaus and Associations).

Cost of services of medical examiners for underwriting purposes (see Surveys and Underwriting Reports.)

Salvage and subrogation recovery expense, rewards, lost and found advertising, expenses for disposal of salvage. Such expenses shall be deducted from salvage.

Any expenses which by these instructions are includable elsewhere.

Separation of Claim Adjustment Services:

The Statistical Plans filed by certain rating bureaus contain definitions of "Allocated Loss Adjustment Expenses" which exclude for rating purposes certain types of claim adjustment services as defined herein. For the lines of business thus affected, companies which are members of such rating bureaus shall maintain records necessary to the reporting of Claim Adjustment Services--Direct, as defined in Statistical Plans, and other than as defined in Statistical Plans.

b. Reinsurance Assumed

Include: Claim adjustment expenses in bills rendered by ceding companies.

c. Reinsurance Ceded

Include: Claim adjustment expenses billed to assuming insurers.

2. Commission and Brokerage.

a. Direct

Include:

All payments, reimbursements and allowances, on direct writings, computed as a percentage of premiums for production, management or other services to managers, supervising general

agents, general agents, regional and district agents, local agents, office agents, brokers, solicitors, and other producers and agents.

Commissions and brokerage to employees when the activities for which the commissions are paid are not a part of their duties as employees.

Exclude:

Compensation to employees except as noted above (see Salaries.)

Allowances, reimbursements and payments not computed as a percentage of premiums (see Allowances to Managers and Agents).

Expenses involved in transactions between insurance companies (see Joint Expenses; Commission and Brokerage--Reinsurance Assumed and Ceded; Expenses for Account of Another; and Income from Special Services).

Contingent commission (see Commission and Brokerage--Contingent).

Fees of investment counsel (see Legal and Auditing).

Expenses includable in Boards, Bureaus and Associations.

Taxes on premiums (see Taxes, Licenses and Fees).

Commission received for special services such as loss adjustment and inspection not related to policies issued by the company (see Income from Special Services).

b. Reinsurance Assumed

Commission and allowances of every nature on reinsurance assumed including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage--Reinsurance Assumed.

Exception: Where commission and allowances under reinsurance assumed take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.

c. Reinsurance Ceded

Commission and allowances of every nature on reinsurance ceded including tax and board allowances and reinsurance brokerage, except contingent commission, shall be included in Commission and Brokerage--Reinsurance Ceded.

Exception: Where commission and allowances under reinsurance ceded take the form of accurate proportions of actual expenses incurred, as in some quota share and pooling agreements, entries shall be made to the actual expenses.

Note: Examples Relating to the Treatment of Commission on Reinsurance Assumed and Reinsurance Ceded:

1. Company A cedes business to Company B under a treaty specifying a commission of 35% and an allowance for taxes and board fees of 5%. On the statement filed by Company A, both the 35% and the 5% shall be entered in Commission and Brokerage--Reinsurance Ceded. On the statement filed by Company B, both the 35% and the 5% shall be entered in Commission and Brokerage--Reinsurance Assumed.

2. Company A cedes 10% of all its business to Company B under an agreement whereby Company B pays 10% of all actual expenses, on such business, incurred by Company A. Assume the expenses of Company A on the business reinsured as follows:

| | |
|-------------------------------------|--------------------------------|
| | Paid on Written Business |
| Commission and Brokerage--Direct -- | \$100,000 |
| ----- | |
| Salaries --- | 30,000 |
| ----- | |
| ----- | |
| ----- | |

| | | | |
|--|-----------|---|-----------------|
| Rent and Rent Items --- ----- ----- | 7,000 | Postage, etc. ----- ----- | 500 |
| Printing and Stationery - ----- ----- | 7,000 | ----- ----- Surveys and Underwriting Reports--- | 800 |
| Postage, etc. ----- ----- | 5,000 | ----- ----- Total ----- | <u>\$15,700</u> |
| Surveys and Underwriting Reports --- ----- ----- | 8,000 | ----- ----- ----- | |
| Total ----- ----- ----- | \$157,000 | | |

Note: These are not intended to show the complete list of expenses involved but are given only for illustration purposes.

On the statement filed by Company A the commission and allowances by Company B shall be credited as follows:

| | |
|---|---|
| Commission and Brokerage—Reinsurance Ceded----- Salaries --- ----- ----- | Paid on Written Business \$10,000 3,000 |
| Rent and Rent Items --- ----- ----- | 700 |
| Printing and Stationery - ----- ----- | 700 |
| Postage, etc. ----- ----- | 500 |
| Surveys and Underwriting Reports --- ----- ----- | 800 |
| Total ----- ----- ----- | <u>\$15,700</u> |

On the statement filed by Company B the commission and allowances made to Company A shall be debited as follows:

| | |
|--|---|
| Commission and Brokerage—Reinsurance Assumed ----- Salaries --- ----- ----- | Paid on Written Business \$10,000 3,000 |
| Rent and Rent Items --- ----- ----- | 700 |
| Printing and Stationery - ----- ----- | 700 |

d. Contingent — Net
Include:
Contingent or profit commission paid.
Contingent or profit commission received.
Contingent commission to employees when the activities for which the contingent commission is paid are not a part of their duties as employees.

e. Policy and Membership Fees
Include:
Policy and membership fees retained by, or paid to, agents.
Policy and membership fees to employees when the activities for which the policy and membership fees are paid are not a part of their duties as employees.

3. Allowances to Managers and Agents
Include:
Net allowances, reimbursements and payments for expenses of every nature, not computed as a percentage of premiums, to managers, agents, brokers, solicitors, and other producers.

Exclude:
Compensation to employees (see Salaries).
Expenses of salaried employees (see Travel and Travel Items).

Expenses of management where one insurance company has been appointed manager for another (see Joint Expenses; Commission and Brokerage—Reinsurance Assumed and Ceded; and Expenses for Account of Another).

Contingent commission (see Commission and Brokerage—Contingent).

Policy and membership fees (see Commission and Brokerage—Policy and Membership Fees).

Expenses in connection with owned real estate (see Real Estate Expenses).

Amounts representing exact reimbursements for Losses; Taxes, Licenses and Fees; Boards, Bureaus and Associations; and Advertising; where only the minimum space required by law is taken.

Amounts representing exact reimbursements for Claim Adjustment Services, Surveys and Underwriting Reports and Audit of Assureds' Records when these services are performed by others than employees of managers, agents, brokers, solicitors or other producers.

4. Advertising
Include:
Cost of the following: Services of advertising agents; public relations counsel; space in newspapers, periodicals, billboards, programs, and other publications; circulars, pamphlets, calendars and literature issued for advertising or promotional purposes; drawings, plates, etchings, etc., in connection with advertising; all

charges for printing, paper, etc., in bills covering advertising; radio broadcasts; prospect and mailing lists; signs, frames, medals, etc., for agents; souvenirs for general distribution; directory listings; house organs and similar publications distributed to others than employees; and advertising required by law when more than the minimum space required to comply with the law is taken.

Exclude:

Compensation to employees (see Salaries).

Items includable in Travel and Travel Items, Claim Adjustment Services, and Boards, Bureaus and Associations.

Cost of literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports).

Advertising and business development expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors, and other producers (see Allowances to Managers and Agents).

Cost of help wanted advertising (see Employee Relations and Welfare).

Cost of advertising in connection with owned real estate (see Real Estate Expenses).

Cost of house organs and similar publications for the use of employees (see Printing and Stationery).

Donations to organized charities (see Miscellaneous).

Cost of souvenirs not generally distributed (see Travel and Travel Items).

5. Boards, Bureaus and Associations

Include:

Dues, assessments, fees and charges of: underwriters' boards, rating organizations, statistical agencies, inspection and audit bureaus; underwriters' advisory and service organizations including such organizations as Insurance Executives Association, and Association of Casualty and Surety Companies; accident and loss prevention organizations; claim organizations; underwriting syndicates, pools and associations such as Factory Insurance Association, Oil Insurance Association, assigned risk plans (except Commission and Brokerage; Claim Adjustment Services; and Taxes, Licenses and Fees); and specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data.

Exclude:

Cost of inspection, engineering or accident and loss prevention billed specifically to individual companies (see Surveys and Underwriting Reports).

Loss adjustment expenses billed specifically to individual companies (see Claim Adjustment Services).

Allowances under reinsurance contracts for board and bureau expenses (see Commission and Brokerage—Reinsurance Assumed and Ceded).

Payments to State Industrial Commissions (see Taxes, Licenses and Fees).

Payments into State Security Funds (see Taxes, Licenses and Fees).

Commission and Brokerage, Claim Adjustment Services, and Taxes, Licenses and Fees of underwriting syndicates, pools, and associations such as Factory Insurance Associations and Oil Insurance Association.

Cost of survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes (see Surveys and Underwriting Reports).

Cost of commercial reporting services (see Surveys and Underwriting Reports).

Dues and subscriptions to social or civic clubs or affairs (see Travel and Travel Items).

Dues and subscriptions to accounting, legal, actuarial or similar societies and associations (see Travel and Travel Items).

6. Surveys and Underwriting Reports

Dues and subscriptions to accounting, legal, actuarial or similar societies and associations (see Travel and Travel Items).

Include cost of the following:

Survey, credit, moral hazard, character and commercial reports obtained for underwriting purposes.

Commercial reporting services.

Appraisals for underwriting purposes.

Fire records.

Inspection, engineering, and accident and loss prevention billed specifically.

Literature, booklets, placards, signs, etc., issued solely for accident and loss prevention.

Maps and corrections.

Services of medical examiners for underwriting purposes.

Exclude:

Compensation to employees (see Salaries).

Expenses of salaried employees (see Travel and Travel Items).

Items includable in Boards, Bureaus and Associations; Claim Adjustment Services; and Allowances to Managers and Agents.

Cost of character or credit reports on employees or applicants for employment (see Employee Relations and Welfare).

Fees for physical examination of employees or applicants for employment (see Employee Relations and Welfare).

Income from inspections, which shall be classified in accordance with the instruction "Income from Special Services".

7. Audit of Assureds' Records

Include:

Auditing fees and expenses of independent auditors for auditing payrolls and other premium bases.

Exclude:

Compensation to employees (see Salaries).

Expenses of salaried employees (see Travel and Travel Items).

Items includable in Claim Adjustment Services.

Items includable in Allowances to Managers and Agents.

8. Salaries

Include:

Salaries, bonus, overtime, contingent compensation, pay while on leave, dismissal allowance, pay while training and other compensation of employees.

Commission and brokerage to employees when the activities for which the commission is paid are a part of their duties as employees.

Exclude: Salaries or wages of janitors, caretakers, maintenance persons and agents paid in connection with owned real estate (see Real Estate Expenses).

9. Employee Relations and Welfare

a. Pensions and Insurance Benefits for Employees

Include:

Cost of retirement insurance.

Payments or appropriations to funds irrevocably devoted to the payment of pensions or other employees' benefits.

Pensions or other retirement allowances.

Accident, health and hospitalization insurance for employees.

Group life insurance for employees.

Worker's compensation insurance.

Payments to or on behalf of employees under self-insurance.

Any other insurance for the benefit of employees.

Exclude:

Cost of insurance on lives of employees when the company is the beneficiary (such cost shall not appear among expenses, but shall be charged to surplus).

Payments or appropriations to pension funds not irrevocably devoted to the payment of pensions or other employees' benefits (such payments or appropriations shall not appear among expenses).

Items includable in Real Estate Expenses.

All other types of insurance premiums.

b. All Other

Include cost of:

Advertising—help wanted.

Training and welfare of employees.

Physical examinations of employees or applicants for employment.

Character or credit reports on employees or applicants for employment.

Gatherings, outings and entertainment for employees.

Visiting nurse service for or on behalf of employees.

Medical and hospital bills for employees (not covered by 9—a).

Direct payments, other than salaries, to employees for injury and sickness (not covered by 9—a).

Supper money.

Donations to or on behalf of employees.

Food and catering for employees.

Exclude:

Salaries, bonus, overtime, contingent, pay while on leave, dismissal allowances, pay while training and other compensation of employees (see Salaries).

Items includable in Real Estate Expenses.

Cost of house organs and similar publications (see Advertising, and Printing and Stationery).

10. Insurance

Include:

Fidelity or surety bonds covering employees and agents.

Burglary, and robbery insurance premiums.

Public liability insurance premiums (Excl. owned Real Estate).

Premiums for insurance on office contents.

Cost of insurance on automobiles.

All other insurance premiums not specifically provided for in other operating accounts.

Exclude:

Items includable in Employee Relations and Welfare.

Items includable in Real Estate Expenses.

11. Directors' Fees

Include:

Directors' fees and other compensation of directors for attendance at board or committee meetings.

Other fees, compensation, and expenses paid to directors.

Exclude:

Commission to directors for the production of business (see Commission and Brokerage—Direct).

12. Travel and Travel Items

Include:

Transportation, hotel, meals, postage, telephone, telegraph, express and incidental living expenses of employees while traveling.

Expenses for transfer of employees.

Depreciation, repairs and other operating expenses of automobiles.

Rent of automobiles.

Fees for automobile license plates.

Cost of transportation, hotel, meals and entertainment of guests.

Cost of favors and presents given or extended to others than employees.

Cost of souvenirs not generally distributed.

Dues and subscriptions to social or civic clubs or affairs.

Dues and subscriptions to accounting, legal, actuarial, or similar societies and associations.

Exclude:

Items includable in Salaries; Advertising; Commission and Brokerage; Taxes, Licenses and Fees; Boards, Bureaus and Associations; and Equipment.

Cost of gatherings, outings, etc., and entertainment for employees (see Employee Relations and Welfare).

Travel and travel items paid, reimbursed, or allowed to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

Donations to organized charities (see Miscellaneous).

Cost of souvenirs for general distribution (see Advertising).

13. Rent and Rent Items

Include:

Rent of home office and branch offices.

Rent for space occupied in buildings owned.

Light, heat, power and water charges in leased premises.

Interest, taxes, etc., paid in lieu of rent for leased premises.

Cost of alterations and repairs of leased premises.

Rent of storage, safekeeping and warehouse space.

Rent of safe deposit boxes.

Rent of post office boxes.

Time clock service charges.

Cost of cleaning, towels, ice, water, electric lamp replacements and other expenses incidental to office maintenance.

Exclude:

Compensation to employees (see Salaries).

Rent of furniture, equipment, and office machines (see Equipment).

Rent of automobiles (see Travel and Travel Items).

Rent allowed, reimbursed, or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

Rent income from owned real estate.

14. Equipment

Include:

Rent and repairs of furniture, equipment and office machines including printers' equipment, postage machines and punched card equipment.

Depreciation on furniture, equipment and office machines.

Exclude:

Compensation to employees (see Salaries).

Rent, repairs and depreciation of automobiles (see Travel and Travel Items).

Cost of alterations and repairs of leased premises (see Rent and Rent Items).

Equipment expenses allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Items includable in Real Estate Expenses.

15. Printing and Stationery

Include cost of the following:

Printing, stationery and office supplies such as letterheads, envelopes, paper stock, printed forms or manuals, adding machine tape, carbon paper, binders and posts, photostatic copies, pencils, pens, leads, ink, glue, stamps and stamp pads, stapler, staples, clips and pins, desk top equipment (calendars, trays, etc.), waste baskets, analysis pads, ledgers, journals, minute books, etc.

Policies and policy forms.

Punch cards.

House organs and similar publications for the use of employees.

Books, newspapers and periodicals including investment, tax and legal publications and services.

Exclude:

Compensation to employees (see Salaries).

Specific payments to boards, bureaus and associations for rate manuals, revisions, fillers, rating plans and experience data (see Boards, Bureaus and Associations).

Cost of literature, booklets, placards, signs, etc., issued solely for accident and loss prevention (see Surveys and Underwriting Reports); items includable in Claim Adjustment Services; items includable in Advertising; printers' equipment in company owned printing departments (see Equipment); printing and stationery allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents); house organs and similar publications distributed to others than employees (see Advertising); commercial reporting services (see Surveys and Underwriting Reports); and items includable in Real Estate Expenses.

16. Postage, Telephone and Telegraph, Exchange and Express

Include:

Express, freight and cartage.

Postage.

Cost of telephone and telegrams, cables, radiograms and teletype.

Bank charges for collection and exchange.

Exclude:

Compensation to employees (see Salaries).

Rent, repairs and depreciation of postage machines (see Equipment).

Postage, telephone, telegraph and express of employees while traveling (see Travel and Travel Items).

Postage, telephone and telegraph, exchange, and express allowed, reimbursed or paid to managers, agents, brokers, solicitors and other producers (see Allowances to Managers and Agents).

Profits or losses resulting from exchange or remittances to Home Office by a United States Branch. Such profits or losses shall not be included in expenses.

Items includable in Real Estate Expenses.

Rent of post office boxes (see Rent and Rent Items).

17. Legal and Auditing

Include:

Legal retainers, fees and other legal expenses (except losses and salvage).

Auditing fees of independent auditors for examining records of home and branch offices.

Cost of services of tax experts.

Fees of investment counsel.

Registrar fees.

Custodian fees.

Trustees' fees.

Transfer agent fees.

Fees and expenses of others than employees, for collecting balances.

Notary fees.

Exclude:

Compensation to employees (see Salaries).

Expenses of salaried employees (see Travel and Travel Items).

Items includable in Claim Adjustment Services.

Items includable in Real Estate Expenses.

Cost of auditing of assureds' records (see Audit of Assureds' Records).

18. Taxes, Licenses and Fees

a. State and Local Insurance Taxes

Include:

State, county and municipal taxes, licenses and fees based upon premiums.

Fire Patrol assessments.

Payments to State Industrial (or other) Commissions for administration of Worker's Compensation or other State Benefit Acts (including assessments for administering Financial Responsibility Laws) regardless of basis of assessment.

Net payments to State Security Funds, Reopened Case Funds, Second Injury Funds and other State Funds, when construed by the company as operating expenses, regardless of basis of assessment.

Exclude:

Allowances for taxes under reinsurance contracts (see Commission and Brokerage—Reinsurance Assumed and Ceded).

b. Insurance Department Licenses and Fees

Include:

Agents' Licenses.

Certificates of authority, compliance, deposit, etc.

Filing fees.

Fees and expenses of examination by insurance departments or other governmental agencies.

Exclude:

Items includable in Claim Adjustment Services.

c. Payroll Taxes

Include:

Old age benefit taxes.

Unemployment insurance taxes.

Exclude:

Payroll taxes includable in Real Estate Taxes.

d. All other (excluding Federal and Foreign Income and Real Estate)

Include:

Qualifying bond premiums.

Statement publication fees.

Advertising required by law.

Personal property taxes.

State income taxes.

Capital stock taxes.

Business or corporation licenses or fees (not includable under a. or b. of this subparagraph).

Marine profits taxes.

Documentary stamps on reinsurance.

Any other taxes not assignable under a., b., and c. of this subparagraph and not otherwise excluded.

Exclude:

Cost of advertising required by law where more than minimum space required to comply with the law is taken. Such expense shall be included in Advertising.

Real estate taxes, licenses and fees (see Real Estate Taxes). Items includable in Claim Adjustment Services.

Fees for automobile license plates (see Travel and Travel Items)

Federal and foreign income tax.

Sales taxes, etc., included on invoices of vendors. Such taxes are to follow allocation of cost of items purchased.

19. Real Estate Expenses

Include:

Salaries, wages and other compensation of janitors, caretakers, maintenance persons and agents paid in connection with owned real estate.

Cost of operating and maintaining owned real estate.

Cost of insurance in connection with owned real estate.

Cost of advertising in connection with owned real estate.

20. Real Estate Taxes

Include:

Taxes, licenses and fees on owned real estate.

21. Miscellaneous

Include: Expenses not listed as includable in other operating expense classifications, and not analogous thereto. Specifically, the following shall be included:

Cost of tabulating service when such service is rendered by outside organizations.

Amounts received and handled in accordance with the instruction "Income from Special Services".

Donations to organized charities.

Differences between actual amounts paid, and amounts apportioned in accordance with the instruction "Joint Expenses".

22. General Instructions in Connection With Operating Expense Classifications

a. Joint Expenses

Whenever personnel or facilities are used in common by two or more companies, or whenever the personnel or facilities of one company are used in the activities of two or more companies, the expenses involved shall be apportioned in accordance with the regulations relating to Joint Expenses, and such apportioned expenses shall be allocated by each company to the same operating expense classifications as if the expenses had been borne wholly. Any difference between the actual amount paid, and the amount of such apportioned expenses shall be included in the operating expense classification "Miscellaneous".

This instruction does not apply to the allocation of the following, which are covered by separate instructions herein:

Reinsurance commission and allowances (see Commission and Brokerage—Reinsurance Assumed and Ceded).

Commission and brokerage paid to managers and agents (see Commission and Brokerage—Direct).

Allowances to managers and agents (see Allowances to Managers and Agents).

Expenses allocable in accordance with the instruction "Income from Special Services".

b. Expenses for Account of Another

Whenever expenses are paid by one company for account of another, the payments shall not appear among the expenses reported by the former, and shall be included by the latter in the same expense classifications as if originally paid by it.

c. Income from Special Services

Whenever an insurance company receives compensation for sales or services, such as loss adjustment or inspection not related to policies written by the company, and such compensation is not calculated as a joint expense reimbursement, the amount thereof shall be included in the operating expense classification "Miscellaneous". Where an insurance company pays the compensation, allocation shall be made to the expense classification dictated by the nature of the expense.

This instruction is of limited applicability and does not apply to the allocation of the following, which are covered by separate instructions herein:

Reinsurance commission and allowances (see Commission and Brokerage—Reinsurance Assumed and Ceded).

Expenses incurred for the benefit of companies in the same group or fleet. Such expenses are covered by the instruction "Joint Expenses".

d. Analogous Items

The lists of expenses includable in the operating expense classifications are representative and do not exclude analogous items which are omitted from the lists.

INDEX
to s. 6.30 (1)

The references are to subparagraphs in paragraph (b) of subsection (1).

Accident and loss prevention billed specifically — 6

Accident and loss prevention literature — 6

Accident and loss prevention organizations — 5

Accident insurance for employees — 9-a

Accounting societies, dues and subscriptions to — 12

Actuarial societies, dues and subscriptions to — 12

Adding machine tape — 15

Adjusters — 1-a

Adjustment services — 1

Advertising, operating expense classification — 4

Advertising, help wanted — 9-b

Advertising in connection with owned real estate — 19

Advertising required by law when only the minimum space required by law is taken — 18-d

Advertising required by law when more than the minimum space required by law is taken — 4

Advisory organizations — 5

- Agents' allowances, reimbursements and payments computed as percentage of premiums — 2-a
- Agents' allowances, reimbursements and payments not computed as percentage of premiums — 3
- Agents' licenses — 18-b
- Allocated loss adjustment expenses — 1-a
- Allowances to managers and agents, operating expense classification — 3
- Alterations and repairs of leased premises — 13
- Analogous items — 22-d
- Analysis pads — 15
- Appeal costs relating to claim adjustment — 1-a
- Appraisals relating to claim adjustment — 1-a
- Assessments for fire patrol — 18-a
- Assessments of boards, bureaus and associations — 5
- Associations, underwriting — 5
- Attorneys' fees relating to claim adjustment — 1-a
- Attorneys' fees — 17
- Audit bureaus — 5
- Audit of assureds' records, operating expense classification — 7
- Auditing relating to claim adjustment — 1-a
- Auditing fees of independent auditors for auditing payrolls and other premium bases — 7
- Auditing fees of independent auditors for examining records of home and branch offices — 17
- Automobiles, depreciation, rent, repairs and expenses of — 12; insurance of — 10
- Automobile license plates — 12
- Bank charges for collection and exchange — 16
- Billboards — 4
- Binders and posts — 15
- Board allowances, reinsurance — 2-b, 2-c
- Boards, bureaus and associations, operating expense classification — 5
- Bonds covering employees — 10
- Bonds, premium cost, relating to claim adjustment — 1-a
- Bonus to employees — 8
- Booklets for accident and loss prevention — 6
- Books, newspapers and periodicals including investment, tax and legal publications and services — 15
- Branch office rent — 13
- Broadcasts — 4
- Brokerage to employees when the activities for which the commissions are paid are not a part of their duties as employees — 2-a
- Brokerage to employees when the activities for which the commissions are paid are a part of their duties as employees — 8
- Brokerage, direct — 2-a
- Brokerage, reinsurance assumed — 2-b
- Brokerage, reinsurance ceded — 2-c
- Brokers' allowances, reimbursements and payments computed as a percentage of premiums — 2-a
- Brokers' allowances, reimbursements and payments not computed as a percentage of premiums — 3
- Bureaus — 5
- Burglary and robbery insurance premiums — 10
- Business licenses — 18-a, 18-b, and 18-d
- Cables — 16
- Calendars for advertising purposes — 4
- Capital stock taxes — 18-d
- Carbon paper — 15
- Cartage, express and freight — 16
- Catering for employees — 9-b
- Certificates of compliance — 18-b
- Charges for claim adjustment services of underwriting pools, syndicates and associations — 1-a
- Character or credit reports relating to claim adjustment — 1-a
- Character reports for underwriting purposes — 6
- Character reports on employees — 9-b
- Charities, contributions to — 21
- Circulars, advertising in — 4
- Civic clubs, dues and subscriptions to — 12
- Claim adjustment services, operating expense classification — 1
- Claim adjustment services, separation of — 1-a
- Claim organizations — 5
- Cleaning costs — 13
- Collection charges of banks — 16
- Collection fees and expenses of others than employees for collecting balances — 17
- Commercial reports — 6
- Commercial reporting services — 6
- Commission and brokerage, operating expense classification — 2
- Commission and brokerage, direct — 2-a
- Commission and brokerage, reinsurance assumed — 2-b
- Commission and brokerage, reinsurance ceded — 2-c
- Commission and brokerage, tax and board allowances — 2-b, 2-c
- Commission and brokerage, reinsurance brokerage — 2-b, 2-c
- Commission and brokerage, contingent or profit — 2-d
- Commission and brokerage, policy and membership fees — 2-e
- Commission to employees when the activities for which the commissions are paid are a part of their duties as employees — 8
- Commission under quota share and pool agreements — 2-b, 2-c
- Compensation insurance — 9-a
- Compensation to janitors, caretakers, etc., paid in connection with owned real estate — 19
- Compensation to employees — 8
- Contingent commission — 2-d
- Contributions to employees — 9-b
- Contributions to organized charities — 21
- Copies of certificates and documents relating to claim adjustment — 1-a
- Corporation licenses — 18-a, 18-b, and 18-d
- Court costs relating to claim adjustment — 1-a
- County and municipal taxes, licenses and fees — 18-a
- Credit or character reports relating to claim adjustment — 1-a
- Credit or character reports for underwriting purposes — 6
- Credit or character reports on employees or applicants for employment — 9-b
- Custodian fees — 17
- Depreciation of automobiles — 12
- Depreciation of furniture, equipment and office machines — 14
- Desk top equipment — 15
- Detective reports relating to claim adjustment — 1-a
- Direct, claim adjustment services — 1-a
- Direct, commission and brokerage — 2-a
- Directors' fees, operating expense classification — 11
- Directory listings — 4
- Dismissal allowances to employees — 8
- District agents, payments to — 2-a and 3
- Documentary stamps on reinsurance — 18-d
- Documents relating to claim adjustment — 1-a
- Donations to employees — 9-b
- Donations to organized charities — 21
- Drawings in connection with advertising — 4
- Dues and subscriptions to accounting, legal, actuarial or similar societies — 12
- Dues to social clubs or affairs — 12
- Dues to boards, bureaus and associations — 5
- Electric lamp replacements — 13
- Employees, commission and brokerage to — 2 and 8
- Employees' expenses while traveling — 12
- Employee relations and welfare, operating expense classification — 9
- Engineering billed specifically — 6
- Entertainment for employees — 9-b
- Entertainment of guests — 12
- Entry fees relating to claim adjustment — 1-a
- Envelopes — 15
- Equipment, operating expense classification — 14
- Equipment, rent, repairs and depreciation of — 14; insurance of — 10
- Etchings in connection with advertising — 4
- Examinations, medical, relating to claim adjustment — 1-a
- Exchange — 16
- Expenses for account of another — 22-b
- Experience data — 5
- Expert witnesses relating to claim adjustment — 1-a
- Express, freight and cartage — 16
- Express, freight and cartage of employees while traveling — 12
- Favors and presents given to others than employees — 12
- Fees and expenses of others than employees for collecting balances — 17
- Fees for automobile license plates — 12
- Fees for insurance department examinations — 18-b
- Fees, medical, relating to claim adjustment — 1-a
- Fees, notary, relating to claim adjustment — 1-a
- Fees, notary — 17
- Fees of boards, bureaus and associations — 5
- Fees on owned real estate — 20
- Fees paid to directors — 11
- Fees, taxes and licenses — 18
- Fidelity bonds covering employees — 10
- Filing fees — 18-b
- Fire patrol assessments — 18-a
- Fire records — 6
- Food for employees — 9-b
- Frames for agents — 4
- Freight, express and cartage — 16
- Furniture, depreciation, rent and repairs of — 14; insurance of — 10
- Gatherings for employees — 9-b
- General agents, payments to — 2-a and 3
- Gifts to employees — 9-b
- Glue — 15
- Group life insurance for employees — 9-a
- Guests, cost of transportation, hotel, meals and entertainment — 12
- Heat, light, power and water charges in leased premises — 13
- Health insurance for employees — 9-a
- Help wanted advertising — 9-b
- Home office rent — 13
- Hospital bills of employees — 9-b
- Hospital records relating to claim adjustment — 1-a
- Hospitalization insurance for employees — 9-a
- Hotel expenses for guests — 12

- Hotel expenses for employees while traveling — 12
- House organs distributed to others than employees — 4
- House organs for use of employees — 15
- Ice — 13
- Income from special services — 21 and 22-c
- Income taxes, state — 18-d
- Independent adjusters — 1-a
- Industrial commissions — 18-a
- Injury to payments to employees — 9
- Ink — 15
- Inspection billed specifically — 6
- Inspection bureaus — 5
- Insurance, accident — 9
- Insurance, automobile — 10
- Insurance, burglary and robbery — 10
- Insurance department examinations — 18-b
- Insurance department licenses and fees — 18-b
- Insurance, health — 9-a
- Insurance, in connection with owned real estate — 19
- Insurance, on office contents — 10
- Insurance, operating expense classification — 10
- Insurance, public liability — 10
- Insurance, retirement — 9-a
- Insurance, worker's compensation — 9-a
- Interest, taxes, etc., paid in lieu of rent for leased premises — 13
- Investment counsel fees — 17
- Joint expenses — 21 and 22-a
- Journals — 15
- Lawyers' expenses relating to claim adjustment — 1-a
- Lawyers' fees and expenses — 17
- Leased premises, cost of alterations and repairs — 13
- Leased premises, interest, taxes, etc., paid in lieu of rent — 13
- Leased premises, light, heat, power and water charges — 13
- Leave pay for employees — 8
- Ledgers — 15
- Legal and auditing, operating expense classification — 17
- Legal expenses relating to claim adjustment — 1-a
- Legal expenses — 17
- Legal societies, dues and subscriptions to — 12
- Letterheads — 15
- Licenses on owned real estate — 20
- Licenses, taxes and fees — 18
- License plates, automobile — 12
- Life insurance for employees — 9-a
- Light, heat, power and water charges in leased premises — 13
- Literature for accident and loss prevention — 6
- Literature for advertising purposes — 4
- Local agents, payments to — 2-a and 3
- Local insurance taxes — 18-a
- Loss adjustment expenses — 1
- Loss prevention billed specifically — 6
- Loss prevention literature — 6
- Loss prevention organizations — 5
- Machines, depreciation, rent and repairs of — 14; insurance of — 10
- Mailing lists — 4
- Maintaining owned real estate — 19
- Managers, payments to — 2-a and 3
- Maps relating to claim adjustment — 1-a
- Maps and corrections — 6
- Marine profits taxes — 18-d
- Meals for employees while traveling — 12
- Meals for guests — 12
- Medals for agents — 4
- Medical bills of employees — 9-b
- Medical examinations relating to claim adjustment — 1-a
- Medical examiners, services of, for underwriting purposes — 6
- Medical testimony relating to claim adjustment — 1-a
- Membership and policy fees — 2-e
- Minute books — 15
- Miscellaneous, operating expense classification — 21
- Moral hazard, reports — 6
- Municipal and county taxes, licenses and fees — 18-a
- Newspapers, advertising in — 4
- Newspapers, books, periodicals, etc., including investment, tax and legal publications and services — 15
- Notary fees — 17
- Notary fees relating to claim adjustment — 1-a
- Nurse service to employees — 9-b
- Office agents, payment to — 2-a and 3
- Office machines, depreciation, rent and repairs of — 14; insurance of — 10
- Office maintenance expense — 13
- Office rent — 13
- Office supplies — 15
- Old age benefit taxes — 18-c
- Operating expenses of owned real estate — 19
- Overtime — 8
- Outings for employees — 9-b
- Pamphlets, advertising in — 4
- Paper in bills covering advertising — 4
- Paper stock — 15
- Payroll audit — 7
- Payroll taxes — 18-c
- Pencils and pens — 15
- Pensions — 9-a
- Periodicals, advertising in — 4
- Periodicals, newspapers, books, etc., including investment, tax and legal publications and services — 15
- Personal property taxes — 18-d
- Photographs relating to claim adjustment — 1-a
- Photostatic copies — 15
- Physical examinations of employees — 9-b
- Pins — 15
- Placards for accident and loss prevention — 6
- Plates in connection with advertising — 4
- Policies and policy forms — 15
- Policy and membership fees — 2-e
- Policy claims, investigation and adjustment — 1-a
- Pools and associations — 5
- Pool and quota share agreements — 2-b and 2-c
- Post office boxes, rent of — 13
- Postage machines — 14
- Postage expenses incurred by employees while traveling — 12
- Postage, telephone, telegraph, exchange and express, operating expense classification — 16
- Power, light, heat and water charges in leased premises — 13
- Premium cost of bonds relating to claim adjustment — 1-a
- Premium taxes, licenses and fees — 18-a
- Premiums for insurance on office contents — 10
- Presents and favors given to others than employees — 12
- Printed forms — 15
- Printers' equipment, rent, repairs and depreciation of — 14; insurance of — 10
- Printing and stationery, operating expense classification — 15
- Printing and stationery relating to claim adjustment — 1-a
- Printing in bills covering advertising — 4
- Process, service of, relating to claim adjustment — 1-a
- Producers, payments to — 2-a and 3
- Profit commission — 2-d
- Programs, advertising in — 4
- Prospect lists — 4
- Public liability insurance premiums — 10
- Public relations counsel — 4
- Publication fees — 18-d
- Publications, advertising in — 4
- Publications such as house organs, for use of employees — 15
- Punch cards — 15
- Punched card equipment — 14
- Punched card services — 21
- Qualifying bond premiums — 18-d
- Quota share and pool agreements — 2-b and 2-c
- Radio broadcasts — 4
- Radiograms — 16
- Rate manual — 5
- Rating organizations — 5
- Rating plans — 5
- Real estate expenses, operating expense classification — 19
- Real estate taxes, operating expense classification — 20
- Regional agents, payments to — 2-a and 3
- Registrar fees — 17
- Reinsurance assumed, claim adjustment services — 1-b
- Reinsurance assumed, commission and brokerage — 2-b
- Reinsurance ceded, claim adjustment services — 1-c
- Reinsurance ceded, commission and brokerage — 2-c
- Rent and rent items, operating expense classification — 13
- Rent of furniture, equipment and office machines — 14
- Rent of automobiles — 12
- Reopened case funds — 18-a
- Repairs and alterations in leased premises — 13
- Repairs of automobiles — 12
- Repairs of furniture, equipment and office machines — 14
- Retirement allowances — 9-a
- Retirement insurance — 9-a
- Safe deposit boxes, rent of — 13
- Safekeeping, storage and warehouse space, rent of — 13
- Salaries, operating expense classification — 8
- Salaries paid in connection with owned real estate — 19
- Second injury funds — 18-a
- Security funds — 18-a
- Service organizations — 5
- Services, tabulating, rendered by outside organizations — 21
- Sickness payments to employees — 9
- Signs for accident and loss prevention — 6

Signs for agents — 4
 Social clubs, dues and subscriptions to — 12
 Solicitors, payment to — 2-a and 3
 Souvenirs for general distribution — 4
 Souvenirs not generally distributed — 12
 Space occupied in buildings owned — 13
 Stamp pads — 15
 Staples and staplers — 15
 State income taxes — 18-d
 State industrial commissions — 18-a
 State insurance taxes — 18-a
 State licenses and fees — 18-b
 State premium taxes, licenses and fees — 18-a
 State security funds — 18-a
 Statement publication fees — 18-d
 Stationery — 15
 Statistical agencies — 5
 Statistical services — 21
 Stenographers' fees relating to claim adjustment — 1-a
 Stock taxes — 18-d
 Storage, safekeeping and warehouse space, rent of — 13
 Subpoenas relating to claim adjustment — 1-a
 Subscriptions to accounting, legal, actuarial and similar societies — 12
 Subscriptions to social or civic clubs or affairs — 12
 Supper money — 9-b
 Surety bonds covering employees — 10
 Survey reports relating to claim adjustment — 1-a
 Surveys and underwriting reports, operating expense classification — 6
 Syndicates, underwriting — 5
 Tabulating services — 21
 Tax allowances, reinsurance — 2-b and 2-c
 Tax expert services — 17
 Taxes, interest, etc., paid in lieu of rent for leased premises — 13
 Taxes, licenses and fees, operating expense classification — 18
 Taxes, real estate — 20
 Telephone and telegraph — 16
 Telephone and telegraph expenses of employees while traveling — 12
 Teletype — 16
 Time clock service charges — 13
 Towels — 13
 Training of employees — 9-b
 Training pay of employees — 8
 Transcripts of testimony relating to claim adjustment — 1-a
 Transfer agents' fees — 17
 Transfer of employees — 12
 Transfer taxes — 18-d
 Transportation of guests — 12
 Transportation of employees — 12
 Travel and Travel Items, operating expense classification — 12
 Traveling expenses of employees — 12
 Trustees' fees — 17
 Underwriters' boards — 5
 Underwriting reports — 6
 Underwriting syndicates — 5
 Unemployment insurance taxes — 18-c
 Visiting nurse service — 9-b
 Wages paid in connection with owned real estate — 19
 Warehouse, storage and safekeeping space, rent of — 13
 Waste baskets — 15
 Water, light, heat and power in leased premises — 13
 Watchperson expenses relating to claim adjustment — 1-a
 Weather reports relating to claim adjustment — 1-a
 Welfare of employees — 9-b
 Witnesses relating to claim adjustment — 1-a
 Worker's compensation insurance — 9-a

(2) PART II. (a) Instructions relating to the allocation of joint expenses to companies.

1. Joint Expenses a. Joint Expenses, as described in s. **Ins 6.30 (1) (b) 22. a.**, shall be allocated to companies as follows:

| Expenses to be Allocated to Companies | Bases of Allocation to Companies |
|--|---|
| Advertising | Premiums |
| Boards, Bureaus and Associations | Special Studies |
| Surveys and Underwriting Reports | Special Studies |
| Audit of Assureds' Records | Special Studies |

| | |
|--|--|
| Salaries | See Special Instructions Relating to the Allocation of Salaries and Other Expenses (s. Ins 6.30 (5)) |
| Employee Relations & Welfare | Overhead on Salaries |
| Insurance | Overhead on Salaries |
| Travel and Travel Items | Special Studies |
| Rent & Rent Items | Overhead on Salaries |
| Equipment | Overhead on Salaries |
| Printing and Stationery | Overhead on Salaries |
| Postage, Telephone and Telegraph, Exchange and Express | Overhead on Salaries |
| Legal and Auditing | Special Studies |
| Payroll Taxes | Overhead on Salaries |
| Miscellaneous | Special Studies |

b. Definitions

The term Premiums used as basis of allocation means the allocation of expenses shall follow the percentages of applicable premiums.

The term Special Studies used as a basis of allocation means that expenses shall be analyzed and bases of allocation applied as dictated by that analysis.

The term Overhead on Salaries used as a basis of allocation means that the allocation of expenses shall follow the percentages of the applicable salaries allocation.

c. Other Bases Permitted or Prescribed

For those operating expense classifications permitting the basis, Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

d. Other Instructions Applicable

In making any allocations of Joint Expenses, companies shall observe the General Instructions Regarding Allocation Bases (see s. **Ins 6.30 (5) (a) 2.**).

e. Records Required

The methods followed in allocating Joint Expenses shall be described, kept and supported as set forth under Detail of Allocation Bases (See s. **Ins 6.30 (5) (a) 3-c.**)

The effects of the application, to each operating expense classification, of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

f. Interim Allocations of Joint Expenses

It is permissible to apportion expenses between companies during the year on the basis of methods and procedures other than those prescribed herein, provided allocations of corrected amounts, calculated in accordance with these instructions, are made in time for entry in the Annual Statement.

(3) PART III. (a) Instructions relating to the composition of, and allocation to, expense groups.

1. List of Expense Groups

Expenses reported in the operating expense classifications shall be allocated to the following expense groups:

Investment Expenses.

- Loss Adjustment Expenses.
- Acquisition, Field Supervision and Collection Expenses.
- Taxes.
- General Expenses.

2. Composition of the Expense Groups.

The composition of each expense group shall be as follows:

a. Investment Expenses.

Investment Expenses shall comprise all expenses incurred wholly or partially in connection with the investing of funds and the obtaining of investment income, including related expenses incurred in the following activities: initiating or handling orders and recommendations; doing research; pricing; appraising and valuing; paying and receiving; entering and keeping general and detail records; safe keeping; collecting, recording, calculating and accruing investment income; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc.; and all other activities reasonably attributable to the investing of funds and the obtaining of investment income.

b. Loss Adjustment Expenses.

Loss Adjustment Expenses shall comprise all expenses incurred wholly or partially in connection with the adjustment and recording of policy claims, including the totals of the operating expense classification, Claim Adjustment Services: the types of expenses included in Claim Adjustment Services, when the activities resulting in such types of expenses are performed by employees; and including related expenses incurred in the following activities: estimating amounts of claims; paying and receiving; entering and keeping general and detail records; general clerical, secretarial, office maintenance, supervisory and executive duties; handling personnel, supplies, mail, etc.; and all other activities reasonably attributable to the adjustment and recording of policy claims in connection with claims reported, paid, and outstanding, and reinsurance thereon.

c. Acquisition, Field Supervision and Collection Expenses

Acquisition, Field Supervision and Collection Expenses shall comprise all expenses incurred wholly or partially in the following activities:

Soliciting and procuring business and developing the sales field.

Writing policy contracts, and checking and directly supervising the work of policy writers.

Receiving and paying of premiums and commissions; entering into or setting up records of premiums and commissions receivable and payable for collection purposes; balancing and maintaining such records; corresponding with and visiting insureds and producers for the purpose of collecting premiums or adjusting differences; checking current accounts from producers; auditing of records of delinquent agents; and services of collection agencies. Do not include activities offices within the company.

Compiling and distributing expiration lists, notices of premiums due, lists of premiums or premium balances receivable and payable, contingent and other commission statements, production statements for acquisition and field supervision purposes, and similar data.

Maintaining good will of insureds and producers; activities of field personnel; contact work relating to acquisition, field supervision and collection; making contracts and agreements with producers; and activities in connection with agency appointments and replacements. Do not include: inspections of risks when carried on by personnel employed by the insurance company,

engaged full time in physical inspection of risks and activities directly related thereto; audits for the purpose of premium determination; and activities in connection with the adjustment of policy claims.

Rendering service to agents and other producers, such as providing office space, personnel, telephone, etc., and obtaining agents' licenses.

Do not include fees paid for agents' licenses.

Advertising and publicity of every nature related to acquisition, field supervision and collection. In addition to applicable salaries, etc., include the entire amount shown in the operating expense classification, Advertising.

Miscellaneous activities of agents, brokers and producers other than employees, when performed by them: inspections; quoting premiums; signing policies; examining and mailing policies, applications and daily reports; compiling figures for current accounts; correspondence and sundry bookkeeping and clerical work.

Other activities reasonably attributable to those operations listed above, such as: keeping general and detail records; paying and receiving; general clerical, secretarial, office maintenance, supervisory and executive work; and handling personnel, supplies, mail, etc.

Commission and Allowances: When the whole or a part of any amount in the operating expense classifications Commission and Brokerage-Direct, and Allowances to Managers and Agents is paid specifically for services other than those set forth under Acquisition, Field Supervision and Collection Expenses, and when such services are not duplicated or otherwise compensated by the company, the amount thereof shall be allocated to expense groups other than Acquisition, Field Supervision and Collection, and such allocations shall be justified by detailed statements and data calculated and prepared in accordance with the methods described in these instructions showing amounts of expenditures properly allocated to expense groups and lines of business.

When Allowances to Managers and Agents represent a division of expenses shared with other companies, the aforementioned statements and data shall show the division of such shared expenses calculated and prepared in accordance with the methods prescribed in these instructions.

The calculation and preparation of the aforementioned statements and data shall be subject to verification and audit by insurance department personnel.

The instructions under the heading Commission and Allowances do not apply to Commission and Brokerage-Reinsurance Assumed, or Commission and Brokerage-Reinsurance Ceded.

d. Taxes

Taxes shall comprise the totals of the operating expense classification Taxes, Licenses and Fees.

e. General Expenses

General Expenses shall comprise all expenses not assignable by these instructions to other expense groups.

3. Allocation to Expense Groups

a. Expenses shall be allocated to expense groups as follows:

| Expenses to be Allocated to Expense Groups | Allocation to Expense Groups |
|---|-------------------------------------|
| Claim Adjustment Services: | |
| Direct | Loss Adjustment Expenses |
| Reinsurance Assumed | Loss Adjustment Expenses |

| | |
|--|--|
| Reinsurance Ceded | Loss Adjustment Expenses |
| Commission and Brokerage: | |
| Direct | See Commission and Allowances (s. Ins 6.30 (3) (a) 2-c) |
| Reinsurance Assumed | Acquisition, Field Supervision and Collection Expenses |
| Reinsurance Ceded | Acquisition, Field Supervision and Collection Expenses |
| Contingent-Net | Acquisition, Field Supervision and Collection Expenses |
| Policy and Membership Fees | Acquisition, Field Supervision and Collection Expenses |
| Allowances to Managers and Agents | See Commission and Allowances (s. Ins 6.30 (3) (a) 2-c) |
| Advertising | Acquisition, Field Supervision and Collection Expenses |
| Boards, Bureaus and Associations | General Expenses |
| Surveys and Underwriting Reports | General Expenses |
| Audit of Assureds' Records | General Expenses |
| Salaries | See Special Instructions Relating to the Allocation of Salaries and Other Expenses (s. Ins 6.30 (5)) |
| Employee Relations and Welfare | Overhead on Salaries |
| Insurance | Overhead on Salaries |
| Directors' Fees | Overhead on Salaries |
| Travel and Travel Items | Special Studies |
| Rent and Rent Items | Overhead on Salaries |
| Equipment | Overhead on Salaries |
| Printing and Stationery | Overhead on Salaries |
| Postage, Telephone and Telegraph, Exchange and Express | Overhead on Salaries |
| Legal and Auditing | Special Studies |
| Taxes, Licenses and Fees | Taxes |
| Real Estate Expenses | Investment Expenses |
| Real Estate Taxes | Investment Expenses |
| Income from Special Services | Special Studies |
| Miscellaneous | Special Studies |

b. Definitions

For definitions of the terms Overhead on Salaries and Special Studies, see s. Ins 6.30 (2) (a) 1. b.

c. Other Bases Permitted or Prescribed

For those operating expense classifications permitting the basis Overhead on Salaries, any other basis of allocation may be adopted which yields more accurate results. The basis Overhead on Salaries shall not be used if clearly inappropriate.

d. Other Instructions Applicable

In making any allocations to expense groups, companies shall observe the General Instructions Regarding Allocation Bases (see s. Ins 6.30 (5) (a) 2.).

e. Records Required

The methods followed in allocating to expense groups shall be described, kept and supported as set forth under Detail of Allocation Bases (see s. Ins 6.30 (5) (a) 3. c.).

The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

(4) PART IV. (a) Instruction relating to allocation to lines of business.

1. Lines of Business

The lines of business for allocation of expenses shall be the following:

- Fire and Allied Lines:
 - Fire
 - Extended Coverage
 - Other
 - Homeowners Multiple Peril
 - Commercial Multiple Peril
- Ocean Marine
- Inland Marine
 - Automobile Liability:
 - Bodily Injury (including medical payments coverage)
 - Property Damage
 - Automobile Physical Damage:
 - Fire, Theft and Comprehensive
 - Collision
 - Worker's Compensation
 - Liability Other than Automobile:
 - Bodily Injury
 - Property Damage
 - Fidelity
 - Surety
 - Glass
 - Burglary and Theft
 - Individual Accident and Health:
 - Accident only
 - Accident and Health
 - Hospital and Medical Expense
 - Group Accident and Health Boiler and Machinery

2. Allocation of Expenses to Lines of Business

a. The allocation of expenses to lines of business shall be by expense groups. Each classification of expense within each expense group shall be allocated separately to lines of business on the bases of allocation prescribed as follows.

All bases employed in such allocations shall be applicable and appropriate to the expense group of which such expense is a part.

Example — Expenses which are allocated to lines of business as an Overhead on Salaries shall be calculated in relation only to the salaries included in the same expense group.

| | |
|---|---|
| Expenses Included in the Expense Group, Loss Adjustment Expenses | Bases of Allocation to Lines of Business |
|---|---|

Claim Adjustment Services:

| | |
|---------------------|--------|
| Direct | Actual |
| Reinsurance Assumed | Actual |
| Reinsurance Ceded | Actual |

| | | | |
|---|--|--|--|
| Commission and Brokerage—Direct | See Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) | Equipment | Overhead on Salaries |
| Allowances to Managers and Agents | See Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) | Printing and Stationery | Overhead on Salaries |
| Salaries | See Special Instructions Relating to the Allocation of Salaries and Other Expenses (s. Ins 6.30 (5)) | Postage, Telephone and Telegraph, Exchange and Express | Overhead on Salaries |
| Employee Relations and Welfare | Overhead on Salaries | Legal and Auditing | Special Studies |
| Insurance | Overhead on Salaries | Income from Special Services | Special Studies |
| Directors' Fees | Overhead on Salaries | Miscellaneous | Special Studies |
| Travel and Travel Items | Special Studies | Expenses Included in the Expense Group, General Expenses | Bases of Allocation to Lines of Business |
| Rent and Rent Items | Overhead on Salaries | Commission and Brokerage—Direct | See Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) |
| Equipment | Overhead on Salaries | Allowances to Managers and Agents | See Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) |
| Printing and Stationery | Overhead on Salaries | Boards, Bureaus and Associations | Special Studies |
| Postage, Telephone and Telegraph, Exchange and Express | Overhead on Salaries | Surveys and Underwriting Reports | Special Studies |
| Legal and Auditing | Special Studies | Audit of Assureds' Records | Special Studies |
| Income from Special Services | Special Studies | Salaries | See Special Instructions Relating to the Allocation of Salaries and Other Expenses (s. Ins 6.30 (5)) |
| Miscellaneous | Special Studies | Employee Relations and Welfare | Overhead on Salaries |
| Expenses Included in the Expense Group, Acquisition, Field Supervision and Collection Expenses | Bases of Allocation to Lines of Business | Insurance | Overhead on Salaries |
| Commission and Brokerage: | | Directors' Fees | Overhead on Salaries |
| Direct | Actual, but Subject to Instructions under Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) | Travel and Travel Items | Special Studies |
| Reinsurance Assumed | Actual | Rent and Rent Items | Overhead on Salaries |
| Reinsurance Ceded | Actual | Equipment | Overhead on Salaries |
| Contingent—Net | Special Studies | Printing and Stationery | Overhead on Salaries |
| Policy and Membership Fees | Actual | Postage, Telephone and Telegraph, Exchange and Express | Overhead on Salaries |
| Allowances to Managers and Agents | Special Studies, but Subject to Instructions under Commission and Allowances (s. Ins 6.30 (3) (a) 2. c.) | Legal and Auditing | Special Studies |
| Advertising | Premiums | Income from Special Services | Special Studies |
| Salaries | See Special Instructions Relating to the Allocation of Salaries and Other Expenses (s. Ins 6.30 (5)) | Miscellaneous | Special Studies |
| Employee Relations and Welfare | Overhead on Salaries | Expenses Included in the Expense Group, Taxes | Bases of Allocation to Lines of Business |
| Insurance | Overhead on Salaries | Taxes, Licenses and Fees: | |
| Directors' Fees | Overhead on Salaries | State and Local Insurance Taxes | Special Studies |
| Travel and Travel Items | Special Studies | Insurance Department Licenses and Fees | Special Studies |
| Rent and Rent Items | Overhead on Salaries | Payroll Taxes | Overhead on Salaries |
| | | All other (excluding Federal and foreign income and real estate) | Special Studies |

b. Definitions

The term Actual means that the expenses are susceptible of direct and accurate allocation, and companies shall allocate directly to lines of business and shall not employ any apportionments or estimations.

For definitions of the terms Special Studies, Premiums, and Overhead on Salaries, see s. [Ins 6.30 \(2\) \(a\) 1. b.](#)

c. Other Bases Permitted or Prescribed

For those expense classifications permitting the basis Overhead on Salaries or Premiums, any other basis of allocation may be adopted which yields more accurate results. The bases Overhead on Salaries and Premiums shall not be used if clearly inappropriate.

d. Other Instructions Applicable

In making any allocations to lines of business, companies shall observe the General Instructions Regarding Allocation Bases (see s. [Ins 6.30 \(5\) \(a\) 2.](#)).

e. Records Required

The methods followed in allocating to lines of business shall be described, kept and supported as set forth under Detail of Allocation Bases (see s. [Ins 6.30 \(5\) \(a\) 3. c.](#)).

The effects of the application to each operating expense classification of all bases of allocation shall be shown on records kept in clear and legible form. Such records shall be readily available for examination.

(5) PART V. (a) *Special instructions relating to the allocation of salaries and other expenses.*

1. General Procedures in Allocating Salaries

a. Direct Allocations

Wherever possible, salaries of individuals or similarly employed groups shall be allocated direct to companies, expense groups, and lines of business. In other words, salaries of employees whose work is solely in connection with a specific company, expense group or line of business shall be allocated thereto.

b. Allocations Other Than Direct

When a direct allocation is not made, salaries, with certain exceptions hereinafter noted, shall be allocated on whichever of the following bases, or combinations thereof, are appropriate: Number of Items or Units, Time Studies, Overhead on Other Allocations, Premiums, Dollar Volume of Losses, and Other Special Studies.

All bases of allocation, and the application thereof, shall be subject to restrictions, modifications and exceptions in the General Instructions Regarding Allocation Bases which follow.

2. General Instructions Regarding Allocation Bases

a. Number of Items or Units

Item and unit counts may include Number of Premium Entries, Number of Policies, Number of Loss Entries, Number of Accidents, Number of Employees, and any other unit or item counts which aid in the allocation of expenses. To the greatest practical extent, such unit or item counts shall be applied only to expenses incurred in activities having a direct relationship to the bases.

In determining the applicability of Number of Premium Entries as a basis of allocation, consideration shall be given to the number of premiums on original policies plus additional premiums, return premiums, reinsurance premiums, and return premiums on reinsurance. Where more than one card is punched or more than one entry is made covering only one amount, consider-

ation shall be given procedural differences in connection with types of entries.

In determining the applicability of Number of Policies as a basis of allocation, consideration shall be given to policies underlying another policy, to policies covering more than one line of business, to policies for various terms, and to the effect on cost of procedural differences in connection with types of policies.

In determining the applicability of Number of Loss Entries as a basis of allocation, consideration shall be given to the number of gross entries plus salvage entries and reinsurance entries, for paid or outstanding losses, or both, and to the effect on cost of procedural differences in connection with types of loss entries.

In determining the applicability of Number of Accidents as a basis of allocation, consideration shall be given to accidents on which specific estimates are set up, those on which no specific estimate is made, and those for which no claim is made, and to the effect on cost of procedural differences in connection with types of accidents.

The basis Number of Employees is of limited application and shall be used only where the cost logically follows the number of employees. It may be of use, where properly weighted, in allocating such units as cafeteria, personnel department, and payroll department.

b. Time Studies

Time studies are actual measurements of time required to make motions, to complete a routine of regularly occurring procedure. In contemplating the use of a time study as a basis of allocation, consideration shall be given to the number of motions which must be studied to obtain a valid average and to possible distortions in the average caused by exceptional conditions during the study.

c. Overhead on Other Allocations

Salaries of supervisors and executives may be distributed as an overhead on the salaries of employees whom they supervise. Salaries of departments such as mail and general stenographic may be distributed as an overhead on the salaries of people whose work is handled. However, no salaries shall be distributed as an overhead on other allocations if any other basis is more appropriate.

d. Premiums

Premiums shall not be used as a basis of allocation except when specifically noted as a permissible basis or when the expense is incurred as a percentage of premiums (subject to instructions under Commission and Allowances in s. [Ins 6.30 \(3\) \(a\) 2. c.](#)), or when the expenses are logically allocable on the basis of allocation in connection with clerical, technical, secretarial, office maintenance, supervisory and executive activities unless such basis is clearly appropriate and until all other reasonable bases of allocation have been considered and found less appropriate than premiums.

In determining the applicability of premiums as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance premiums, and written, earned and unearned premiums, as well as to subdivisions thereof.

e. Dollar Volume of Losses

Dollar Volume of Losses shall be used as a basis of allocation only when the activities resulting in expense are influenced by the dollar amounts of losses, and only when all other reasonable bases

of allocation have been considered and found less appropriate than Dollar Volume of Losses.

In determining the applicability of Dollar Volume of Losses as a basis of allocation, consideration shall be given to the applicability of direct and reinsurance losses, and paid, incurred and outstanding losses as well as to subdivisions thereof.

f. Other Special Studies

Salaries may be allocated on the basis of other special studies, provided demonstrably more accurate results are thereby produced than through the use of the bases heretofore discussed, but not otherwise.

g. Weightings

Weightings may be applied in using any bases of allocation but the justification for such weightings shall be stated in the Detail of Allocation Bases (see s. [Ins 6.30 \(5\) \(a\) 3. c.](#)). Weightings shall not be used as a means for giving effect to a basis which is prohibited by these instructions.

h. Bases Shall be Appropriate

The bases of allocation used shall be appropriate and applicable to the expenses to which such bases are applied. All bases shall be limited and subdivided in such manner that the expenses to which the bases are applied have a reasonable relationship to each component of the bases. For example, an allocation basis which includes a particular line of business shall not be applied to expenses incurred for activities which do not include that line.

Any basis of allocation which is found to be inappropriate shall be discontinued.

i. General Work on Totals

Where an individual or a group of employees work on totals, the allocation of the expenses involved may be based on the information entering into the totals.

j. Bases Shall Be Made in Current Period

All bases of allocation shall be compiled or calculated from the transactions or procedures for the period applicable to the expenses to be allocated, unless the use of any other period is justified by investigation made during the applicable period. Such justification shall be set forth on the Detail of Allocation Bases (see s. [Ins 6.30 \(5\) \(a\) 3. c.](#)).

3. Special Statements and Records Required

The following types of records shall be prepared by each company or fleet in allocating salaries to companies, expense groups and lines of business: Allocation of Salaries, Recapitulation of Salaries, and Detail of Allocation Bases.

The Allocation of Salaries and the Recapitulation of Salaries shall be prepared either for the twelve months of the current calendar year, or for twelve months ending not earlier than September 30th of the current year, in which case the ratios established shall be applied to the total salaries for the twelve months of the current calendar year. The second method herein referred to shall not be followed if operations during the period used were materially different from operations during the period to which the ratios are to be applied. All amounts included in the operating expense classification Salaries, for the period used in preparing the Allocation of Salaries and the Recapitulation of Salaries shall be accounted for on such records.

Forms of the records are shown as Forms A through C at the close of s. [Ins 6.30 \(5\)](#). The forms may be of any convenient size, and may be entered in ink, type, or by other mechanical means, provided the entries are legible. If the organization or method of operation of any company is such as to make desirable changes in the forms such as a rearrangement of the columns, or a separation

of the forms into two or more parts, such changes may be made, provided the substituted forms do not, in any respect, show less information than called for on the forms shown herein, and do not result in confusing the presentation of salary allocation.

Such records shall be maintained in good order and shall at all times be readily available for examination.

a. Allocation of Salaries Form

First: The form, Allocation of Salaries, is shown as Form A. To aid in the understanding of the form, specimen entries have been made thereon and, as further aids to understanding, each column is explained in the following paragraphs:

Column 1: List each similarly employed unit within each departmental or other division in the organization. By "similarly employed" is meant employed in essentially the same or similar activities in or for the same department or other division.

The personnel shall be divided into as many units as necessary to show each type of work done by each departmental or other division in the organization. Employees whose duties are not solely related to the work performed by one unit, such as some in supervisory positions, shall be listed separately by title or job classification.

Column 2: Gross salaries applicable to each unit shown in Column 1.

Columns 3, 4 and 5: These columns are for use when the Salaries classification is affected by allocations made to other companies.

A separate line is to be used for the allocation to each company or group of companies. When intercompany allocations are not made, or when quota share percentages can be applied to fleet totals, Columns 3, 4 and 5 need not be used.

Designating numbers shall be entered in Column 4 for the methods used in intercompany allocations.

Column 6: Designating numbers shall be entered in this column for the methods used in allocating salaries to expense groups.

Columns 7 to 10: The amounts assigned to each expense group shall be in accordance with the method shown in Column 6. At the side of each expense group column (except the column Investment Expenses) is shown a narrower column captioned "Line Dist.", wherein shall be entered designating numbers for the methods to be followed in distributing salaries to lines of business.

Second: Pool and Quota Share Reinsurance. When quota share reinsurance is in effect and when salaries may be allocated in strict accordance with the quota share percentages, the amounts shown in the Allocation of Salaries Form may be those subject to quota share. Quota share percentages may, in such cases, be applied to the totals either on the Allocation of Salaries or the Recapitulation of Salaries.

Third: Branch and Field. Branch office salaries shall be shown separately in the Allocation of Salaries and in the Recapitulation of Salaries. In combining branch employees into similarly employed units, it shall be permissible to consider as a unit all similarly employed personnel in all branch offices having similar functions, and handling approximately the same relative volume of each line of business.

Fourth: Salary Reimbursements to Other Companies. Due to expense sharing with another company, outside of the company or fleet, debits may appear in the salary accounts for reimbursements to outside companies. Such payments are to payments amount to less than 10% of gross salaries paid by the company to its own employees, the amounts shown on the Allocation of Salaries may be distributed as an overhead on all other salary distribu-

tions. If more than 10%, the distribution shall be obtained from the other company.

Fifth: Salaries Not Specifically Reimbursable. When the employees of a company devote time to the affairs of another company, and the reimbursements therefor are handled in accordance with the instructions, Expenses for Account of Another or Income from Special Services (see s. **Ins 6.30 (1) (b) 22. b. and c.**) the salaries for each similarly employed unit applicable to work done for such other company shall be shown separately on the Allocation of Salaries (in Columns 3 to 10 incl.).

b. Recapitulation of Salaries Form

When all distributions called for on the Allocation of Salaries Form have been completed, the Recapitulation of Salaries shall be made.

For each company to which salaries have been allocated on the Allocation of Salaries Form, the amounts shown in each expense group column shall be combined by the line distribution codes shown in the "Line Dist." columns. The totals thus obtained shall be entered on the Recapitulation of Salaries Form and allocated to lines of business in accordance with the line distribution codes.

The form, Recapitulation of Salaries, is shown in three parts, B-1, B-2, and B-3. B-1 is for Loss Adjustment Expenses, B-2 is for Acquisition, Field Supervision and Collection Expenses, and B-3 is for General Expenses. For purposes of illustration, the specimen entries, applicable to Company A, made on the Allocation of Salaries Form have been continued on the Recapitulation of Salaries Form. Note that, for Company A, the figures in the expense group columns on the Allocation of Salaries Form have been combined by "Line Dist." codes, entered on the Recapitulation of Salaries Form, and then spread to lines of business based on the "Line Dist." codes.

tion of Salaries Form have been continued on the Recapitulation of Salaries Form. Note that, for Company A, the figures in the expense group columns on the Allocation of Salaries Form have been combined by "Line Dist." codes, entered on the Recapitulation of Salaries Form, and then spread to lines of business based on the "Line Dist." codes.

c. Detail of Allocation Bases Form

The bases of allocation used on the Allocation of Salaries Form shall be fully described on the Detail of Allocation Bases Form. There shall be a separate sheet for each basis and the sheets shall be kept in consecutive numerical order, available at all times for examination.

When the basis of allocation cannot be fully described on the form, subsidiary worksheets, compilations and data shall be either attached to the form or filed separately and readily available.

The Detail of Allocation Bases Form and all subsidiary worksheets, compilations and data shall be clear and legible; shall show the sources, detail and dates of all figures used; shall disclose the names of persons or groups responsible for all compilations, data, calculations, studies, estimates, judgment factors, weightings, etc., and the dates thereof; and, in general shall include complete explanations of all figures used and decisions made.

Note: The Detail of Allocation Bases Form need not be prepared each year, but with appropriate changes in supporting worksheets, etc., may remain current as long as the bases are in effect.

The Detail of Allocation Bases Form is identified as Form C and four illustrations of the form are shown. The allocation bases No. 1, 101, 105 and 501 shown on the Allocation of Salaries Form have been carried into the forms and specimen explanations given.

**Ins 6.30
FORM A
ALLOCATION OF SALARIES**

| (1) | (2) | (3) | (4) | (5) | (6) | (7) | (8) | (9) | (10) |
|-----------------------------------|----------------|---|-----|---------|--|---------|---------|---------|---------|
| Title of Similarly Employed Units | Gross Salaries | Allocation of Gross Salaries in Column 2 to Companies Including the Employing Company | | | Method of Allocation to Expense Groups | | | | |
| General Accounting Dept. | | A | | \$2,000 | | \$2,000 | | | |
| Investment Records | \$3,000 | #1 | | | #101 | | | | |
| | | B | | 1,000 | | 1,000 | | | |
| Premium Tax Returns | 6,000 | A | | 4,500 | | | | \$4,500 | |
| | | #2 | | | #103 | | | | #503 |
| Internal Auditing | 15,000 | B | | 1,500 | | | | | \$1,500 |
| | | A | | 10,000 | | 1,000 | \$4,000 | \$1,000 | 4,000 |
| General Bookkeeping | 30,000 | #3 | | | #105 | | #501 | #502 | #502 |
| | | B | | 5,000 | | 500 | 2,150 | 200 | 2,150 |
| Manager and Assistant | 15,000 | A | | 21,500 | | 1,075 | 6,450 | 1,075 | 12,900 |
| | | #4 | | | #107 | | #501 | #502 | #502 |
| | | B | | 8,500 | | 425 | 2,550 | 425 | 5,100 |
| | | A | | 10,500 | | 1,155 | 2,940 | 525 | 5,880 |
| | | #5 | | | #109 | | #501 | #502 | #502 |
| | | B | | 4,500 | | 540 | 1,305 | 180 | 2,475 |

Note: Totals in Col. 5 for each similarly employed unit must equal amount in Col. 2.

Ins 6.30
FORM B
RECAPITULATION OF SALARIES

| Company A B-1 LOSS ADJUSTMENT EXPENSES | | | | | | | | | | | | | | | | | |
|--|----------|--|--------------------------------------|-----------------------|----------------------------------|-------|--------------------|-----------------------|----------------------------|---------------------------|---------------|--------------|----------|--------|----------------------|---------------------|-------|
| Allocation Bases (From "Line Dist." columns on Allocation of Salaries) | Total | Automobile Bodily Injury and Property Damage | Automobile Physical Damage and Theft | Worker's Compensation | Liability and Collision ex. Auto | Glass | Burglary and Theft | Fire and Allied Lines | Home-owners Multiple Peril | Commercial Multiple Peril | Inland Marine | Ocean Marine | Fidelity | Surety | Boiler and Machinery | Accident and Health | Other |
| #501 | \$13,390 | \$4,820 | | \$6,026 | \$1,741 | \$268 | \$134 | | | | | | \$134 | \$267 | | | |
| Company A B-2 ACQUISITION, FIELD SUPERVISION AND COLLECTION EXPENSES | | | | | | | | | | | | | | | | | |
| Allocation Bases (From "Line Dist." columns on Allocation of Salaries) | Total | Automobile Bodily Injury and Property Damage | Automobile Physical Damage and Theft | Worker's Compensation | Liability and Collision ex. Auto | Glass | Burglary and Theft | Fire and Allied Lines | Home-owners Multiple Peril | Commercial Multiple Peril | Inland Marine | Ocean Marine | Fidelity | Surety | Boiler and Machinery | Accident and Health | Other |
| #502 | \$2,600 | \$910 | | \$1,248 | \$286 | \$52 | \$26 | | | | | | \$31 | \$47 | | | |
| Company A B-3 GENERAL EXPENSES | | | | | | | | | | | | | | | | | |
| Allocation Bases (From "Line Dist." columns on Allocation of Salaries) | Total | Automobile Bodily Injury and Property Damage | Automobile Physical Damage and Theft | Worker's Compensation | Liability and Collision ex. Auto | Glass | Burglary and Theft | Fire and Allied Lines | Home-owners Multiple Peril | Commercial Multiple Peril | Inland Marine | Ocean Marine | Fidelity | Surety | Boiler and Machinery | Accident and Health | Other |
| #502 | \$22,780 | \$7,973 | | \$10,934 | \$2,506 | \$456 | \$228 | | | | | \$273 | \$410 | | | | |
| #503 | 4,500 | 904 | | 3,011 | 308 | 110 | 47 | | | | | | 60 | 60 | | | |

Ins 6.30

FORM C — ILLUSTRATION 1—DETAIL OF ALLOCATION BASES

| | | |
|---------|-------------------------|----------------------------|
| Company | ALPHA GROUP | |
| Purpose | INTERCOMPANY ALLOCATION | Basis VALUE OF INVESTMENTS |
| Number | 1 | |

EXPLANATION OF BASIS

Based on statement values of bonds and stocks owned (See memo of Allocation Committee 11/14/58)

APPLICATION OF BASIS

| | 1958 | 1959 | 1960 | 1961 | 1962 |
|---------|----------------------------------|------|------|------|------|
| Company | | | | | |
| A | 66 ² / ₃ % | | | | |
| B | 33 ¹ / ₃ % | | | | |

FORM C — ILLUSTRATION 2—DETAIL OF ALLOCATION BASES

| | | |
|---------|------------------------------|--------------|
| Company | ALPHA GROUP | |
| Purpose | ALLOCATION TO EXPENSE GROUPS | Basis DIRECT |
| Number | 101 | |

EXPLANATION OF BASIS

Direct to Investment Expenses. This basis is applicable to the positions and units listed on the memo dated 11/14/58 from the Allocation Committee.

APPLICATION OF BASIS

| Expense Groups | 1958 | 1959 | 1960 | 1961 | 1962 |
|----------------|------|------|------|------|------|
|----------------|------|------|------|------|------|

Company A

| | | | | | |
|--|------|--|--|--|--|
| Investment Expenses | 100% | | | | |
| Loss Adjustment Expense | | | | | |
| Acquisition, Field Supervision and Collection Expenses | | | | | |
| General Expenses | | | | | |

Company B

| | | | | | |
|--|------|--|--|--|--|
| Investment Expenses | 100% | | | | |
| Loss Adjustment Expenses | | | | | |
| Acquisition, Field Supervision and Collection Expenses | | | | | |
| General Expenses | | | | | |

FORM C — ILLUSTRATION 3—DETAIL OF ALLOCATION BASES

| | | |
|---------|-----------------------------|---------------------|
| Company | ALPHA GROUP | |
| Purpose | ALLOCATION TO EXPENSE GROUP | Basis TIME ESTIMATE |
| Number | 105 | |

EXPLANATION OF BASIS

This basis was made after a general analysis of the duties of the Internal Auditing unit of the General Accounting Department (See memo of Allocation Committee 11/15/58)

APPLICATION OF BASIS

| | 1958 | 1959 | 1960 | 1961 | 1962 |
|---|------|------|------|------|------|
| Company A | | | | | |
| Investment Expenses | 10% | | | | |
| Loss Adjustment Expenses -- | 40% | | | | |
| Acquisition, Field Supervision and Collection Expenses | 10% | | | | |
| General Expenses | 4% | | | | |
| Company B | | | | | |
| Investment Expenses ----- | 10% | | | | |
| Loss Adjustment Expenses -- | 43% | | | | |
| Acquisition, Field Supervision and Collection Expenses | 4% | | | | |
| General Expenses | 43% | | | | |

Ins 6.30

FORM C — ILLUSTRATION 4 — DETAIL OF ALLOCATION BASES

| | | |
|---------|---------------------------------|---------------------------|
| Company | ALPHA GROUP | Basis NO. OF LOSS ENTRIES |
| Purpose | ALLOCATION TO LINES OF BUSINESS | |
| Number | 501 | |

EXPLANATION OF BASIS

The Allocation Committee, in consultation with Mr. Jones, General Adjuster, decided to allocate auditing and bookkeeping work, done in connection with losses, on the basis of number of loss entries, modified by certain weightings and discounts. Memo from the Allocation Committee dated 7/18/58, together with work sheet, tabulations, etc., are attached hereto.

APPLICATION OF BASIS

| | 1958 | 1959 | 1960 | 1961 | 1962 |
|---------------------------------------|------|------|------|------|------|
| Company A | | | | | |
| Auto BI and PD ----- | 36% | | | | |
| ----- | | | | | |
| Auto Physical Damage and Theft- ----- | | | | | |
| ----- | | | | | |
| Worker's Compensation ---- | 45% | | | | |
| ----- | | | | | |
| Liability and Collision ex. Auto -- | 13% | | | | |
| Glass ----- | 2% | | | | |
| ----- | | | | | |
| Burglary and Theft ----- | 1% | | | | |
| ----- | | | | | |
| Fire and Allied Lines ----- | | | | | |
| ----- | | | | | |
| Homeowners Multiple Peril - | | | | | |
| ----- | | | | | |
| Commercial Multiple Peril -- | | | | | |
| ----- | | | | | |
| Inland Marine | | | | | |
| ----- | | | | | |
| Ocean Marine | | | | | |
| ----- | | | | | |
| Fidelity ---- | 1% | | | | |
| ----- | | | | | |
| Boiler and Machinery ----- | | | | | |
| ----- | | | | | |
| Accident and Health ----- | | | | | |
| ----- | | | | | |
| Other ----- | | | | | |
| ----- | | | | | |
| Total ----- | 100% | | | | |
| ----- | | | | | |
| Company B | | | | | |
| Auto BI and PD ----- | | | | | |
| ----- | | | | | |
| Auto Physical Damage and Theft- ----- | | | | | |
| ----- | | | | | |
| Worker's Compensation ---- | | | | | |
| ----- | | | | | |
| Liability and Collision ex. Auto -- | | | | | |
| ----- | | | | | |
| Glass ----- | 11% | | | | |
| ----- | | | | | |

Ins 6.30

WISCONSIN ADMINISTRATIVE CODE

| | |
|------------------------------|-------|
| Burglary and Theft ----- | 7% |
| ----- | |
| Fire and Allied Lines ----- | ----- |
| ----- | ----- |
| Homeowners Multiple Peril - | ----- |
| ----- | ----- |
| Commercial Multiple Peril -- | ----- |
| ----- | ----- |
| Inland Marine | ----- |
| ----- | ----- |
| ----- | |
| Ocean Marine | ----- |
| ----- | ----- |
| ----- | |
| Fidelity ----- | 23% |
| ----- | |
| ----- | |
| Surety ----- | 59% |
| ----- | |
| ----- | |
| Boiler and Machinery ----- | ----- |
| ----- | ----- |
| ----- | |
| Accident and Health ----- | ----- |
| ----- | ----- |
| ----- | |
| Other ----- | ----- |
| ----- | ----- |
| ----- | |
| Total ----- | 100% |
| ----- | |
| ----- | |

History: Cr. Register, July, 1959, No. 43, eff. 8-1-59.

Ins 6.31 Interpretations of the instructions for uniform classifications of expenses of fire and marine and casualty and surety insurers. (1) PURPOSE. (a) This rule is intended to implement and interpret uniform accounting instructions in s. Ins 6.30.

1. The following kinds of expense shall be allocated to indicated operating expense classifications.

| Kind of Expense | Allocation to Operating Expense Classification |
|---|--|
| a. Payments, based on a percentage of premiums or losses, to independent claim adjusters where none of the activities of the payees are concerned with the production of business ----- | Claim Adjustment Services |
| b. Payments, based on a percentage of premiums or losses, to independent attorneys-at-law for investigation, adjustment and settlement of claims where none of the activities of the payees are concerned with the production of business ----- | Claim Adjustment Services |
| c. Cost of cafeteria equipment ----- | Equipment |
| d. Salaries paid in connection with the operation of a company cafeteria ----- | Salaries |
| e. Cost of food used in company cafeteria ----- | Employee Relations and Welfare |
| f. Cost of food license fees in connection with the operation of a company cafeteria ----- | Employee Relations and Welfare |
| g. Cost of telephone directory listings ----- | Postage, Telephone and Telegraph, Exchange and Express |
| h. Fees paid in connection with stockholders' meetings, such as fees to tellers and inspectors of elections ----- | Legal and Auditing |
| i. Payment to an independent efficiency engineer for an inside on-the-job analysis of a company's operations and procedures ----- | Legal and Auditing |
| j. Cost of credit reports on agents ----- | Surveys and Underwriting Reports |
| k. Payment made in settlement of damage suit brought by an agent because of the termination of contract ----- | Miscellaneous |
| L. Premium for group life insurance coverage of janitor, in connection with company owned real estate ----- | Real Estate Expenses |

| | |
|--|---|
| m. Cost of pensions, in connection with company owned real estate ----- | Real Estate Expenses |
| Kind of Expense | Allocation to Operating Expense Classification |
| n. Service fees for servicing real estate owned ----- | Real Estate Expenses |
| o. Service fees for servicing of mortgages held ----- | Legal and Auditing |
| p. Cost of policy typing service, when such service is rendered by outside personnel (contract typists) ----- | Miscellaneous |
| q. Cost of "outside" special assistance employed by a company for the purpose of changing its filing system from a numerical arrangement to a digit system ----- | Legal and Auditing |

2. a. When contingent commission payments are large in number and small in average amount, a method of allocation based on the over-all profit in each line of business should yield reasonably correct allocations.

b. Company-owned automobiles and equipment may be depreciated on a 100% basis.

c. A company may carry company-owned automobiles and equipment as an asset (non-admitted) and deduct depreciation each year.

d. Handling of certain filing charges: Where a company sells a policy to a long haul firm and that firm requests that the insuring company make a "filing" with a State Commerce Commission in a state in which it is not licensed and another insurance company on behalf of the first insurance company actually issues the policy and makes the required filing, charging a nominal fee for the transaction, the company receiving the fee should credit it to "Direct Premiums" and the company paying the fee should charge it to "Direct Premiums."

3. The following kind of expense shall be allocated to the indicated expense group:

| Kind of Expense | Allocation to Expense Group |
|---|--|
| All expenses includable in Taxes, Licenses and Fees | Taxes, licenses and fees applicable solely to investments should be allocated to the expense group, Investment Expenses. All other taxes, licenses and fees should be allocated to the expense group, Taxes. |

4. When commission on reinsurance is on a "sliding scale" or "guaranteed profit" basis both the tentative commission and any adjustments brought about by the "sliding scale" or "guaranteed profit" provisions should be allocated to Commission and Brokerage-Reinsurance Assumed or Commission and Brokerage-Reinsurance Ceded.

Note: To make clear the meaning of "sliding scale" and "guaranteed profits" the following is submitted:

SLIDING SCALE CONTRACTS

Most of these contracts provide for a flat commission ranging from about 30% to 37 1/2%, paid on a written basis. Additional profit commissions are paid at a later date on an earned basis as specified by a formula embodied in the contract. These profit commissions are paid as the result of savings in the loss ratio. A common provision is that 1/2% profit commission shall be paid for each 1% saving in the loss ratio.

Sometimes a portion of the scale may provide for a "1 for 1" profit commission, i.e., a full 1% profit commission for each 1% saving in the loss ratio.

For example, a contract may provide for a flat commission of 35%, with a "1/2 for 1" profit commission to be paid the ceding company for any saving in the loss ratio under 55%, until the profit commission reaches 10%, or a total commission of 45%.

Some contracts provide for a possible "return commission." In the preceding example, if the loss ratio should exceed the breaking point of 55%, then the ceding company might have to pay a return commission to the reinsurer on a "1/2 for 1" basis until return commissions of, say, 5% have been returned, thus reducing the ultimate net commission from 35% to 30%. If the loss ratio should run under 35% or exceed 65%, then such saving or loss would ordinarily be carried forward to the computation for the following year.

GUARANTEED PROFIT CONTRACTS

The most common form of "surplus aid" is the "guaranteed profit" contract. Its principal characteristic is that it transfers unearned premium reserve from the ceding company to the reinsurer and results in an immediate increase in the ceding company's surplus by the amount of the tentative commissions received, but because all such tentative commissions are subject to return to the reinsurer, does not actually relieve the ceding company of risk. The ceding company still remains exposed to the same risk as before. It is in the position of paying 2% to 5% of the ceded premiums to induce a reinsurer to sign a contract which has no ultimate effect other than to reduce its surplus by 2% to 5% of these premiums.

Guaranteed profit contracts are often written in a form similar to a quota share or portfolio of reinsurance contract, or a combination of both. The tentative commission is ordinarily 45% or 50%. The reinsurer's fee is generally 2%, 3%, or 5% of the amount ceded. Most quota-share type contracts are subject to monthly reporting and settlements. The contract usually provides for additional commissions to be increased by 1% for each 1% decrease in the loss ratio, and return commissions on the basis of 1% for each 1% increase in the loss ratio. An example follows:

| | |
|----------------------------------|------|
| Commissions ----- | 45% |
| ----- | |
| ----- | |
| Fee for reinsurer ----- | 3% |
| ----- | |
| ----- | |
| Loss ratio "breaking point"----- | 52% |
| ----- | |
| Total original premium - | 100% |
| ----- | |
| ----- | |

In a situation similar to the one illustrated, the ceding company pays to the reinsurer the gross reinsurance premiums less 45% commissions, or a net 55%. As losses are determined they are paid by the reinsurer until the ceding company has received back from the reinsurer losses recovered in an aggregate amount equal to 52% of the original premiums ceded (55% less 3%). Any additional losses are immediately charged back to the ceding company as "return commissions" on a "1 for 1" basis. On the other hand, any saving under 52% is returned to the ceding company in the form of additional commissions. The ultimate effect on the ceding company is the loss of 3% of its ceded premiums. The ceding company actually carries its own full risk throughout the entire period with respect to its gross business.)

5. Salvage and subrogation may be allocated as follows:

a. Where attention is given to salvage or subrogation matters at the same time as the adjustment of the loss is proceeding, no attempt will be made to allocate any portion of the adjuster's time to salvage (or subrogation) expense.

b. Where the salvage or subrogation activity follows the adjustment of the loss such additional time as may be required will be treated as salvage expense.

c. Any items of outside service such as advertising, expenses of outside organizations or rewards where paid by and billed to the company will be treated as salvage expense.

d. Cost of recovering stolen goods incurred by and billed to the company will be treated as salvage expense.

e. Where salvage is handled by outside agencies and their billing is made directly to the company, sufficient information should be given for proper classification of the related expenses.

f. It is understood that the classification of expenses as salvage expense is not dependent upon any salvage recovery.

6. a. The following employee activities should be allocated to expense groups on the basis of the purposes for which the tabulating, listing, filing or other jobs were performed: Cutting and verifying punched cards, sorting and tabulating punched cards, maintaining punched card files, and supervision thereof.

b. The salaries of the employees in service units, such as the following, providing services to other employees may be allocated to expense groups as overhead on the salaries of employees

in all other departments except executive officers: Mailroom, Personnel, First aid, Telephone operation, Office maintenance and Receptionists.

c. If an appreciable part of the time of employees handling purchases and supplies is devoted to furnishing supplies to agents, such salaries may be allocated to expense groups on the basis of a time estimate. Allocate to General Expenses that part of the time spent in working on supplies for agents; allocate remainder as Overhead on Salaries of employees in all other departments except executives.

d. When files are maintained and serviced in a separate department or at a central location, the salaries of employees engaged in this activity may be allocated to expense groups on the basis of a time estimate. That portion of time spent on policy files (daily reports, applications, endorsements, etc.) and that portion of time spent on general correspondence files may be allocated to General Expenses; that portion of time spent on active claim files may be allocated to Loss Adjustment Expenses; that portion of time on inactive claim files (dead files) may be allocated to General Expenses.

e. When a central abstract department is maintained for the mechanical reproduction of premium abstracts and claim abstracts for use by other departments, the salaries of these employees may be charged on the basis of a time estimate. That portion of time spent on claim abstracts may be allocated to Loss Adjustment Expenses and that portion of time spent on premium abstracts to General Expenses.

f. If a company maintains a general accounting unit and a cashier's unit (the duties of which include keeping the general ledger, general journal and general cash books) and no apportionment to Investment Expenses, to Loss Adjustment Expenses, or to Acquisition, Field Supervision and Collection Expenses is possible, except by using a rough estimation which is little better than a guess, the company may allocate the total expenses of these units to General Expenses in view of the impossibility of making reasonably accurate apportionments to expense groups.

7. If the salary of a non-supervisory employee predominantly pertains to the activities of one expense group, the whole of such salary may be allocated to that expense group.

(Note: By this interpretation, many salaries may be allocated directly and without fractional apportionment. As examples: a branch office or home office employee who is primarily concerned with the collection of premiums may be allocated wholly to Acquisition, Field Supervision and Collection Expenses, even though a lesser part of the activities may pertain to General Expenses; a branch office or home office underwriter who is primarily concerned with the acceptability of risks, net retentions, quoting of rates, etc., may be allocated wholly to General Expenses, although he or she may also engage, in a lesser extent, in production work, pertaining to Acquisition, Field Supervision and Collection Expenses; a special agent working on the development and maintenance of the sales field may be allocated wholly to Acquisition, Field Supervision and Collection Expenses, although he or she may also be concerned, to a lesser extent, in the adjustment of losses; key punch and tabulating machine operators, whose work is primarily statistical, may be allocated wholly to General Expenses, although the cards and tabulations may be used to some extent in collection and loss adjustment activities.)

8. The following describes an acceptable method of allocating to expense groups and lines of business the salaries of employees engaged in administrative and/or supervisor activities:

a. Salaries of executive heads, such as the president of a company, the chairperson of a company's board, and their secretaries, ordinarily should be distributed to expense groups and lines of business as an Overhead on Salaries of supervised personnel, after an apportionment to Investment Expenses. If any other methods are used, the allocations must be supported by detailed analyses of activities.

b. Salaries of other executive officers, department heads and supervisors ordinarily should be allocated on the basis of a study of time spent on the affairs of each of the departments or units supervised and then these salaries should be allocated to expense groups and lines of business as Overhead on Salaries of the employees in the respective departments or units. If any other methods are used, the allocations must be supported by detailed analyses of activities.

9. Includable in the operating expense classification, Boards, Bureaus and Associations, are the following: “Dues, assessments, fees and charges of:…underwriting syndicates, pools and associations such as Factory Insurance Association, Oil Insurance Association, assigned risk plans (except Commission and Brokerage; Claim Adjustment Services; and Taxes, Licenses and Fees);…”

The foregoing instruction is applicable to all assigned risk plans and to the following syndicates, pools and associations:

American Cargo War Risk Reinsurance Exchange
 American Foreign Insurance Association
 American Marine Hull Syndicate
 American Marine Insurance Syndicate of Insurance of Builders Risks
 American Negative Film Syndicate
 American Reinsurance Exchange
 Associated Aviation Underwriters
 Burlap Reinsurance Exchange
 Coastwise, Great Lakes & Inland Hull Assn.
 The Cotton Insurance Association
 Cotton Marine Reinsurance Agreement
 Eastern Intercoastal Cargo Reinsurance Exchange Excess of Loss Association
 Excise Bond Underwriters
 Export Automobile Reinsurance Exchange
 Factory Insurance Association
 Furriers Customers’ Reinsurance Syndicate
 General Cover Underwriters Assn.
 The Great Lakes Underwriting Syndicate
 Inland Marine Reinsurance Assn.
 Inland Marine Syndicate, Inc.
 Inland Waterways Insurance Assn.
 Lake P. & I. Reinsurance Agreement
 Livestock Insurance Office
 Logging Underwriting & Inspection Association
 Multiple Location Service Office
 Mutual Corporation Inter–Reinsurance Fund
 Oil Insurance Association
 Railroad Insurance Association
 Railway Underwriters
 Registered Mail Central Bureau
 Reinsurance Clearing House
 Reinsurance Exchange
 Southern Reinsurance Exchange
 Stock Companies Association
 The Tugboat Underwriting Syndicate
 Underwriters Grain Association
 Underwriters Service Association

10. Dues or assessments of organizations includable in Boards, Bureaus and Associations, or in Surveys and Underwriting Reports, directly related to loss work are properly chargeable to the expense group, Loss Adjustment Expenses.

History: Cr. Register, July, 1959, No. 43, eff. 8–1–59.

Ins 6.35 Petroleum storage environmental cleanup fund; exclusions from reimbursement. (1) **PURPOSE.** This section interprets s. 292.63 (1) (ad) and (gm) and (4) (b) 15., Stats., by defining the liabilities that are excluded from coverage in liability insurance policies for bodily injury and property damage for the purpose of specifying costs paid by an owner or operator to a 3rd party which are ineligible for reimbursement from the fund.

(2) **DEFINITIONS.** In this section:

- (a) “Discharge” has the meaning given in s. 292.01 (3), Stats.
- (b) “Fund” means the petroleum storage environmental cleanup fund under s. 25.47, Stats.
- (c) “Operator” has the meaning given in s. 292.63 (1) (d), Stats.
- (d) “Owner” has the meaning given in s. 292.63 (1) (e), Stats.
- (e) “Petroleum product storage system” has the meaning given in s. 292.63 (1) (fg), Stats.

(3) **EXCLUSIONS.** In addition to the exclusions specified in s. 292.63 (4) (c), Stats., and the claims which shall be denied under s. 292.63 (4) (g), Stats., an owner or operator is not eligible for reimbursement under s. 292.63 (4) (b) 15., Stats., for compensation paid by the owner or operator to a 3rd party for any of the following:

- (a) Costs for which the owner or operator is not legally liable.
- (b) Bodily injury or property damage arising out of any of the following:
 1. A discharge expected or intended from the standpoint of the owner or operator.
 2. A discharge based on or attributable to a criminal act by the owner or operator.
 3. The owner’s or operator’s intentional, willful or deliberate noncompliance with any statute or administrative rule administered by the department of safety and professional services or the department of natural resources which directly relates to the storage and handling of flammable liquid or combustible liquid, as defined by the department of safety and professional services by rule.

Note: The responsibility for this aspect of petroleum tank storage oversight was transferred from the Department of Safety and Professional Services to the Department of Agriculture, Trade and Consumer Protection. See s. ATCP 93.050 (30) and (49) for definitions of combustible and flammable liquid.

4. The owner’s or operator’s assumption of the liability of a 3rd party under a contract or agreement, unless the owner or operator would have had the liability in the absence of the contract or agreement.

5. The ownership, maintenance, use, operation or entrustment to another person of an automobile, aircraft, watercraft or rolling stock belonging to the owner or operator, except that this exclusion does not apply if the bodily injury or property damage is caused by the use of the automobile, aircraft, watercraft or rolling stock during the loading or unloading of the owner’s or operator’s petroleum products storage system.

6. War, invasion, act of a foreign enemy, hostilities, civil war, rebellion, revolution, insurrection, military or usurped power, strike, riot or civil commotion.

(c) Bodily injury to any of the following, whether the owner or operator is liable as an employer or in any other capacity, and regardless of whether the owner or operator is obligated to share damages with or to repay someone else who must pay damages because of the bodily injury:

1. An employee of the owner or operator for an injury occurring during and in the course of the employment.
2. The spouse, child, parent, brother or sister of an employee of the owner or operator arising as a consequence of the bodily injury to the employee under subd. 1.

(d) Property damage to any of the following:

1. Property owned or occupied by or rented or lent to the owner or operator.
2. Personal property in the care, custody or control of the owner or operator.

(e) An obligation of the owner or operator under a workers’ compensation, disability benefits, unemployment compensation or other similar law.

(f) Punitive or exemplary damages.

(g) Federal, state or local fines, forfeitures or other penalties.

(h) Amounts recoverable by the owner or operator under s. 292.63 (4) (b) 1. to 14., Stats., or by a 3rd party as a claimant under s. 292.63, Stats.

History: Cr. Register, April, 1991, No. 424, eff. 5–1–91; corrections in (2) (a) and (b), (3) (b) 3., made under s. 13.93 (2m) (b) 6. and 7., Stats., Register, February, 2000, No. 530; correction in (3) (b) 3., made under s. 13.92 (4) (b) 6., Stats., Register January 2012 No. 673; corrections in (1), (2) (c) to (e), (3) (intro.), (h) made under s. 13.92 4. (b) 7., Stats., Register August 2014 No. 704.

Ins 6.40 Proxies, consents and authorizations of domestic stock insurers. (1) **APPLICATION OF RULE.** This rule

is applicable to all domestic stock insurers having 100 or more stockholders; provided, however, that this rule shall not apply to any insurer if 95% or more of its stock is owned or controlled by a parent or an affiliated insurer and the remaining shares are held by less than 500 stockholders. A domestic stock insurer which files with the securities and exchange commission forms of proxies, consents and authorizations complying with the requirements of the Securities and Exchange Act of 1934 and the Securities and Exchange Acts amendments of 1964 and Regulation X-14 of the securities and exchange commission promulgated thereunder shall be exempt from the provisions of this rule.

(2) PROXIES, CONSENTS AND AUTHORIZATIONS. No domestic stock insurer, or any director, officer or employee of such insurer subject to sub. (1), or any other person, shall solicit, or permit the use of his or her name to solicit, by mail or otherwise, any proxy, consent or authorization in respect of any stock of such insurer in contravention of this rule.

(3) DISCLOSURE OF EQUIVALENT INFORMATION. Unless proxies, consents or authorizations in respect of a stock of a domestic insurer subject to sub. (1) are solicited by or on behalf of the management of such insurer from the holders of records of stock of such insurer in accordance with this rule prior to any annual or other meeting such insurer shall, in accordance with this rule and/or such further rules as the commissioner may adopt, file with the commissioner and transmit to all stockholders of record information substantially equivalent to the information which would be required to be transmitted if a solicitation were made.

(4) DEFINITIONS. (a) The definitions and instructions set out in schedule SIS — Stockholder Information Supplement (s. Ins 7.02) shall be applicable for purposes of this rule.

(b) The terms “solicit” and “solicitation” for purposes of this rule shall include:

1. Any request for a proxy, whether or not accompanied by or included in a form of proxy; or
2. Any request to execute or not to execute, or to revoke, a proxy; or
3. The furnishing of a proxy or other communication to stockholders under circumstances reasonably calculated to result in the procurement, withholding or revocation of a proxy.

(c) The terms “solicit” and “solicitation” shall not include:

1. Any solicitation by a person in respect of stock of which he or she is the beneficial owner;
2. Action by a broker or other person in respect to stock carried in his or her name or in the name of the nominee in forwarding to the beneficial owner of such stock soliciting material received from the company, or impartially instructing such beneficial owner to forward a proxy to the person, if any, to whom the beneficial owner desires to give a proxy, or impartially requesting instructions from the beneficial owner with respect to the authority to be conferred by the proxy and stating that a proxy will be given if the instructions are received by a certain date;
3. The furnishing of a form of proxy to a stockholder upon the unsolicited request of such stockholder, or the performance by any person of ministerial acts on behalf of a person soliciting a proxy.

(5) INFORMATION TO BE FURNISHED TO STOCKHOLDERS. (a) No solicitation subject to this rule shall be made unless each person solicited is concurrently furnished or has previously been furnished with a written proxy statement containing the information specified in sub. (12).

(b) If the solicitation is made on behalf of the management of the insurer and relates to an annual meeting of stockholders at which directors are to be elected, each proxy statement furnished pursuant to sub. (5) (a) shall be accompanied or preceded by an annual report (in preliminary or final form) to such stockholders containing such financial statements for the last fiscal year as are referred to in Schedule SIS — Stockholder Information Supplement (s. Ins 7.02) under the heading “Financial Reporting to

Stockholders.” Subject to the foregoing requirements with respect to financial statements, the annual report to stockholders may be in any form deemed suitable by the management.

(c) Two copies of each report sent to the stockholders pursuant to sub. (5) shall be mailed to the commissioner not later than the date on which such report is first sent or given to stockholders or the date on which preliminary copies of solicitation material are filed with the commissioner pursuant to sub. (7) (a), whichever date is later.

(6) REQUIREMENTS AS TO PROXY. (a) The form of proxy: 1) shall indicate in bold-face type whether or not the proxy is solicited on behalf of the management, 2) shall provide a specifically designated blank space for dating the proxy, and 3) shall identify clearly and impartially each matter or group of related matters intended to be acted upon, whether proposed by the management, or stockholders. No reference need be made to proposals as to which discretionary authority is conferred pursuant to par. (c).

(b) Means shall be provided in the proxy for the person solicited to specify by ballot a choice between approval or disapproval of each matter or group of related matters referred to therein, other than elections to office. A proxy may confer discretionary authority with respect to matters as to which a choice is not so specified if the form of proxy states in bold-face type how it is intended to vote the shares or authorization represented by the proxy in each such case.

(c) A proxy may confer discretionary authority with respect to other matters which may come before the meeting, provided the persons on whose behalf the solicitation is made are not aware a reasonable time prior to the time the solicitation is made that any other matters are to be presented for action at the meeting and provided further that a specific statement to that effect is made in the proxy statement or in the form of proxy.

(d) No proxy shall confer authority

1. To vote for the election of any person to any office for which a bona fide nominee is not named in the proxy statement, or

2. To vote at any annual meeting other than the next annual meeting (or any adjournment thereof) to be held after the date, on which the proxy statement and form of proxy are first sent or given to stockholders.

(e) The proxy statement or form of proxy shall provide, subject to reasonable specified conditions, that the proxy will be voted and that where the person solicited specifies by means of ballot provided pursuant to par. (b) a choice with respect to any matter to be acted upon, the vote will be in accordance with the specifications so made.

(f) The information included in the proxy statement shall be clearly presented and the statements made shall be divided into groups according to subject matter, with appropriate headings. All printed proxy statements shall be clearly and legibly presented.

(7) MATERIAL REQUIRED TO BE FILED. (a) Two preliminary copies of the proxy statement and form of proxy and any other soliciting material to be furnished to stockholders concurrently therewith shall be filed with the commissioner at least 10 days prior to the date definitive copies of such material are first sent or given to stockholders, or such shorter period prior to that date as the commissioner may authorize upon a showing of good cause therefor.

(b) Two preliminary copies of any additional soliciting material relating to the same meeting or subject matter to be furnished to stockholders subsequent to the proxy statements shall be filed with the commissioner at least 2 days (exclusive of Saturdays, Sundays or holidays) prior to the date copies of this material are first sent or given to stockholders or a shorter period prior to such date as the commissioner may authorize upon a showing of good cause therefor.

(c) Two definitive copies of the proxy statement, form of proxy and all other soliciting material, in the form in which this material is furnished to stockholders, shall be filed with, or mailed for filing to, the commissioner not later than the date such material is first sent or given to the stockholders.

(d) Where any proxy statement, form of proxy or other material filed pursuant to these rules is amended or revised, 2 of the copies shall be marked to clearly show such changes.

(e) Copies of replies to inquiries from stockholders requesting further information and copies of communications which do no more than request that forms of proxy theretofore solicited be signed and returned need not be filed pursuant to sub. (7).

(f) Notwithstanding the provisions of subs. (7) (a) and (b) and (11) (e), copies of soliciting material in the form of speeches, press releases and radio or television scripts may, but need not, be filed with the commissioner prior to use or publication. Definitive copies, however, shall be filed with or mailed for filing to the commissioner as required by sub. (7) (c) not later than the date such material is used or published. The provisions of subs. (7) (a) and (b) and (11) (e) shall apply, however, to any reprints or reproductions of all or any part of such material.

(9) FALSE OR MISLEADING STATEMENTS. No solicitation subject to this rule shall be made by means of any proxy statement, form of proxy, notice of meeting, or other communication, written or oral, containing any statement which at the time and in the light of the circumstances under which it is made, is false or misleading with respect to any material fact, or which omits to state any material fact necessary in order to make the statements therein not false or misleading or necessary to correct any statement in any earlier communication with respect to the solicitation of a proxy for the same meeting or subject matter which has become false or misleading.

(10) PROHIBITION OF CERTAIN SOLICITATIONS. No person making a solicitation which is subject to this rule shall solicit any undated or postdated proxy or any proxy which provides that it shall be deemed to be dated as of any date subsequent to the date on which it is signed by the stockholder.

(11) SPECIAL PROVISIONS APPLICABLE TO ELECTION CONTESTS. (a) *Applicability.* Subsection (11) shall apply to any solicitation subject to this rule by any person or group for the purpose of opposing a solicitation subject to this rule by any other person or group with respect to the election or removal of directors at any annual or special meeting of stockholders.

(b) *Participant or participant in a solicitation.* 1. For purposes of sub. (11) the terms “participant” and “participant in a solicitation” include:

- a. The insurer;
- b. Any director of the insurer, and any nominee for whose election as a director proxies are solicited; or
- c. Any other person, acting alone or with one or more other persons, committees or groups, in organizing, directing or financing the solicitation.

2. For the purposes of sub. (11) the terms “participant” and “participant in a solicitation” do not include:

- a. A bank, broker or dealer who, in the ordinary course of business, lends money or executes orders for the purchase or sale of stock and who is not otherwise a participant;
- b. Any person or organization retrained or employed by a participant to solicit stockholders or any person who merely transmits proxy soliciting material or performs ministerial or clerical duties;
- c. Any person employed in the capacity of attorney, accountant, or advertising, public relations or financial adviser, and whose activities are limited to the performance of his or her duties in the course of such employment;

3. Any person regularly employed as an officer or employee of the insurer or any of its subsidiaries or affiliates who is not otherwise a participant; or

e. Any officer or director of, or any person regularly employed by any other participant, if such officer, director or employee is not otherwise a participant.

(c) *Filing of information required by sub. (13).* 1. No solicitation subject to sub. (11) shall be made by any person other than the management of an insurer unless at least 5 business days prior thereto, or such shorter period as the commissioner may authorize upon a showing of good cause therefor, there has been filed, with the commissioner by or on behalf of each participant in such solicitation, a statement in duplicate containing the information specified by sub. (13) and a copy of any material proposed to be distributed to stockholders in furtherance of such solicitation. Where preliminary copies of any materials are filed, distribution to stockholders should be deferred until the commissioner’s comments have been received and complied with.

2. Within 5 business days after a solicitation subject to sub. (11) is made by the management of an insurer, or such longer period as the commissioner may authorize upon a showing of good cause therefor, there shall be filed with the commissioner by or on behalf of each participant in such solicitation, other than the insurer, and by or on behalf of each management nominee for director, a statement in duplicate containing the information specified by sub. (13).

3. If any solicitation on behalf of management or any other person has been made, or if proxy material is ready for distribution, prior to a solicitation subject to sub. (11) in opposition thereto, a statement in duplicate containing the information specified in sub. (13) shall be filed with the commissioner, by or on behalf of each participant in such prior solicitation, other than the insurer, as soon as reasonably practicable after the commencement of the solicitation in opposition thereto.

4. If, subsequent to the filing of the statements required by subs. 1., 2., and 3., additional persons become participants in a solicitation subject to this rule, there shall be filed with the commissioner, by or on behalf of each such person, a statement in duplicate containing the information specified by sub. (13) within 3 business days after such person becomes a participant, or such longer period as the commissioner may authorize upon a showing of good cause therefor.

5. If any material change occurs in the facts reported in any statement filed by or on behalf of any participant, an appropriate amendment to such statement shall be filed promptly with the commissioner.

6. Each statement and amendment thereto filed pursuant to par. (c) shall be part of the public files of the commissioner.

(d) *Solicitations prior to furnishing required written proxy statement.* Notwithstanding the provisions of sub. (5) (a), a solicitation subject to sub. (11) may be made prior to furnishing stockholders a written proxy statement containing the information specified in sub. (12) with respect to such solicitation, provided that:

1. The statements required by par. (c) are filed by or on behalf of each participant in such solicitation.

2. No form of proxy is furnished to stockholders prior to the time the written proxy statement required by sub. (5) (a) is furnished to such persons; provided, however, that subd. 2. shall not apply where a proxy statement then meeting the requirements of sub. (12) has been furnished to stockholders.

3. At least the information specified in par. (c) 2. and 3. of the statements required by par. (c) to be filed by each participant, or an appropriate summary thereof, are included in each communication sent or given to stockholders in connection with the solicitation.

4. A written proxy statement containing the information specified in sub. (12) with respect to a solicitation is sent or given stockholders at the earliest practicable date.

(e) *Solicitations prior to furnishing required written proxy statement — filing requirements.* Two copies of any soliciting mate-

rial proposed to be sent or given to stockholders prior to the furnishing of the written proxy statement required by sub. (5) (a) shall be filed with the commissioner in preliminary form at least 5 business days prior to the date definitive copies of such material are first sent or given to such persons, or shorter period as the commissioner may authorize upon a showing of good cause therefor.

(f) *Application of sub. (11) to report.* Notwithstanding the provisions of sub. (5) (b) and (c), 2 copies of any portion of the report referred to in sub. (5) (b) which comments upon or refers to any solicitation subject to sub. (11) or to any participant in any such solicitation, other than the solicitation by the management, shall be filed with the commissioner as proxy material subject to this regulation. Such portion of the report shall be filed with the commissioner in preliminary form at least 5 business days prior to the date copies of the report are first sent or given to stockholders.

(12) **INFORMATION REQUIRED IN PROXY STATEMENT.** (a) *Revocability of proxy.* State whether or not the person giving the proxy has the power to revoke it. If the right of revocation before the proxy is exercised is limited or is subject to compliance with any formal procedure, briefly describe such limitation or procedure.

(b) *Dissenters' rights of appraisal.* Outline briefly the rights of appraisal or similar rights of dissenting stockholders with respect to any matter to be acted upon and indicate any statutory procedure required to be followed by such stockholders in order to perfect their rights. Where such rights may be exercised only within a limited time after the date of the adoption of a proposal, the filing of a charter amendment, or other similar act, state whether the person solicited will be notified of such date.

(c) *Persons making solicitations not subject to s. Ins 6.40 (11).*
1. If the solicitation is made by the management of the insurer, so state. Give the name of any director of the insurer who has informed the management in writing that he or she intends to oppose any action intended to be taken by the management and indicate the action which he or she intends to oppose.

2. If the solicitation is made otherwise than by the management of the insurer, state the names and addresses of the persons by whom and on whose behalf it is made and the names and addresses of the persons by whom the cost of solicitation has been or will be borne, directly or indirectly.

3. If the solicitation is to be made by specially engaged employees or paid solicitors, state:

- a. The material features of any contract or arrangement for such solicitation and identify the parties, and
- b. The cost or anticipated cost thereof.

(d) *Interest of certain persons in matters to be acted upon.* Describe briefly any substantial interest, direct or indirect, by stockholdings or otherwise, of any director, nominee for election for director, officer and, if the solicitation is made otherwise than on behalf of management, each person on whose behalf the solicitation is made, in any matter to be acted upon other than elections to office.

(e) *Stocks and principal stockholders.* 1. State, as to class of voting stock of the insurer entitled to be voted at the meeting, the number of shares outstanding and the number of votes to which each class is entitled.

2. Give the date as of which the record list of stockholders entitled to vote at the meeting will be determined. If the right to vote is not limited to stockholders of record on that date, indicate the conditions under which other stockholders may be entitled to vote.

(f) *Nominees and directors.* If action is to be taken with respect to the election of directors furnish the following information, in tabular form to the extent practicable, with respect to each person nominated for election as a director and each other person whose term of office as a director will continue after the meeting:

1. Name each such person, state when his or her term of office or the term of office for which he or she is a nominee will expire,

and all other positions and offices with the insurer presently held by him or her, and indicate which persons are nominees for election as directors at the meeting.

2. State his or her present principal occupation or employment and give the name and principal business of any corporation or other organization in which such employment is carried on. Furnish similar information as to all of his or her principal occupations or employments during the last 5 years, unless he or she is now a director and was elected to his or her present term of office by a vote of stockholders at a meeting for which proxies were solicited under this regulation.

3. If he or she is or has previously been a director of the insurer, state the period or periods during which he or she has served as such.

4. State, as of the most recent practicable date, the approximate amount of each class of stock of the insurer or any of its parents, subsidiaries or affiliates other than directors' qualifying shares, beneficially owned directly or indirectly by him or her. If he or she is not the beneficial owner of any such stocks make a statement to that effect.

(g) *Remuneration and other transactions with management and others.* Furnish the information reported or required in item 1. of Schedule SIS — Stockholder Information Supplement (s. Ins 7.02) under the heading "Information Regarding Management and Directors" if action is to be taken with respect to: 1) the election of directors, 2) any remuneration plan, contract or arrangement in which any director, nominee for election as a director, or officer of the insurer will participate, 3) any pension or retirement plan in which any such person will participate, or 4) the granting or extension to any such person of any options, warrants or rights to purchase any stocks, other than warrants or rights issued to stockholders, as such, on a pro rata basis. If the solicitation is made on behalf of persons other than the management, information shall be furnished only as to item 1.A. of the aforesaid heading of Schedule SIS.

(h) *Bonus, profit sharing and other remuneration plans.* If action is to be taken with respect to any bonus, profit sharing, or other remuneration plan of the insurer, furnish the following information:

1. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

2. The amounts which would have been distributable under the plan during the last calendar year to

- a. Each person named in par. (g),
- b. Directors and officers as a group, and
- c. To all other employees as a group, if the plan had been in effect.

3. If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in subd. 2., the nature of such amendments should be specified.

(i) *Pension and retirement plan.* If action is to be taken with respect to any pension or retirement plan of the insurer, furnish the following information:

1. A brief description of the material features of the plan, each class of persons who will participate therein, the approximate number of persons in each such class, and the basis of such participation.

2. State:

a. The approximate total amount necessary to fund the plan with respect to past services, the period over which such amount is to be paid, and the estimated annual payments necessary to pay the total amount over such period;

b. The estimated annual payment to be made with respect to current services; and

c. The amount of such annual payments to be made for the benefit of each person named in par. (g), directors and officers as a group, and employees as a group.

3. If the plan to be acted upon may be amended (other than by a vote of stockholders) in a manner which would materially increase the cost thereof to the insurer or to materially alter the allocation of the benefits as between the groups specified in par. (h) 2. c., the nature of such amendments should be specified.

(j) *Options, warrants, or rights.* If action is to be taken with respect to the granting or extension of any options, warrants or rights (all referred to herein as "warrants") to purchase stock of the insurer or any subsidiary or affiliate, other than warrants issued to all stockholders on a pro rata basis, furnish the following information:

1. The title and amount of stock called for or to be called for, the prices, expiration dates and other material conditions upon which the warrants may be exercised, the consideration received or to be received by the insurer, subsidiary or affiliate for the granting or extension of the warrants and the market value of the stock called for or to be called for by the warrants, as of the latest practicable date.

2. If known, state separately the amount of stock called for or to be called for by warrants received or to be received by the following persons, naming each such person:

a. Each person named in par. (g), and

b. Each other person who will be entitled to acquire 5% or more of the stock called for or to be called for by such warrants.

3. If known, state also the total amount of stock called for or to be called for by such warrants, received or to be received by all directors and officers of the company as a group and all employees, without naming them.

(k) *Authorization or issuance of stock.* 1. If action is to be taken with respect to the authorization or issuance of any stock of the insurer, furnish the title, amount and description of the stock to be authorized or issued.

2. If the shares of stock are other than additional shares of common stock of a class outstanding, furnish a brief summary of the following, if applicable: dividend, voting, liquidation, pre-emptive, and conversion rights, redemption and sinking fund provisions, interest rate and date of maturity.

3. If the shares of stock to be authorized or issued are other than additional shares of common stock of a class outstanding, the commissioner may require financial statements comparable to those contained in the annual report.

(L) *Mergers, consolidations, acquisitions and similar matters.*

1. If action is to be taken with respect to a merger, consolidation, acquisition, or similar matter, furnish in brief outline the following information:

a. The rights of appraisal or similar rights of dissenters with respect to any matters to be acted upon. Indicate any procedure required to be followed by dissenting stockholders in order to perfect such rights.

b. The material features of the plan or agreement.

c. The business done by the company to be acquired or whose assets are being acquired.

d. If available, the high and low sales prices for each quarterly period within 2 years.

e. The percentage of outstanding shares which must approve the transaction before it is consummated.

2. For each company involved in a merger, consolidation or acquisition, the following financial statements should be furnished:

a. A comparative balance sheet as of the close of the last 2 fiscal years.

b. A comparative statement of operating income and expenses for each of the last 2 fiscal years and, as a continuation of each statement, a statement of earning per share after related taxes and cash dividends paid per share.

c. A pro forma combined balance sheet and income and expenses statement for the last fiscal year giving effect to the necessary adjustments with respect to the resulting company.

(m) *Restatement of accounts.* If action is to be taken with respect to the restatement of any asset, capital, or surplus of the insurer, furnish the following information:

1. State the nature of the restatement and the date as of which it is to be effective.

2. Outline briefly the reasons for the restatement and for the selection of the particular effective date.

3. State the name and amount of each account affected by the restatement and the effect of the restatement thereon.

(n) *Matters not required to be submitted.* If action is to be taken with respect to any matter which is not required to be submitted to a vote of stockholders, state the nature of such matter, the reason for submitting it to a vote of stockholders and what action is intended to be taken by the management in the event of a negative vote on the matter by the stockholders.

(o) *Amendment of charter, by-laws, or other documents.* If action is to be taken with respect to any amendment of the insurer's charter, by-laws or other documents as to which information is not required above, state briefly the reasons for and general effect of such amendment and the vote needed for its approval.

(13) INFORMATION TO BE INCLUDED IN STATEMENTS FILED BY OR ON BEHALF OF A PARTICIPANT (OTHER THAN THE INSURER) IN A PROXY SOLICITATION IN AN ELECTION CONTEST. (a) *Insurer.* State the name and address of the insurer.

(b) *Identity and background.* 1. State the following:

a. Your name and business address.

b. Your present principal occupation or employment and the name, principal business and address of any corporation or other organization in which such employment is carried on.

2. State the following:

a. Your residence address.

b. Information as to all material occupations, positions, offices or employments during the last 10 years, giving starting and ending dates of each and the name, principal business and address of any business corporation or other business organization in which each such occupation, position, office or employment was carried on.

3. State whether or not you are or have been a participant in any other proxy contest involving this company or other companies within the past 10 years. If so, identify the principals, the subject matter and your relationship to the parties and the outcome.

4. State whether or not, during the past 10 years, you have been convicted in a criminal proceeding (excluding traffic violations or similar misdemeanors) and, if so, give dates, nature of conviction, name and location of court, and penalty imposed or other disposition of the case. A negative answer to this subparagraph need not be included in the proxy statement or other proxy soliciting material.

(c) *Interest in stock of the insurer.* 1. State the amount of each class of stock of the insurer which you own beneficially, directly or indirectly.

2. State the amount of each class of stock of the insurer which you own of record but not beneficially.

3. State with respect to the stock specified in subs. 1. and 2. the amounts acquired within the past 2 years and the dates of acquisition and the amounts acquired on each date.

4. If any part of the purchase price or market value of any of the stock specified in subd. 3. is represented by funds borrowed or otherwise obtained for the purpose of acquiring or holding such stock, so state and indicate the amount of the indebtedness as of

the latest practicable date. If such funds were borrowed or obtained otherwise than pursuant to a margin account or bank loan in the regular course of business of a bank, broker or dealer, briefly describe the transaction, and state the names of the parties.

5. State whether or not you are a party to any contracts, arrangements or understandings with any person with respect to any stock of the insurer, including but not limited to joint ventures, loan or option arrangements, puts or calls, guarantees against loss or guarantees of profits, division of losses or profits, or the giving or withholding of proxies. If so, name the persons with whom such contracts, arrangements, or understandings exist and give the details thereof.

6. State the amount of stock of the insurer owned beneficially, directly or indirectly, by each of your associates and the name and address of each such associate.

7. State the amount of each class of stock of any parent, subsidiary or affiliate of the insurer which you own beneficially, directly or indirectly.

(d) *Further matters.* 1. Describe the time and circumstances under which you became a participant in the solicitation and state the nature and extent of your activities or proposed activities as a participant.

2. Describe briefly, and where practicable state the approximate amount of, any material interest, direct or indirect, of yourself and of each of your associates in any material transactions since the beginning of the company's last fiscal year, or in any material proposed transactions, to which the company or any of its subsidiaries or affiliates was or is to be a party.

3. State whether or not you or any of your associates have any arrangement or understanding with any person.

a. With respect to any future employment by the insurer or its subsidiaries or affiliates; or

b. With respect to any future transactions to which the insurer or any of its subsidiaries or affiliates will or may be a party. If so, describe such arrangement or understanding and state the names of the parties thereto.

(e) *Signature.* The statement shall be dated and signed in the following manner:

I certify that the statements made in this statement are true, complete, and correct, to the best of my knowledge and belief.

(Date)

(Signature of participant or authorized representative)

History: Cr. Register, November, 1965, No. 119, eff. 12-1-65; corrections in (4) (a) and (12) (g) made under s. 13.93 (2m) (b) 7., Stats., Register, January, 1999, No. 517; correction in (5) (b) made under s. 13.93 (2m) (b) 7., Stats., Register October 2006 No. 610.

Ins 6.41 Insider trading of equity securities of domestic stock insurers. (1) **DEFINITIONS.** (a) "Insurer" means any domestic insurance company with an equity security subject to the provisions of s. 611.31, Stats., and not exempt thereunder.

(b) "Officer" means a president, vice president, treasurer, actuary, secretary, controller and any other person who performs for the insurer functions corresponding to those performed by the foregoing officers.

(c) "Equity security" means any stock or similar security; or any voting trust certificate or certificate of deposit for such a security; or any security convertible, with or without consideration, into such a security, or carrying any warrant or right to subscribe to or purchase such a security; or any such warrant or right.

(d) *Securities held of record.* 1. For the purpose of determining whether the equity securities of an insurer are held of record by 100 or more persons, securities shall be deemed to be "held of record" by each person who is identified as the owner of such securities on records of security holders maintained by or on behalf of the insurer, subject to the following:

a. In any case where the records of security holders have not been maintained in accordance with accepted practice, any additional person who would be identified as such an owner on such records if they had been maintained in accordance with accepted practice shall be included as a holder of record.

b. Securities identified as held of record by a corporation, a partnership, a trust whether or not the trustees are named, or other organization shall be included as so held by one person.

c. Securities identified as held of record by one or more persons as trustees, executors, guardians, custodians or in other fiduciary capacities with respect to a single trust, estate or account shall be included as held of record by one person.

d. Securities held by 2 or more persons as co-owners shall be included as held by one person.

e. Each outstanding unregistered or bearer certificate shall be included as held of record by a separate person, except to the extent that the insurer can establish that, if such securities were registered, they would be held of record, under the provisions of this rule, by a lesser number of persons.

f. Securities registered in substantially similar names where the insurer has reason to believe because of the address or other indications that such names represent the same person, may be included as held of record by one person.

2. Notwithstanding subd. 1.:

a. Securities held, to the knowledge of the insurer, subject to a voting trust, deposit agreement or similar arrangement shall be included as held of record by the record holders of the voting trust certificates, certificates of deposit, receipts or similar evidences of interest in such securities; provided, however, that the insurer may rely in good faith on such information as is received in response to its request from a nonaffiliated insurer of the certificates or evidences of interest.

b. If the insurer knows or has reason to know that the form of holding securities of record is used primarily to circumvent the provisions of s. 611.31, Stats., the beneficial owners of such securities shall be deemed to be the record owners thereof.

(e) "Class" means all securities of an insurer which are of substantially similar character and the holders of which enjoy substantially similar rights and privileges.

(2) **TRANSACTIONS EXEMPTED FROM THE OPERATION OF S. 611.31 (4) (B), STATS.** Any acquisition or disposition of any equity security by a director or officer of an insurer within 6 months prior to June 27, 1965 shall not be subject to the operation of s. 611.31 (4) (b), Stats.

(3) **RULES UNDER S. 611.31 (4) (A), STATS.** (a) *Filing of statements.* Initial statements of beneficial ownership of equity securities required by s. 611.31 (4) (a), Stats., shall be filed on the form prescribed by s. Ins 6.42. Statements of changes in such beneficial ownership required by s. 611.31 (4) (a), Stats., shall be filed on the form prescribed by s. Ins 6.43. All such statements shall be prepared and filed in accordance with the requirements of the applicable form.

(b) *Ownership of more than 10% of an equity security.* In determining, for the purpose of s. 611.31 (4) (a), Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, such class shall be deemed to consist of the total amount of such class outstanding, exclusive of any securities of such class held by or for the account of the insurer or a subsidiary of the insurer; except that for the purpose of determining percentage ownership of voting trust certificates or certificates of deposit for equity securities, the class of voting trust certificates or certificates of deposit shall be deemed to consist of the amount of voting trust certificates or certificates of deposit issuable with respect to the total amount of outstanding equity securities of the class which may be deposited under the voting trust agreement or deposit agreement in question, whether or not all of such outstanding securities have been so deposited. For the purpose of this par. (b) a person acting in good faith may

rely on the information contained in the latest annual statement form, prescribed by s. **Ins 7.02**, filed with the commissioner with respect to the amount of securities of a class outstanding or in the case of voting trust certificates or certificates of deposit the amount thereof issuable.

(c) *Disclaimer of beneficial ownership.* Any person filing a statement may expressly declare therein that the filing of such statement shall not be construed as an admission that such person is, for the purpose of s. **611.31**, Stats., the beneficial owner of any equity securities covered by the statement.

(d) *Exemptions from s. 611.31 (4) (a) and (b), Stats.* 1. During the period of 12 months following their appointment and qualification, securities held by the following persons shall be exempt from s. **611.31 (4) (a) and (b)**, Stats.:

- a. Executors or administrators of the estate of a decedent;
- b. Guardians or committees for an incompetent; and
- c. Receivers, trustees in bankruptcy, assignees for the benefit of creditors, conservators, liquidating agents, and other similar persons duly authorized by law to administer the estate or assets of other persons.

2. After the 12-month period following their appointment or qualification the foregoing persons shall be required to file reports with respect to the securities held by the estates which they administer under s. **611.31 (4) (a)**, Stats., and shall be liable for profits realized from trading in such securities pursuant to s. **611.31 (4) (b)**, Stats., only when the estate being administered is a beneficial owner of more than 10% of any class of equity security of an insurer subject to s. **611.31**, Stats.

3. Securities reacquired by or for the account of an insurer and held by it for its account shall be exempt from s. **611.31 (4) (a) and (b)**, Stats., during the time they are held by the insurer.

(e) *Exemption from s. 611.31, Stats., of securities purchased or sold by odd-lot dealers.* Securities purchased or sold by an odd-lot dealer in odd lots so far as reasonably necessary to carry on odd-lot transactions or in round lots to offset odd-lot transactions previously or simultaneously executed or reasonably anticipated in the usual course of business, shall be exempt from the provisions of s. **611.31**, Stats., with respect to participation by such odd-lot dealer in such transactions.

(f) *Certain transactions subject to s. 611.31 (4) (a), Stats.* The acquisition or disposition of any transferable option, put, call, spread or straddle shall be deemed such a change in the beneficial ownership of the security to which such privilege relates as to require the filing of a statement reflecting the acquisition or disposition of such privilege. Nothing in this par. (f), however, shall exempt any person from filing the statements required upon the exercise of such option, put, call, spread or straddle.

(g) *Ownership of securities held in trust.* 1. Beneficial ownership of a security for the purpose of s. **611.31 (4) (a)**, Stats., shall include:

- a. The ownership of securities as a trustee where either the trustee or members of his or her immediate family have a vested interest in the income or corpus of the trust,
- b. The ownership of a vested beneficial interest in a trust, and
- c. The ownership of securities as a settlor of a trust in which the settlor has the power to revoke the trust without obtaining the consent of all the beneficiaries.

2. Except as provided in subd. 3., beneficial ownership of securities solely as a settlor or beneficiary of a trust shall be exempt from the provisions of s. **611.31 (4) (a)**, Stats., where less than 20% in market value of the securities having a readily ascertainable market value held by such trust, determined as of the end of the preceding fiscal year of the trust, consists of equity securities with respect to which reports would otherwise be required. Exemption is likewise accorded from s. **611.31 (4) (a)**, Stats., with respect to any obligation which would otherwise be imposed

solely by reason of ownership as settlor or beneficiary of securities held in trust, where the ownership, acquisition, or disposition of such securities by the trust is made without prior approval by the settlor or beneficiary. No exemption pursuant to this subdivision shall, however, be acquired or lost solely as a result of changes in the value of the trust assets during any fiscal year or during any time when there is no transaction by the trust in the securities otherwise subject to the reporting requirements of s. **611.31 (4) (a)**, Stats.

3. In the event that 10% of any class of any equity security of an insurer is held in a trust, that trust and the trustees thereof as such shall be deemed a person required to file the reports specified in s. **611.31 (4) (a)**, Stats.

4. Not more than one report need be filed to report any holdings or with respect to any transaction in securities held by a trust, regardless of the number of officers, directors or 10% stockholders who are either trustees, settlors, or beneficiaries of a trust, provided that the report filed shall disclose the names of all trustees, settlors and beneficiaries who are officers, directors or 10% stockholders. A person having an interest only as a beneficiary of a trust shall not be required to file any such report so long as he or she relies in good faith upon an understanding that the trustee of such trust will file whatever reports might otherwise be required of such beneficiary.

5. As used in this par. (g) the "immediate family" of a trustee means:

- a. A son or daughter of the trustee, or a descendant of either,
- b. A stepson or stepdaughter of the trustee,
- c. The father or mother of the trustee, or an ancestor of either,
- d. A stepfather or stepmother of the trustee,
- e. A spouse of the trustee. For the purpose of determining whether any of the foregoing relations exists, a legally adopted child of a person shall be considered a child of such person by blood.

6. In determining, for the purposes of s. **611.31 (4) (a)**, Stats., whether a person is the beneficial owner, directly or indirectly, of more than 10% of any class of any equity security, the interest of such person in the remainder of a trust shall be excluded from the computation.

7. No report shall be required by any person, whether or not otherwise subject to the requirement of filing reports under s. **611.31 (4) (a)**, Stats., with respect to an indirect interest in portfolio securities held by:

- a. A pension or retirement plan holding securities of an insurer whose employees generally are the beneficiaries of the plan,
- b. A business trust with over 25 beneficiaries.
8. Nothing in this par. (g) shall be deemed to impose any duties or liabilities with respect to reporting any transaction or holding prior to its effective date.

(h) *Exemption for small transactions.* 1. Any acquisition of securities shall be exempt from s. **611.31 (4) (a)**, Stats., where:

- a. The person effecting the acquisition does not within 6 months thereafter effect any disposition, otherwise than by way of gift, of securities of the same class, and
- b. The person effecting such acquisition does not participate in acquisitions or in dispositions of securities of the same class having a total market value in excess of \$3,000 for any 6 months' period during which the acquisition occurs.

2. Any acquisition or disposition of securities by way of gift, where the total amount of such gifts does not exceed \$3,000 in market value for any 6 months' period, shall be exempt from s. **611.31 (4) (a)**, Stats., and may be excluded from the computations prescribed in subd. 1. b.

3. Any person exempted by subd. 1. or 2. shall include in the first report filed by him or her after a transaction within the exemp-

tion a statement showing acquisitions and dispositions for each 6 months' period or portion thereof which has elapsed since the last filing.

(i) *Exemption from s. 611.31 (4) (b), Stats.* Any transaction which has been or shall be exempted from the requirements of s. 611.31 (4) (a), Stats., shall, insofar as it is otherwise subject to the provisions of s. 611.31 (4) (b), Stats., be likewise exempted from s. 611.31 (4) (b), Stats.

(4) RULES UNDER S. 611.31 (4) (B), STATS. (a) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions effected in connection with a distribution.* 1. Any transaction of purchase and sale, or sale and purchase, of a security which is effected in connection with the distribution of a substantial block of securities shall be exempt from the provisions of s. 611.31 (4) (b), Stats., to the extent specified in par. (a) as not comprehended within the purpose of s. 611.31 (4) (b), Stats., upon the following conditions:

a. The person effecting the transaction is engaged in the business of distributing securities and in participating in good faith, in the ordinary course of such business, in the distribution of such block of securities;

b. The security involved in the transaction is a part of such block of securities and is acquired by the person effecting the transaction, with a view to the distribution thereof, from the insurer or other person on whose behalf such securities are being distributed or from a person who is participating in good faith in the distribution of such block of securities; or a security purchased in good faith by or for the account of the person effecting the transaction for the purpose of stabilizing the market price of securities of the class being distributed or to cover an over-allotment or other short position created in connection with such distribution; and

c. Other persons not within the purview of s. 611.31 (4) (b), Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such person is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of s. 611.31 (4) (b), Stats., by this par. (a). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this par. (a).

2. The exemption of a transaction pursuant to this par. (a) with respect to the participation therein of one party thereto shall not render such transaction exempt with respect to participation of any other party therein unless such other party also meets the conditions of this par. (a).

(b) *Exemption from s. 611.31 (4) (b), Stats., of acquisitions of shares of stock and stock options under certain stock bonus, stock option or similar plans.* Any acquisition of shares of stock (other than stock acquired upon the exercise of an option, warrant or right) pursuant to a stock bonus, profit sharing, retirement, incentive, thrift, savings or similar plan, or any acquisition of a qualified or a restricted stock option pursuant to a qualified or a restricted stock option plan, or a stock option pursuant to an employee stock purchase plan, by a director or officer of an insurer issuing such stock or stock option shall be exempt from the operation of s. 611.31 (4) (b), Stats., if the plan meets the following conditions:

1. The plan has been approved, directly or indirectly,

a. By the affirmative votes of the holders of a majority of the securities of such insurer present, or represented, and entitled to vote at a meeting held in accordance with the applicable laws of the state of Wisconsin, or

b. By the written consent of the holders of a majority of the securities of such insurer entitled to vote: provided, however, that if such vote or written consent was not solicited substantially in accordance with s. Ins 6.40 in effect at the time of such vote or written consent, the insurer shall furnish in writing to the holders of record of the securities entitled to vote for the plan substantially

the same information concerning the plan which would be required by any such rules and regulations so prescribed and in effect at the time such information is furnished, if proxies to be voted with respect to the approval or disapproval of the plan were then being solicited, on or prior to the date of the first annual meeting of security holders held subsequent to the later of the date s. 611.31, Stats., first applies to such insurer; or the acquisition of an equity security for which exemption is claimed. Such written information may be furnished by mail to the last known address of the security holders of record within 30 days prior to the date of mailing. Four copies of such written information shall be filed with, or mailed for filing to, the commissioner not later than the date on which it is first sent or given to security holders of the insurer. For the purposes of subd. 1. b., the term "insurer" includes a predecessor corporation if the plan or obligations to participate thereunder were assumed by the insurer in connection with the succession.

2. If the selection of any director or officer of the insurer to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan, or the determination of the number or maximum number of shares of stock which may be allocated to any such director or officer or which may be covered by qualified, restricted or employee stock purchase plan stock options granted to any such director or officer, is subject to the discretion of any person, then such discretion shall be exercised only as follows:

a. With respect to the participation of directors: 1) By the board of directors of the insurer, a majority of which board and a majority of the directors acting in the matter are disinterested persons; 2) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons; or 3) Otherwise in accordance with the plan, if the plan specifies the number or maximum number of shares of stock which directors may acquire or which may be subject to qualified, restricted or employee stock purchase plan stock options granted to directors and the terms upon which, and the times at which, or the periods within which, such stock may be acquired or such options may be acquired and exercised; or sets forth, by formula or otherwise, effective and determinable limitations with respect to the foregoing based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors.

b. With respect to the participation of officers who are not directors: 1) By the board of directors of the insurer or a committee of 3 or more directors; or 2) By, or only in accordance with the recommendations of, a committee of 3 or more persons having full authority to act in the matter, all of the members of which committee are disinterested persons. For the purpose of this subd. 2., a director or committee member shall be deemed to be a disinterested person only if such person is not at the time such discretion is exercised eligible and has not at any time within one year prior thereto been eligible for selection as a person to whom stock may be allocated or to whom qualified, restricted or employee stock purchase plan stock options may be granted pursuant to the plan or any other plan of the insurer or any of its affiliates entitling the participants therein to acquire stock or qualified, restricted or employee stock purchase plan stock options of the insurer or any of its affiliates.

c. The provisions of this subd. 2. shall not apply with respect to any option granted, or other equity security acquired, prior to June 27, 1965.

3. As to each participant or as to all participants the plan effectively limits the aggregate dollar amount or the aggregate number of shares of stock which may be allocated, or which may be subject to qualified, restricted, or employee stock purchase plan stock options granted, pursuant to the plan. The limitations may be established on an annual basis, or for the duration of the plan,

whether or not the plan has a fixed termination date; and may be determined either by fixed or maximum dollar amounts or fixed or maximum numbers of shares or by formulas based upon earnings of the insurer, dividends paid, compensation received by participants, option prices, market value of shares, outstanding shares or percentages thereof outstanding from time to time, or similar factors which will result in an effective and determinable limitation. Such limitations may be subject to any provisions for adjustment of the plan or of stock allocable or options outstanding thereunder to prevent dilution or enlargement of rights.

4. Unless the context otherwise requires, all terms used in this par. (b) shall have the same meaning as in s. 611.31, Stats., and in sub. (1). In addition, the following definitions apply:

a. The term “plan” includes any plan, whether or not set forth in any formal written document or documents and whether or not approved in its entirety at one time.

b. The definition of the terms “qualified stock option” and “employee stock purchase plan” that are set forth in sections 442 and 423 of the Internal Revenue Code of 1954, as amended, are to be applied to those terms where used in par. (b). The term “restricted stock option” as defined in section 424(b) of the Internal Revenue Code of 1954, as amended, shall be applied to that term as used in par. (b), provided, however, that for the purposes of par. (b) an option which meets all of the conditions of section 424(b) of the Internal Revenue Code of 1954, as amended, other than the date of issuance shall be deemed to be a “restricted stock option.”

(c) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions in which securities are received by redeeming other securities.* Any acquisition of an equity security (other than a convertible security or right to purchase a security) by a director or officer of the insured issuing such security shall be exempt from the operation of s. 611.31 (4) (b), Stats., upon condition that

1. The equity security is acquired by way of redemption of another security of an insurer substantially all of whose assets other than cash (or government bonds) consist of securities of the insurer issuing the equity security so acquired, and which

a. Represented substantially and in practical effect a stated or readily ascertainable amount of such equity security,

b. Had a value which was substantially determined by the value of such equity security, and

c. Conferred upon the holder the right to receive such equity security without the payment of any consideration other than the security redeemed;

2. No security of the same class as the security redeemed was acquired by the director or officer within 6 months prior to such redemption or is acquired within 6 months after such redemption;

3. The insurer issuing the equity security acquired has recognized the applicability of subd. 1. by appropriate corporate action.

(d) *Exemption of long term profits incident to sales within 6 months of the exercise of an option.* 1. To the extent specified in subd. 2., the commissioner hereby exempts as not comprehended within the purposes of s. 611.31 (4) (b), Stats., any transaction or transactions involving the purchase and sale, or sale and purchase, of any equity security where such purchase is pursuant to the exercise of an option or similar right either acquired more than 6 months before its exercise; or acquired pursuant to the terms of an employment contract entered into more than 6 months before its exercise.

2. In respect of transactions specified in subd. 1. the profits inuring to the insurer shall not exceed the difference between the proceeds of sale and the lowest market price of any security of the same class within 6 months before or after the date of sale. Nothing in this par. (d) shall be deemed to enlarge the amount of profit which would inure to such insurer in the absence of this par. (d).

3. The commissioner also hereby exempts, as not comprehended within the purposes of s. 611.31 (4) (b), Stats., the disposi-

tion of a security, purchased in a transaction specified in subd. 1., pursuant to a plan or agreement for merger or consolidation, or reclassification of the insurer’s securities, or for the exchange of its securities for the securities of another person which has acquired its assets, or which is in control, as defined in section 368(c) of the Internal Revenue Code of 1954, of a person which has acquired its assets, where the terms of such plan or agreement are binding upon all stockholders of the insurer except to the extent that dissenting stockholders may be entitled, under statutory provisions or provisions contained in the certificate of incorporation, to receive the appraised or fair value of their holdings.

4. The exemptions provided by this par. (d) shall not apply to any transaction made unlawful by s. 611.31 (4) (c), Stats., or by any rules and regulations thereunder.

5. The burden of establishing market price of a security for the purpose of this par. (d) shall rest upon the person claiming the exemption.

(e) *Exemption from s. 611.31 (4) (b), Stats., of certain acquisitions and dispositions of securities pursuant to merger or consolidations.* 1. The following transactions shall be exempt from the provisions of s. 611.31 (4) (b), Stats., as not comprehended within its purpose:

a. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

b. The disposition of a security, pursuant to a merger or consolidation of an insurer which, prior to said merger or consolidation, owned 85% or more of the equity securities of all other companies involved in the merger or consolidation except, in the case of consolidation, the resulting company;

c. The acquisition of a security of an insurer, pursuant to a merger or consolidation, in exchange for a security of a company which, prior to said merger or consolidation, held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to the merger or consolidation as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

d. The disposition of a security, pursuant to a merger or consolidation, of an insurer which, prior to said merger or consolidation, held over 85% of the combined assets of all the companies undergoing merger or consolidation, computed according to their book values prior to merger or consolidation, as determined by reference to their most recent available financial statements for a 12-month period prior to the merger or consolidation.

2. A merger within the meaning of this par. (e) shall include the sale or purchase of substantially all the assets of one insurer by another in exchange for stock which is then distributed to the security holders of the insurer which sold its assets.

3. Notwithstanding the foregoing, if an officer, director or stockholder shall make any purchase (other than a purchase exempted by this par. (e)) of a security in any company involved in the merger or consolidation and any sale (other than a sale exempted by this par. (e)) of a security in any other company involved in the merger or consolidation within any period of less than 6 months during which the merger or consolidation took place, the exemption provided by this par. (e) shall be unavailable to such officer, director, or stockholder.

(f) *Exemption from s. 611.31 (4) (b), Stats., of certain securities received upon surrender of similar equity securities.* Any receipt by a person from an insurer of shares of stock of a class having general voting power, upon the surrender by such person of an equal number of shares of stock of the insurer of a class which does not have general voting power, pursuant to provisions of the insurer’s certificate of incorporation, for the purpose of and

accompanied simultaneously or followed immediately by the sale of the shares so received, shall be exempt from the operation of s. 611.31 (4) (b), Stats., as a transaction not comprehended within its purpose, if the following conditions exist:

1. The person so receiving such shares is not an officer or director, or the beneficial owner, directly or indirectly, immediately prior to such receipt, of more than 10% of an equity security of the insurer;

2. The shares surrendered and the shares issued upon such surrender shall be of classes which are freely transferable and entitle the holders thereof to participate equally per share in all distributions of earnings and assets;

3. The surrender and issuance are made pursuant to provisions of a certificate of incorporation which requires that the shares issued upon such surrender shall be registered upon issuance in the name of a person or persons other than the holder of the shares surrendered and may be required to be issued as the right only in connection with the public offering, sale and distribution of such shares and the immediate sale by such holder of such shares for that purpose, or in connection with a gift of such shares;

4. Neither the shares so surrendered nor any shares of the same class, nor other shares of the same class as those issued upon such surrender, have been or are purchased (otherwise than in a transaction exempted by this par. (f)), by the person surrendering such shares, within 6 months before or after such surrender or issuance.

(g) *Exemption from s. 611.31 (4) (b), Stats., of certain transactions involving an exchange of similar securities.* Any acquisition or disposition of securities made in an exchange of shares of a class (or series thereof) of stock of an insurer for an equivalent number of shares of another class (or series thereof) of stock of the same insurer, pursuant to a right of conversion under the terms of the insurer's articles of incorporation or other governing instruments shall be exempt from the operation of s. 611.31 (4) (b), Stats., if:

1. The shares surrendered and those acquired in exchange therefor evidence substantially the same rights and privileges except that, pursuant to the provisions of the insurer's articles of incorporation or other governing instruments, the board of directors may declare and pay a lesser dividend per share on shares of the class surrendered than on shares of the class acquired in exchange therefor, or may declare and pay no dividend on shares of the class surrendered; and

2. The transaction was effected in contemplation of a public sale of the shares acquired in the exchange; provided that par. (g) shall not be construed to exempt from the operation of s. 611.31 (4) (b), Stats., any purchase or sale of shares of the class surrendered and any sale or purchase of shares of the class acquired in the exchange (otherwise than in the transaction of exchange exempted by par. (g)) within a period of less than 6 months.

(5) **RULES UNDER S. 611.31 (4) (C), STATS.** (a) *Exemption of certain securities from s. 611.31 (4) (c), Stats.* Any security shall be exempt from the operation of s. 611.31 (4) (c), Stats., to the extent necessary to render lawful under such section the execution by a broker of an order for an account in which he or she has no direct or indirect interest.

(b) *Exemption from s. 611.31 (4) (c), Stats., of certain transactions effected in connection with a distribution.* Any security shall be exempt from the operation of s. 611.31 (4) (c), Stats., to the extent necessary to render lawful under such section any sale made by or on behalf of a dealer in connection with a distribution of a substantial block of securities, upon the following conditions:

1. The sale is represented by an over-allotment in which the dealer is participating as a member of an underwriting group, or the dealer or a person acting on his or her behalf intends in good faith to offset such sale with a security to be acquired by or on

behalf of the dealer as a participant in an underwriting, selling or soliciting-dealer group of which the dealer is a member at the time of the sale, whether or not the security to be so acquired is subject to a prior offering to existing security holders or some other class of persons; and

2. Other persons not within the purview of s. 611.31 (4) (c), Stats., are participating in the distribution of such block of securities on terms at least as favorable as those on which such dealer is participating and to an extent at least equal to the aggregate participation of all persons exempted from the provisions of s. 611.31 (4) (c), Stats., by this par. (b). However, the performance of the functions of manager of a distributing group and the receipt of a bona fide payment for performing such functions shall not preclude an exemption which would otherwise be available under this par. (b).

(c) *Exemption from s. 611.31 (4) (c), Stats., of sales of securities to be acquired.* 1. Whenever any person is entitled, as an incident to ownership of an issued security and without the payment of consideration, to receive another security "when issued" or "when distributed," the security to be acquired shall be exempt from the operation of s. 611.31 (4) (c), Stats., provided that:

a. The sale is made subject to the same conditions as those attaching to the right of acquisition, and

b. Such person exercises reasonable diligence to deliver such security to the purchaser promptly after the right of acquisition matures, and

c. Such person reports the sale on the appropriate form for reporting transactions by persons subject to s. 611.31 (4) (a), Stats.

2. This par. (c) shall not be construed as exempting transactions involving both a sale of a security "when issued" or "when distributed" and a sale of the security by virtue of which the seller expects to receive the "when-issued" or "when-distributed" security, if the 2 transactions combined result in a sale of more units than the aggregate of those owned by the seller plus those to be received by him or her pursuant to the right of acquisition.

(6) **REGULATION UNDER S. 611.31 (4) (E), STATS.** (a) *Arbitrage transactions under s. 611.31 (4) (e), Stats.* It shall be unlawful for any director or officer of an insurer to effect any foreign or domestic arbitrage transaction in any equity security of such insurer, unless he or she shall include such transaction in the statements required by s. 611.31 (4) (a), Stats., and shall account to such insurer for the profits arising from such transaction, as provided in s. 611.31 (4) (b), Stats. The provision of s. 611.31 (4) (c), Stats., shall not apply to such arbitrage transactions. The provisions of s. 611.31, Stats., shall not apply to any bona fide foreign or domestic arbitrage insofar as it is effected by any person other than such director or officer of the insurer.

Note: Copies of UNITED STATES CODE, title 26, Internal Revenue Code of 1954 as amended to date of adoption of the above section sections 368(c), 422, 423 and 424(b), are available for inspection at the office of the Insurance Department, the Secretary of State, and the Legislative Reference Bureau, or the code may be procured for personal use from the U.S. Government Printing Office, Washington, D. C.

History: Cr *Register*, August, 1966, No. 128, eff. 9-1-66; am. *Register*, December, 1977, No. 264, eff. 1-1-78; am. (1) (d) 2., *Register*, March, 1979, No. 279, eff. 4-1-79; corrections made under s. 13.93 (2m) (b) 5., Stats., *Register*, April, 1992, No. 436; correction in (3) (b) made under s. 13.93 (2m) (b) 7., Stats., *Register*, January, 1999, No. 517; correction in (3) (i) (title) made under s. 13.92 (4) (b) 2., Stats., *Register*, January, 2012 No. 673.

Ins 6.42 Initial statement of beneficial ownership of securities. (1) **PERSONS REQUIRED TO FILE STATEMENTS.** A statement on Form 3 (shown at the end of this rule) of initial statement of beneficial ownership of securities is required to be filed by every person who is directly or indirectly the beneficial owner of more than 10% of any class of any equity security of a domestic stock insurance company, or who is a director or an officer of such a company.

(2) **WHEN STATEMENTS ARE TO BE FILED.** (a) Beginning September 1, 1966, persons who hold any of the relationships specified in sub. (1) are required to file a statement within 10 days after assuming such relationship. Statements are not deemed to have

been filed with the commissioner until they have actually been received by him or her.

(b) Persons who held any of the relationships specified in sub. (1) as of January 31, 1966, or who assumed such relationship(s) during the period of January 31, 1966 through August 31, 1966, are required to file such initial statement of beneficial ownership of securities by September 10, 1966.

(3) WHERE STATEMENTS ARE TO BE FILED. One signed copy of each statement shall be filed with the commissioner of insurance, P.O. Box 7873, Madison, Wisconsin 53707-7873.

(4) SEPARATE STATEMENT FOR EACH COMPANY. A separate statement shall be filed with respect to the securities of each company.

(5) RELATION OF REPORTING PERSON TO COMPANY. Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10% of the company's stock", etc.

(6) DATE AS OF WHICH BENEFICIAL OWNERSHIP IS TO BE GIVEN. The information as to beneficial ownership of securities shall be given as of January 31, 1966, or, in the case of persons who subsequently assume any of the relationships specified in sub. (1), as of the date that relationship was assumed.

(7) TITLE OF SECURITY. The statement of the title of a security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) NATURE OF OWNERSHIP. Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate, in a footnote or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and also from those owned through a different type of indirect ownership.

(9) STATEMENT OF AMOUNT OWNED. In stating the amount of securities beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, the entire amount of securities owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he or she so desires, also indicate in a footnote, or other appropriate manner, the extent of his or her interest in the partnership, corporation, trust or other entity.

(10) INCLUSION OF ADDITIONAL INFORMATION. A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(11) SIGNATURE. If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or her or specifically on his or her behalf by a person authorized to sign for him or her.

History: Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, September, 1976, No. 249, eff. 10-1-76; corrections made under s. 13.93 (2m) (b) 5., Stats., Register, April, 1992, No. 436.

State of Wisconsin
Commissioner of Insurance
Form 3

INITIAL STATEMENT OF BENEFICIAL OWNERSHIP
OF SECURITIES

(Filed pursuant to Wisconsin Administrative Code section [Ins 6.42](#))

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See s. [Ins 6.42 \(5\)](#))

Date of event which requires the filing of this statement. (See s. [Ins 6.42 \(6\)](#))

Securities Beneficially Owned

| Title of Security (See s. Ins 6.42 (7)) | Nature of Ownership (See s. Ins 6.42 (8)) | Amount Owned Beneficially (See s. Ins 6.42 (9)) |
|--|--|--|
|--|--|--|

Remarks: (See s. [Ins 6.42 \(10\)](#))

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement

Signature

Ins 6.43 Statement of changes in beneficial ownership of securities. (1) PERSONS REQUIRED TO FILE STATEMENTS. Statements on Form 4 (shown at the end of this rule) of changes in beneficial ownership of securities are required to be filed by every person who at any time during any calendar month was directly or indirectly the beneficial owner of more than 10% of any class of equity security of a domestic stock insurance company, or by a director or officer of the company which is the issuer of such securities, and who during such month had any change in his or her beneficial ownership of any class of equity security of such company.

(2) WHEN STATEMENTS ARE TO BE FILED. (a) Beginning September 1, 1966, statements are required to be filed on or before the 10th day after the end of each month in which any change in beneficial ownership has occurred. Statements are not deemed to have been filed with the commissioner until they have actually been received by him or her.

(b) Statements for each month for the period January 31, 1966, through August 31, 1966, in which any changes in beneficial ownership have occurred shall be filed by September 10, 1966.

(3) WHERE STATEMENTS ARE TO BE FILED. One signed copy of each statement shall be filed with the commissioner of insurance, P.O. Box 7873, Madison, Wisconsin 53707-7873.

(4) SEPARATE STATEMENTS FOR EACH COMPANY. A separate statement shall be filed with respect to the securities of each company.

(5) RELATIONSHIP OF REPORTING PERSON TO COMPANY. Indicate clearly the relationship of the reporting person to the company; for example, "Director", "Director and Vice President", "Beneficial owner of more than 10% of the company's common stock", etc.

(6) TRANSACTIONS AND HOLDINGS TO BE REPORTED. Every transaction shall be reported even though purchases and sales during the month are equal or the change involves only the nature of ownership; for example, from direct to indirect ownership. Beneficial ownership at the end of the month of all classes of securities required to be reported shall be shown even though there has been no change during the month in the ownership of securities of one or more classes.

(7) TITLE OF SECURITY. The statement of the title of the security shall be such as clearly to identify the security even though there may be only one class; for example, "Class A Common Stock".

(8) DATE OF TRANSACTION. The exact date (month, day and year) of each transaction shall be stated opposite the amount involved in the transaction.

(9) STATEMENT OF AMOUNTS OF SECURITIES. In stating the amount of the securities acquired, disposed of, or beneficially owned, give the face amount of debt securities or the number of shares or other units of other securities. In the case of securities owned indirectly, i.e., through a partnership, corporation, trust or other entity, the entire amount of securities involved in the transaction or owned by the partnership, corporation, trust or other entity shall be stated. The person whose ownership is reported may, if he or she so desires, also indicate in a footnote, or other appropriate manner, the extent of his or her interest in the transaction or holdings of the partnership, corporation, trust or other entity.

(10) NATURE OF OWNERSHIP. Under "Nature of ownership", state whether ownership of the securities is "direct" or "indirect". If the ownership is indirect, i.e., through a partnership, corporation, trust or other entity, indicate in a footnote, or other appropriate manner, the name or identity of the medium through which the securities are indirectly owned. The fact that securities are held in the name of a broker or other nominee does not, of itself, constitute indirect ownership. Securities owned indirectly shall be reported on separate lines from those owned directly and from those owned through a different type of indirect ownership.

(11) CHARACTER OF TRANSACTION. If the transaction was with the issuer of the securities, so state. If it involved the purchase of securities through the exercise of options, so state and give the exercise price per share. If any other purchase or sale was effected otherwise than in the open market, that fact shall be indicated. If the transaction was not a purchase or sale, indicate its character; for example, gift, 5% stock dividend, etc., as the case may be. The foregoing information may be appropriately set forth in the table or under "Remarks" at the end of the table.

(12) INCLUSION OF ADDITIONAL INFORMATION. A statement may include any additional information or explanation deemed relevant by the person filing the statement.

(13) SIGNATURE. If the statement is filed for a corporation, partnership, trust, etc., the name of the organization shall appear over the signature of the officer or other person authorized to sign the statement. If the statement is filed for an individual, it shall be signed by him or her or specifically on his or her behalf by a person authorized to sign for him or her.

State of Wisconsin
Commissioner of Insurance
Form 4

STATEMENT OF CHANGES IN BENEFICIAL OWNERSHIP OF SECURITIES

(Filed pursuant to Wisconsin Administrative Code section [Ins 6.43](#))

(Name of insurance company)

(Name of person whose ownership is reported)

(Business address of such person; street, city, state, zip code)

Relationship of such person to company named above. (See s. [Ins 6.43 \(5\)](#))

Statement of Calendar Month of _____, 2_____
Changes During Month and Month-End Ownership (See s. [Ins 6.43 \(6\)](#))

| Title of Security s. Ins 6.43 (7) | Date of Transaction s. Ins 6.43 (8) | Amount Bought or otherwise acquired s. Ins 6.43 (9) | Amount Sold or otherwise disposed of s. Ins 6.43 (9) | Nature of Ownership s. Ins 6.43 (10) | Amount Owned beneficially at end of month s. Ins 6.43 (9) |
|-----------------------------------|-------------------------------------|---|--|--------------------------------------|---|
|-----------------------------------|-------------------------------------|---|--|--------------------------------------|---|

Remarks: (See s. [Ins 6.43 \(11\)](#))

I affirm under penalty of perjury that the foregoing is full, true, and correct.

Date of statement _____

Signature _____

History: Cr. Register, August, 1966, No. 128, eff. 9-1-66; am. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.50 Kinds of individual intermediary or agent licenses. (1) PURPOSE. This rule sets forth the kinds of individual intermediary-agents, reinsurance intermediary and managing general agent licenses which may be issued.

(2) LINES OF LICENSES. The following individual licenses may be issued, each authorizing the solicitation of the line of insurance or the function indicated:

(a) Major lines are all of the following:

1. Life insurance — insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income.

2. Accident and health insurance — insurance coverage for sickness, bodily injury or accidental death and may include benefits for disability income.

3. Property insurance — insurance coverage for the direct or consequential loss or damage to property of every kind.

4. Casualty insurance — insurance coverage against legal liability, including that for death, injury or disability or damage to real or personal property.

5. Personal lines insurance — property and casualty insurance coverage sold to individuals and families for primarily non-commercial purposes.

6. Variable life and variable annuity products — insurance coverage provided under variable life insurance contracts and variable annuities.

(b) Limited lines are all of the following:

1. Credit insurance — credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, guaranteed automobile protection (gap) insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the insurance commissioner determines should be designated a form of limited line credit insurance.

2. Title insurance — as described in s. [Ins 6.75 \(2\) \(h\)](#);

3. Legal expense insurance — insurance that covers only legal expenses incurred by or provided to an individual or business

4. Miscellaneous Limited Line insurance — insurance for an insurer authorized to do business in Wisconsin which is permitted as a limited line of insurance in a Wisconsin nonresident intermediary's home state and is not described in this section shall have the same scope of authority as granted under the limited license issued by the producer's resident state which shall be briefly described on the license issued.

Note: All intermediaries holding the limited line automobile authority on the effective date of this rule and all intermediaries holding the limited line town mutual non-property insurance on May 1, 1991 are grandfathered for these authorities.

5. Travel insurance — insurance coverage for trip cancellation, trip interruption, baggage, life, sickness and accident, disability and personal effects when limited to a specific trip and sold in connection with transportation provided by a common carrier.

6. Crop — Insurance providing protection against damage to crops from unfavorable weather conditions, fire or lightning, flood, hail, insect infestation, disease or other yield-reducing conditions or perils provided by the private insurance market, or that is subsidized by the Federal Crop Insurance Corporation, including Multi-Peril Crop Insurance.

7. Surety — Insurance or bond that covers obligations to pay the debts of, or answer for the default of another, including faithlessness in a position of public or private trust.

(3) Other Licenses issued to individuals are:

(a) Reinsurance intermediary-broker-activities only as described in ch. [Ins 47](#).

(b) Reinsurance intermediary-manager-activities only as described in ch. [Ins 47](#).

(c) Managing general agent-activities as defined in s. [Ins 42.01 \(3\)](#).

History: Cr. Register, December, 1967, No. 144, eff. 1-1-68; r. and recr. (3) (d), Register, November, 1971, No. 191, eff. 12-1-71; am. (2) (e), Register, February, 1973, No. 206, eff. 3-1-73; am. (2) (h), Register, September, 1973, No. 213, eff. 10-1-73; cr. (2) (o), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (3) (a) and (c), eff. 6-22-76; am. (1), (2), (3) (a) and (c), Register, September, 1976, No. 249, eff. 10-1-76; r. and recr., Register, August, 1977, No. 260, eff. 9-1-77; r. (2) (f), Register, October, 1981, No. 310, eff. 11-1-81; r. (2) (i), Register, July, 1991, No. 427, eff. 8-1-91; emerg. am. (1) and (2) (intro.), cr. (2) (i) to (k), eff. 3-12-93; emerg. am. (2) (b) and (e), eff. 7-1-93; am. (1) and (2) (intro.), (b) and (e), cr. (2) (i) to (k), Register, July, 1993, No. 451, eff. 8-1-93; CR 01-074; r. and recr. (2), Register January 2002 No. 553, eff. 2-1-02; CR 07-096; cr. (2) (b) 5. Register March 2008 No. 627, eff. 4-1-08; CR 09-022; cr. (2) (a) 6., (b) 6. and 7. Register August 2009 No. 644, eff. 9-1-09; correction to numbering of (2) (b) 6. and 7. made under s. 13.92 (4) (b) 1., Stats., Register August 2009 No. 644.

Ins 6.51 Group life and disability coverage termination and replacement. (1) **PURPOSE.** This section is intended to promote the fair and equitable treatment of group policyholders, insurers, employees and dependents, and the general public by setting out procedures to be followed when a group life or disability insurance policy is terminated or replaced, and to interpret ss. [632.79](#) and [632.897](#), Stats.

(2) **SCOPE.** This section shall apply to all group life and group disability policies covering employees or employees and dependents, issued by insurers providing insurance as defined in s. [Ins 6.75 \(1\) \(a\) or \(c\) or \(2\) \(c\)](#). It shall apply to blanket policies only if they provide 24-hour coverage for both injury and sickness; any blanket policy, covering any type of group, which provides for renewal shall be subject to subs. (4) and (5); any blanket policy covering students of a college or university, regardless of whether it provides for renewal, shall be subject to subs. (6) and (7). Subsection (4) (a) shall apply only to group policies as defined in sub. (3) (c) 2. Subsections (6) and (7) do not apply to excess or stop-loss insurance purchased under s. [120.13 \(2\) \(c\)](#), Stats., by a county or school district that self-insures employee health benefits.

(3) **DEFINITIONS.** (a) “Blanket policy” has the meaning in s. [600.03 \(4\)](#), Stats.

(b) “Employee” means an employee of an employer or a member of a union or association or a student of a college or university.

(c) “Group policy”:

1. Means a policy or contract covering employees issued by an insurer to an employer, labor union, association or trust fund or, in the case of a blanket policy, a college or university, or a group type plan, except that;

2. In sub. (4) (a), means only a policy or contract issued by an insurer or a s. [185.981](#), Stats., co-operative or a group type plan issued by a ch. [613](#), Stats., corporation, providing hospital, surgical or medical expense coverage to or on behalf of an employer.

(d) A “group policy providing medical expense coverage” does not include a policy providing coverage for dental, vision care, hearing care or prescription drug expense coverage only.

(e) “Group policyholder” means an employer, labor union, association, trust fund or other entity responsible for making group policy premium payments to an insurer.

(f) “Group type plan” means an insurance plan using individual policies which meets the following conditions:

1. Coverage is provided to classes of employees defined in terms of conditions pertaining to employment or membership.

2. The coverage is not available to the general public and can be obtained and maintained only because of the covered person’s connection with the particular organization or group.

3. Premiums are paid by the group policyholder to the insurer on behalf of covered employees, and

4. An employer, union, association or trust fund sponsors or authorizes the plan.

(g) “Individual policy” means an individual or family policy or subscriber contract issued by an insurer.

(h) “Insurer” means an insurance company subject to chs. [631](#) and [632](#), Stats., or a service insurance corporation subject to ch. [613](#), Stats.

(i) “Premium” means a policy premium or a subscriber contract subscription fee.

(j) “Pre-existing condition” means a disease or physical condition including pregnancy which manifested itself prior to the effective date of coverage through medical diagnosis or treatment or the existence of symptoms which would cause an ordinarily prudent person to seek diagnosis or treatment.

(k) “Validly covered” means that the individual involved was covered and met all policy requirements regarding eligibility for coverage, as opposed to an individual who was covered without having met all such requirements.

(4) **EFFECTIVE DATE OF TERMINATION FOR NON-PAYMENT OF PREMIUM; NOTICE OF TERMINATION; LIABILITY OF INSURER.** (a) A group policy subject to s. [632.79](#), Stats., as defined in sub. (3) (c) 2. may not be terminated by the insurer unless it has provided the termination notices required by s. [632.79 \(2\)](#), Stats., except as provided in s. [632.79 \(5\)](#), Stats. The insurer shall be liable for valid claims for covered losses as provided in s. [632.79 \(3\)](#), Stats.

(b) Under a group policy other than one subject to s. [632.79](#), Stats., the insurer shall be liable for valid claims for covered losses incurred prior to the end of the grace period provided in the policy. This provision does not prevent a group policyholder from giving written notice of termination of the group policy, prior to the termination date, in accordance with the group policy terms, to reduce or eliminate the grace period.

(c) 1. The insurer shall also be liable for valid claims for covered losses beginning prior to the effective date of written notice of termination to the group policyholder if, after the end of the grace period provided in the policy:

a. It continues to recognize claims subsequently incurred for which recognition is not required by an applicable extension of coverage provision, or

b. It fails to request that the group policyholder notify covered employees of the termination and, except for life and disability income coverages, describe their rights, if any, upon termination.

2. The effective date of termination shall not be prior to midnight at the end of the third scheduled work day after the date on which the notice is delivered.

3. This paragraph shall not apply if a group policy is terminated and immediately replaced by another group policy providing similar coverage.

(5) CONTENT OF NOTICE OF TERMINATION. (a) A notice of termination given by an insurer to a group policyholder in accordance with sub. (4) (a) or (c) shall include:

1. The date as of which the group policy will be terminated,
2. A request to notify covered employees of the termination and, except for life and disability income coverages, the rights, if any, available to them under the group policy,
3. A statement that, unless otherwise provided in the group policy, the insurer will not be liable for claims for losses incurred after the termination date, and
4. If the group policy involves employee contributions, a statement that, if the group policyholder continues to collect contributions for the coverage beyond the date of termination, the group policyholder may be held solely liable for the benefits with respect to which the contributions have been collected.

(b) At the same time, the insurer shall furnish to the group policyholder for distribution to covered employees a supply of a notice form indicating the termination, its effective date and the rights, if any, available to them upon termination, except that, for life and disability income coverages, the notice need only urge the covered employees to refer to their certificate or individual policy to determine what rights, if any, are available upon termination.

(6) EXTENSION OF COVERAGE. (a) A group policy shall, if a covered employee or dependent is totally disabled at the date of termination of the policy, provide an extension of coverage for the individual, beginning at the date of termination of the group policy and continuing during the period of total disability as provided in this subsection.

(b) Under a group life policy which contains a disability benefit extension of any type, such as premium waiver extension, extended death benefit in event of total disability, or payment of income for a specified period during total disability, the termination of the group policy shall not operate to terminate the extension.

(c) Under a group policy providing benefits for loss of time from work or a specific indemnity during hospital confinement, termination of the group policy during a period of total disability or confinement shall have no effect on benefits payable for the condition or conditions causing continuing total disability or continuing confinement. The extension of coverage provision for loss of time benefits may provide for the integration of social security disability or retirement benefit increases which occur after the date of termination of the group policy only if integration of these benefit increases is also applicable prior to termination of the group policy.

(d) Under a group policy providing hospital, surgical or medical expense coverages, the extension of coverage shall be at least 12 months under major medical or comprehensive medical coverage and at least 90 days under other hospital, surgical or medical expense coverage, subject to the following:

1. Coverage need not be extended beyond the date on which:
 - a. Total disability terminates,
 - b. The benefit period specified in the policy ends,
 - c. The maximum benefit is paid or
 - d. Coverage for the condition or conditions causing total disability is provided under similar coverage, other than temporary coverage under sub. (7m) (b) 2., under the succeeding insurer's group policy.
2. Extended coverage need not cover dental or uncomplicated pregnancy expenses or a condition other than the condition or conditions causing total disability.
3. The extension of coverage is not required where the succeeding insurer agrees, or the prior and succeeding insurers agree, to provide coverage, for individuals who are totally disabled at the date of termination of the group policy, which is not less favorable to them than would otherwise be required by this paragraph.

4. After the termination of extended basic hospital, surgical or medical expense coverage, extended major medical expense coverage shall cover expenses eligible under the major medical expense coverage which are normally covered under the basic coverage, subject to subd. 1.

5. A policy providing hospital, surgical or medical expense coverage which covers only expenses in excess of those covered by basic hospital-surgical-medical expense coverage and major medical coverage or comprehensive medical coverage, issued to the same group policyholder, need not provide extended coverage if the underlying coverage provides extended coverage.

Note: The effect of sub. (6) (d), with respect to pregnancy expense coverage, is to require that extended coverage provide benefits only for pregnancy complication expenses, to be consistent with s. Ins 6.55 (4) (b) 5. However, employers and insurers may wish to consider the provisions of federal public law 95-555 enacted October 31, 1978, which requires that employers subject to it provide benefits for pregnancy, including extended benefits, under employee benefit programs to the same extent that benefits are provided for injury and sickness. Also, the equal rights division of the Wisconsin department of workforce development has taken the position, based on Wisconsin case law, that the Wisconsin fair employment act, ss. 111.31 to 111.37, Stats., applies to temporary disability resulting from pregnancy and requires that employee benefit programs provide loss of time benefits for temporary disability resulting from pregnancy, including extended benefits, to the same extent that such benefits are provided for injury and sickness.

(e) A provision for extending coverage shall be contained in each group policy as well as in corresponding certificates.

(f) The benefits payable during any period of extended coverage shall be subject to the group policy's regular coverage limits. The extended coverage shall terminate at the end of a normal benefit period or when the maximum benefit amount has been paid.

(7) LIABILITY OF PRIOR INSURER. The prior insurer shall be liable only to the extent of its extensions of coverage. Its liability shall be the same whether the group policyholder secures replacement coverage from another insurer, self-insures or declines to provide the group with insurance.

(7m) LIABILITY OF SUCCEEDING INSURER. The succeeding insurer shall be liable as provided in this paragraph where its group policy replaces another providing similar coverage:

(a) *Regular coverage.* Regular coverage shall be provided under the succeeding insurer's group policy to:

1. Each employee who is eligible for coverage in accordance with the succeeding insurer's group policy provisions regarding classes eligible and actively at work requirements.
2. Each dependent who is eligible for coverage in accordance with the succeeding insurer's group policy provisions regarding classes eligible and non-hospital confinement requirements.
3. A dependent of a disabled employee if the dependent is eligible for coverage in accordance with the succeeding insurer's group policy provisions regarding classes eligible and non-hospital confinement requirements and if the disabled employee is covered under the succeeding insurer's group policy, and
4. Each terminated insured who has elected to continue coverage under s. 632.897 (3), Stats.

(b) *Temporary coverage.* Each employee or dependent not covered under the succeeding insurer's group policy in accordance with par. (a) shall be provided with temporary coverage by the succeeding insurer, for losses occurring or beginning under the replacement policy, subject to:

1. Temporary coverage need be provided only if the individual was validly covered under the prior group policy on the date of its termination and meets the requirements necessary to be a member of an eligible class under the succeeding insurer's group policy, other than requirements for working full time, part time or a stated number of hours.
2. The coverage to be provided by the succeeding insurer shall be the coverage of the prior group policy reduced by any benefits payable under such policy. The benefits of the succeeding insurer's group policy shall be determined after the benefits of the prior group policy have been determined.

3. Temporary coverage shall be provided by the succeeding insurer until the first of:

a. The date the individual becomes eligible under the coverage and under the circumstances described in par. (a).

b. For each type of coverage, the date the individual's coverage would terminate in accordance with the succeeding insurer's group policy provisions regarding individual termination of coverage, such as at termination of employment or when ceasing to be an eligible dependent.

c. For an individual who is totally disabled on the effective date of the succeeding group policy, under a type of coverage for which sub. (6) requires an extension of coverage, the end of any period of extended coverage required of the prior insurer or, if the prior insurer's group policy was not subject to sub. (6), would have been required of the prior insurer had its group policy been so subject.

(c) *Pre-existing conditions.* If the succeeding insurer's group policy contains a pre-existing condition limitation, the coverage for these conditions of persons becoming covered by the succeeding group policy under par. (a) or (b), during the period the limitation applies under that group policy, shall be the lesser of:

1. The coverage of the succeeding group policy determined without application of the limitation and

2. The coverage of the prior group policy determined after application of any such limitation contained in the policy.

(d) *Deductibles and waiting periods.* The succeeding insurer, in applying any deductibles or waiting periods contained in its group policy, including pre-existing condition waiting periods, shall give credit for the satisfaction or partial satisfaction of the same or similar provisions under the prior group policy, to the extent that the prior and succeeding group policies provide similar coverage. Deductible provision credit shall be given for the same or overlapping benefit periods for expenses incurred and applied against the deductible provisions of the prior group policy during the 90 days preceding the effective date of the succeeding group policy, but only to the extent that these expenses are recognized under the succeeding group policy and are subject to a similar deductible provision.

(e) *Determination of prior insurer's coverage.* Where a determination of the prior insurer's coverage is required by the succeeding insurer, the prior insurer, at the succeeding insurer's request, shall furnish a statement of the coverage available and a copy of pertinent group policy provisions to permit the succeeding insurer to verify the coverage statement or make its own coverage determination. Coverage of the prior group policy shall be determined in accordance with the definitions, conditions and covered expense provisions of that group policy rather than those of the succeeding group policy. The coverage determination shall be made as if coverage had not been replaced by the succeeding insurer.

(8) **MORE FAVORABLE PROVISIONS PERMITTED.** This section sets out minimum requirements. It does not prohibit a group policyholder and an insurer from agreeing to policy provisions which are more favorable to insured persons.

(9) **EFFECTIVE DATE.** As provided in s. 227.22, Stats., this section shall take effect on the first day of the month following its publication.

History: Cr. Register, October, 1972, No. 202, eff. 11-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (7) (c), Register, March, 1979, No. 279, eff. 4-1-79; r. and recr., Register, March 1982, No. 315, eff. 4-1-82; am. (2), Register, April, 1988, No. 388, eff. 5-1-88; corrections in (7) made under s. 13.93 (2m) (b) 1. and 7., Stats., Register, June, 1997, No. 498; corrections in (3) (a) and (9) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530; corrections in (7m) (b) (intro.), 3. a. and (c) (intro.) made under s. 13.93 (2m) (b) 7., Stats., Register October 2006 No. 610.

Ins 6.52 Biographical data relating to company officers and directors. (1) **PURPOSE.** This rule is intended to implement and interpret ss. 611.13 (2), 611.54 (1) (a), 611.57, 618.11 (4) and 618.21 (1) (b), Stats., for the purpose of setting

standards for the reporting of biographical data relating to company officers, directors, promoters and incorporators, or other persons similarly situated.

(2) **SCOPE.** This rule shall apply to all persons proposing to form an insurer under the laws of this state and to all nondomestic insurers applying for admission to this state and to all insurers authorized to do business in this state except as follows:

(b) Domestic fraternal benefit societies.

(c) Nonprofit service plans, cooperative sickness care plans organized or operating under ss. 185.981 to 185.985, Stats., voluntary benefit plans organized or operating under s. 185.991, 1977 Stats., and motor club service companies organized or operating under ss. 616.71 to 616.74 and 616.76 to 616.82, Stats., and donor annuity societies.

(3) **REPORT OF ORGANIZATION OF A DOMESTIC INSURER OR ADMISSION OF A NONDOMESTIC INSURER.** Biographical information in form and substance substantially in accordance with Form A, shown at the end of this rule, shall be furnished to the commissioner of insurance by all promoters, incorporators, directors, trustees and principal officers or proposed directors and principal officers, as the case may be, of an insurer being organized or of an insurer applying for admission. Financial and character reports of any such persons may be ordered by the commissioner and the cost or expense of such reports shall be paid by the incorporators as an organization expense or by the insurer applying for admission.

(4) **DEFINITION.** The term "officer" as used in this rule shall include the president, one or more vice presidents, secretary, treasurer, chief actuary, general counsel, comptroller and any person, however described, who enjoys in fact the executive authority of any such officers.

(5) **REPORTING WITH RESPECT TO NEW OFFICERS AND DIRECTORS SUBSEQUENT TO ORGANIZATION OR ADMISSION.** A report shall be provided by each domestic insurer to which this rule applies with respect to the appointment or election of any new director, trustee or officer elected or appointed within 15 days after such appointment or election. Such report shall be prepared by the company in form and substance substantially in accordance with Form A, shown at the end of this rule.

(6) **SUBSEQUENT REPORTS.** When such a report has been provided to the commissioner by a company in accordance with subs. (3) and (5) of this rule, no further report concerning subsequent changes in his or her status as an officer or director of such company need be reported to the commissioner provided, however, the company shall promptly report to the commissioner any information concerning the conviction of an officer or director for a felony or the naming of a director, trustee or officer, other than as a party plaintiff or complainant, in any criminal action or in a civil action in which fraud was an issue.

(7) **ADDITIONAL INFORMATION.** The commissioner may request from any company such additional information with respect to any of its officers or directors as he or she may deem necessary and such request shall be promptly complied with by the company to which such request is directed.

FORM A

STATEMENT OF EDUCATION, PRIOR OCCUPATION, BUSINESS EXPERIENCE AND SUPPLEMENTARY INFORMATION

STATE OF _____ :ss:
COUNTY OF _____ :

The undersigned, being first duly sworn upon oath deposes and says:

1. The affiant's full name is (initials not acceptable):
2. The affiant's official title and principal duties with the insurance company is or will be:

3. The affiant's business address is:

Telephone: _____

4. The affiant's residence address is:

Telephone: _____

5. The affiant's age is: _____

Sex _____

Birthplace _____

Birthdate _____ Social Security No. _____

6. The affiant was never known by any other name(s) other than that shown above, except as follows (state such other name(s), when used, reason for change, and date of adoption of present name):

7. The affiant will subscribe to or owns, beneficially or of record the following amount of shares of stock of the insurance company and the consideration given for same:

8. The affiant states that his or her capital investment in the insurance company was not obtained from borrowed funds, except as follows:

9. The nature and tenure of each occupation or employment of the affiant for the last ten years prior to the date of this statement is as follows (present a continuous schedule, including time spent at educational institutions, and period of employment):

| Beginning Date | Name and Address of Employer or School | Business Capacity or Title | Termination Date | Reasons for Termination |
|----------------|--|----------------------------|------------------|-------------------------|
|----------------|--|----------------------------|------------------|-------------------------|

10. The affiant's educational history is as follows (include all schools attended of the college or graduate level):

| Name and Address of Institution | Course | Attendance No. Years/ Dates | Degree Received | Date of Degree |
|---------------------------------|--------|-----------------------------|-----------------|----------------|
|---------------------------------|--------|-----------------------------|-----------------|----------------|

11. The affiant has never been convicted of a felony, except as follows:

12. The affiant has never been named in a criminal or civil action in which fraud was an issue, except as follows:

13. The affiant is not an officer or director and has no other relationship with any other insurer which has the effect of lessening competition substantially or in which such insurers have material adverse interests except as follows:

(Signature of Affiant)

Subscribed and sworn before me,
a Notary Public, this _____ day of _____, 2____,

Notary Public

(SEAL)

My commission expires: _____

History: Cr. Register, June, 1973, No. 210, eff. 7-1-73; emerg. r. (2) (a), eff. 6-22-76; r. (2) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (2) (c), Register, March, 1979, No. 279, eff. 4-1-79; am. (5), Register, March, 1981, No. 303, eff. 4-1-81; CR 17-015: am. (5), r. Form B Register December 2017 No. 744, eff. 1-1-18.

Ins 6.54 Prohibited classification of risks for rating purposes. (1) PURPOSE. This rule interprets and implements ss. 601.01 (2), 625.02, 625.11, 625.12 (2), 625.13, and 625.21 (2), Stats., and ch. 628, Stats., for the purpose of prohibiting certain practices.

(2) SCOPE. This rule applies to all contracts issued, renewed or amended in Wisconsin affording automobile insurance coverage and all contracts issued, renewed or amended in Wisconsin affording coverage for loss or damage to real property used for residential purposes for not more than 4 living units or affording coverage for loss or damage to personal property used for residential purposes.

(3) PROHIBITED PRACTICES. (a) No insurance company shall refuse, cancel or deny insurance coverage to a class of risks solely on the basis of any of the following factors (taken individually or in combination), nor shall it place a risk in a rating classification on the basis of any of the following factors without credible information supporting such a classification and demonstrating that it equitably reflects differences in past or expected losses and expenses and unless such information is filed in accordance with ss. 625.12, 625.13 and 625.21 (2), Stats.:

1. The applicant's or insured's past criminal record;
2. The applicant's or insured's physical condition or developmental disability as defined in s. 51.01 (5) (a), Stats.;
3. The applicant's or insured's past mental disability;
4. The applicant's or insured's age;
5. The applicant's or insured's marital status;
6. The applicant's or insured's sexual preference;
7. The applicant's or insured's "moral" character.

(b) Nothing in par. (a) shall be construed as including within the definition of prohibited practices any of the following:

1. Denying, cancelling or non-renewing the automobile or property insurance of a person convicted of an offense if the offense which resulted in the conviction is directly related to the risk to be insured;
2. Establishing a classification system merely for the purpose of developing statistical data;
3. Underwriting only the class of risks which are specified in the insurer's articles of incorporation;
4. Establishing a rate based on the record of all drivers of an insured automobile;
5. Establishing a rate based on the number of people residing in a household.

(c) Nothing in par. (a) or (b) shall be interpreted in any way as limiting the prohibitions contained in ss. 106.52 (3) (a) 4. and 632.35, Stats.

(d) No insurer shall require an applicant or insured to undergo a physical examination to obtain or continue coverage unless the cost of such physical examination is borne by the insurer.

(4) PENALTY. Violation of this rule may subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, March, 1976, No. 243, eff. 4-1-76; emerg. am. (1) and (3) (c), eff. 6-22-76; am. (1) and (3) (c), Register, September, 1976, No. 249, eff. 10-1-76; am. (3) (a) 2., Register, April, 1977, No. 256, eff. 5-1-77; am. (3) (a) 2., and cr. (3) (d), Register, March, 1979, No. 279, eff. 4-1-79; corrections in (1) and (3) (c) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530; correction in (3) (c) made under s. 13.93 (2m) (b) 7., Stats., Register January 2002 No. 553.

Ins 6.55 Discrimination based on sex, unfair trade practice. (1) PURPOSE. The purpose of this rule is to eliminate the act of denying benefits or refusing coverage on the basis of sex, to eliminate unfair discrimination in underwriting criteria based on sex, and to eliminate any differences in rates based on sex which cannot be justified by credible supporting information. This rule interprets and implements s. 601.01 (3), Stats., and ch. 628, Stats.

(2) DEFINITIONS. (a) Insurer has the meaning defined in s. 600.03 (27), Stats., and in addition includes nonprofit service plans or service insurance corporations.

(b) Contract means any insurance policy, plan, certificate, subscriber agreement, statement of coverage, binder, rider or endorsement offered by an insurer subject to Wisconsin insurance law.

(3) APPLICABILITY AND SCOPE. (a) This rule shall apply to all contracts delivered in Wisconsin, or issued for delivery in Wisconsin on or after the effective date of this rule and to all existing group contracts subject to Wisconsin insurance law which are amended or renewed on or after the effective date of this rule.

(b) This rule shall not affect the right of fraternal benefit societies to determine eligibility requirements for membership.

(4) AVAILABILITY REQUIREMENTS. (a) It is an unfair trade practice for an insurer to:

1. Refuse or cancel coverage or deny benefits on the basis of the sex of the applicant or insured;

2. Restrict, modify, or reduce the benefits, term, or coverage on the basis of the sex of the applicant or insured.

(b) Examples of unfair trade practices defined by par. (a) and prohibited by this rule are:

1. Denying coverage to females gainfully employed at home, employed part-time, or employed by relatives when coverage is offered to males similarly employed;

2. Denying benefits offered by policy riders to females when the riders are available to males;

3. Denying, under group contracts, dependent coverage to husbands of female employees, when dependent coverage is available to wives of male employees;

4. Denying disability income coverage to employed women when coverage is offered to men similarly employed;

5. Treating complications of pregnancy differently from any other illness or sickness under a contract;

6. Restricting, reducing, modifying, or excluding benefits payable for treatment of the genital organs of only one sex;

7. Offering lower maximum monthly benefits to women than to men who are in the same underwriting, earnings or occupational classification under a disability income contract;

8. Offering more restrictive benefit periods and more restrictive definitions of disability to women than to men in the same underwriting, earnings or occupational classification under a disability income contract;

9. Establishing different conditions by sex under which the policyholder may exercise benefit options contained in the contract.

(5) RATES. When rates are differentiated on the basis of sex, the insurer must:

(a) File a brief letter of explanation along with a rate filing.

(b) Maintain written substantiation of such rate differentials in its home office.

(c) Justify in writing to the satisfaction of the commissioner the rate differential upon request.

(d) Base all such rates on sound actuarial principles or a valid classification system and actual experience statistics.

(6) PENALTY. Violation of this rule shall subject the insurer to the penalties set forth in s. 601.64, Stats.

History: Cr. Register, May, 1976, No. 245, eff. 6-1-76; emerg. am. (1), eff. 6-22-76; am. (1), Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.57 Appointment of insurance agents by insurers.

(1) Submission of an application for an intermediary-agent appointment shall initiate the appointment of an agent in accordance with s. 628.11, Stats. The application shall be submitted to the office of the commissioner of insurance and entered in the OCI licensing system in a format specified by the commissioner within 15 days after the earlier of the date the agent contract is executed or the first insurance application is submitted and shall show the lines of authority being requested for that agent. An appointment is valid only for the lines of insurance requested. The effective date of a valid appointment is the date on which the appointment is submitted electronically in the format specified by the commissioner. The agent validation report is a computer-generated report prepared by the office of the commissioner of insurance. Billing for initial appointment shall be done annually at the same time and at the same rate as renewal appointments.

(2) Notice of termination of appointment of individual intermediary in accordance with s. 628.11, Stats., shall be filed prior to or within 30 calendar days of the termination date with the office of the commissioner of insurance. Prior to or within 15 days of filing this termination notice, the insurer shall provide the agent

written notice that the agent is no longer to be appointed as a representative of the company and that he or she may not act as its representative. This notice shall also include a formal demand for the return of all indicia of agency. "Termination date" means the date on which the insurer effectively severs the agency relationship with its intermediary-agent and withdraws the agent's authority to represent the company in any capacity.

(a) If the reason for termination is one of the reasons listed as other criteria in s. Ins 6.59 (5) (d) or the insurer has knowledge the producer was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities listed in s. Ins 6.59 (5) (d), the insurer must submit complete explanations and documentation in writing to OCI within 30 days of the termination.

(b) If the insurer has knowledge of complaints received or problems experienced by the company involving company indebtedness, forgery, altering policies, fraud, misappropriation, misrepresentation, failure to promptly submit applications or premiums, poor policyholder service involving the intermediary being terminated, the insurer must submit complete explanations and documentation in writing to OCI within 30 days of the termination. This documentation need not prove violations, but should include situation where possible violations exist. The Office of the Commissioner of Insurance will investigate these situations and take appropriate action based upon the investigation.

(c) The insurer or the authorized representative of the insurer shall promptly notify the insurance commissioner in writing if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the insurance commissioner under par. (a) or (b) had the insurer then known of its existence.

(3) In addition each insurer shall pay once each year, in accordance with an assigned billing schedule and in a payment type prescribed by the commissioner, the annual appointment fee defined in sub. (4), within 30 days after the mailing of a payment notice to such insurer showing the amount due for all individuals serving as agent for such insurer, according to the commissioner's records as of the notice date. A billing schedule shall be adopted by the commissioner under which appointment notices shall be sent to insurers.

(4) Fees applicable for listing of insurance agents under s. 628.11, Stats.,

Resident individual intermediary-agents \$ 7.00

Nonresident individual intermediary-agents \$24.00

Note: 2009 Wis. Act 28, section 3135, changed the minimum appointment fees to \$16 for residents and \$50 for non-residents.

(5) No insurer shall accept business directly from any intermediary or enter into an agency contract with an intermediary unless that intermediary is a licensed agent appointed with that insurer.

(6) No intermediary shall submit an application for insurance directly to an insurer or solicit insurance on behalf of a particular insurer or enter into an agency contract unless the agent is appointed with that insurer.

Note: A free copy of each form referenced in this section may be obtained from the Office of the Commissioner of Insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.

History: Cr. Register, December, 1976, No. 252, eff. 1-1-77; r. and recr. Register, March, 1978, No. 267, eff. 4-1-78; cr., (5) and (6), Register, March, 1979, No. 279, eff. 4-1-79; am. (1) and (3), Register, September, 1981, No. 309, eff. 1-1-82; am. (5), Register, December, 1984, No. 348, eff. 1-1-85; am. (1), Register, April, 1986, No. 364, eff. 5-1-86; am. (1) and (2), Register, January, 1992, No. 433, eff. 2-1-92; emerg. am. (4), eff. 10-9-95; am. (4), Register, February, 1996, No. 482, eff. 3-1-96; am. (4), Register, June, 2000, No. 534, eff. 7-1-00; CR 01-074; am. (1), (2), (5) and (6), cr. (2) (a) to (c), Register January 2002 No. 553, eff. 2-1-02; CR 05-111; am. (1), (2) (intro.) and (3) Register October 2006 No. 610, eff. 11-1-06; CR 09-022; am. (3), (5) and (6) Register August 2009 No. 644, eff. 9-1-09.

Ins 6.58 Licensing of insurance intermediary firms as insurance agents.

(1) PURPOSE. The purpose of this rule is to establish procedures for licensure of insurance intermediary

firms as insurance intermediaries, reinsurance intermediaries or managing general agents.

(1m) DEFINITION. In this section “firm” means a corporation, association, partnership, limited liability company, limited liability partnership, or other legal entity.

(2) LICENSE. Any firm may obtain an insurance intermediary firm license under this section.

(3) PROCEDURE. (a) Application for a permanent intermediary license, reinsurance intermediary license or managing general agent license for a corporation or partnership shall be made on application form 11-50 or, for residents of states that have signed a declaration of uniform treatment with Wisconsin, the NAIC Uniform Application for Business Entity Non-Resident License/Registration form and filed with the commissioner of insurance. The application shall be accompanied by:

Note: Copies of forms referenced in ss. [Ins 6.58](#) and [6.59](#) can be obtained at the office of the commissioner of insurance.

1. A licensing fee of \$100.00;
2. Certification that the articles of incorporation or association include the intent, in good faith, to do business as an intermediary, reinsurance intermediary or managing general agent;
3. Certification that the insurance intermediary firm will transact business in such a way that all acts that may only be performed by a licensed intermediary are performed exclusively by natural persons who are licensed under s. [628.04](#), Stats., and functioning within the scope of the license, and a list of such persons;
4. If the insurance intermediary firm is domiciled outside of Wisconsin, an agreement to be subject to the jurisdiction of the commissioner and the courts of this state on any matter related to the insurance intermediary firm’s insurance activities in this state, on the basis of service of process under ss. [601.72](#) and [601.73](#), Stats.; and
5. A list of all partners, directors or principal officers or persons in fact having comparable power.
6. In the case of a corporation the application must be signed by an officer. In the case of a partnership the application must be signed by a partner.
7. Any bond, policy, designation or information required under s. [Ins 47.02](#) (3) or (5).

(b) Determination of the acceptance or rejection of a completed application shall be made within 84 days. A completed application consists of form OCI 11-50 or the NAIC Uniform Application for Business Entity Nonresident License/Registration form and other required material described in par. (a).

(4) STANDARDS OF COMPETENCE AND TRUSTWORTHINESS. (a) For partners, directors or principal officers who are licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries or managing general agents, those standards as set [forth] in s. [Ins 6.59](#) (5) shall apply in lieu of the standards set forth in this section.

Note: A missing word is shown in brackets.

(b) For partners, directors or principal officers who are not licensed at the time of application under sub. (4) as insurance intermediaries, reinsurance intermediaries or managing general agents, the following criteria may be used in assessing trustworthiness and competence:

1. ‘Criminal record.’ The conviction for crimes which are substantially related to insurance.
2. ‘Accuracy of information.’ Any material misrepresentation in the information submitted on form 11-50.
3. ‘Regulatory action.’ Any regulatory action taken with regard to any license held, such as insurance licenses in other states, real estate licenses and security licenses.
4. Other criteria which the commissioner considers evidence of untrustworthiness or incompetence.

(5) FEES. (a) Biennially, at least 60 days prior to February 15 of even numbered years, a regulation fee notice of \$35.00 for resi-

dent and \$70.00 for nonresident insurance intermediary firms, reinsurance intermediaries and managing general agents will be sent to each entity by first class mail at the address on file with the office of the commissioner of insurance.

(b) If payment of the biennial regulation fee is not made prior to February 15, in a payment type prescribed by the commissioner, the license will be revoked.

(c) The license will be revoked if payment is not made within 60 days after February 15.

(6) NOTIFICATION OF CHANGES. Each insurance intermediary firm licensed or applying for a license shall, within 30 days, notify the commissioner of insurance in writing of any change in its business mailing address, location of the business records, or a change in the name and address of the designated representative.

Note: Intermediary corporations and partnerships are subject to the recordkeeping requirements as set forth in s. [Ins 6.61](#) (1).

A free copy of each form referenced in this section may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or from the office of the commissioner of insurance website at <http://oci.wi.gov/>.

History: Cr. [Register, August, 1980, No. 296](#), eff. 9-1-80; am. (5) (a), [Register, September, 1981, No. 309](#), eff. 10-1-81; cr. (6), [Register, September, 1981, No. 309](#), eff. 1-1-82; r. and recr. (2), r. (3) and (8), renum. (4) to (7) to be (3) to (6), [Register, April, 1982, No. 316](#), eff. 5-1-82; r. form 11-50, [Register, October, 1982, No. 322](#), eff. 11-1-82; am. (3) (a) to (f), [Register, December, 1984, No. 348](#), eff. 1-1-85; correction in (5) made under s. 13.93 am. (b) 7., Stats., [Register, December, 1984, No. 348](#); emerg. am. (1), (3) (intro.), (a) 1. and 2., (4) (a), (b) (intro.) and 1., (5) (a) and (6), cr. (3) (a) 7., eff. 3-12-93; am. (1), (3) (intro.), (a) 1. and 2., (4) (a), (b) (intro.) and 1., (5) (a) and (6), cr. (3) (a) 7., [Register, July, 1993, No. 451](#), eff. 8-1-93; emerg. am. (5) (a), eff. 10-9-95; am. (5) (a), [Register, February, 1996, No. 482](#), eff. 3-1-96; cons. and renum. (3) (intro.) and (a) (intro.) to be (3) (a) (intro.) and am., am. (3) (b), [Register, January, 1999, No. 517](#), eff. 2-1-99; [CR 01-074](#): am. (1), (2), (3) (a) 3. and 4., (5) and (6), [Register January 2002 No. 553](#) eff. 2-1-02; [CR 05-111](#): am. (3) (b) and (5) (a) [Register October 2006 No. 610](#), eff. 11-1-06; [CR 09-022](#): am. (5) (a) and (b) [Register August 2009 No. 644](#), eff. 9-1-09.

Ins 6.59 Licensing of individuals as agents, reinsurance intermediaries, or managing general agents (s. 628.04, Stats.). (1) **PURPOSE.** The purpose of this rule is to establish procedures for original licensure and license enlargement of an individual as an insurance agent, reinsurance intermediary or managing general agent.

(2) **EXAMINATION.** An examination is required of each resident applicant for each kind of license authority listed in s. [Ins 6.50](#), except a reinsurance intermediary license, managing general agent, variable life or variable annuity and the limited line travel, crop and surety insurance licenses. Each examination will test the applicant’s basic knowledge of the kinds of insurance to be solicited or function to be performed and the applicant’s basic understanding of the applicable laws and regulations.

(3) **FEES.** The following fee schedule is established for residents and non-residents:

| | |
|---|----------|
| Application for one line of authority | \$75.00 |
| Application for 2 lines of authority | \$150.00 |
| Application for 3 lines of authority | \$225.00 |
| Application for 4 lines of authority | \$300.00 |
| Application for 5 lines of authority | \$375.00 |
| Application for a Surplus Lines license | \$100.00 |

(4) **PROCEDURE.** (a) *Application for resident intermediary agents.* Application for a permanent resident agent license or an enlargement of authority requiring an examination shall be made on-line following successful completion of any required prelicensing education and the examination. A completed application consists of the agent’s name, the current address for the residence of the applicant; the current mailing address for the applicant; an original exemption form as required under ch. [Ins 26](#), if required by s. [Ins 26.04](#) (3); an electronic confirmation of prelicensing education completion for the specific lines of authority; fingerprints to be provided in a format specified by the commissioner to complete, an electronic confirmation of criminal history from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation completed not more than 180 days prior to the test date; payment of the fees to the testing vendor, an electronic photograph of the applicant taken by the test service at

the time of testing; confirmation of previous license in another state, if applicable; and any documentation required in answer to questions on the application.

(am) *Application for nonresident intermediary agents.* Application for a permanent nonresident agent license or an enlargement of authority shall be made on-line or on form OCI 11-041N (rev.) or on the NAIC Uniform Application for Individual Nonresident License form and filed with the office of the commissioner of insurance. A completed application consists of payment of the fees; and any documentation required in answer to questions on the application. If confirmation of license status is not attainable from the National Insurance Producer Registry, an original certificate of licensing from the state of residence is required.

(an) *Application for Variable life and variable annuity products.* Application for a permanent resident agent variable life and variable annuity products license or an enlargement of authority to include variable life and variable annuity products license shall be made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the application; the current mailing address for the applicant; payment of the fees; any documentation required in answer to questions on the application; and verification of required registration by the Financial Industry Regulatory Authority (FINRA) registered for Series 6 or Series 7.

(ap) *Application for limited travel, crop, or surety agent license.* Application for a permanent resident agent travel, crop or surety agent limited license or an enlargement of authority to include travel, crop or surety limited license shall be made on-line or on form OCI 11-041R (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-041R (rev.) giving the current address for the residence of the applicant; the current mailing address for the applicant; payment of the fees; and any documentation required in answer to questions on the application.

(as) *Application for reinsurance intermediary-broker, reinsurance intermediary-manager or managing general agent.* Application for a reinsurance intermediary broker or reinsurance intermediary manager or managing general agent license shall be made on form OCI 11-040 and filed with the office of the commissioner of insurance. A completed application consists of a completed application form; payment of the fees; and any documentation required in answer to questions on the application.

(av) *Application for a title insurance limited license by Wisconsin licensed attorneys.* Application for a permanent resident agent title insurance limited license or an enlargement of authority to include title insurance limited license shall be made on form OCI 11-41Atty (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-041Atty (rev.) giving the current address for the residence of the applicant; an original certificate signed by the provider showing completion of at least 6 hours of continuing legal education approved by the Wisconsin Board of Bar Examiners dealing solely with title insurance and completed within 1 year of the application date; a copy of the applicant's current State Bar of Wisconsin membership card; payment of the fees; and any documentation required in answer to questions on the application.

(ax) *Application for surplus lines agent license.* Application for a surplus lines insurance license shall be made on form OCI 11-070 (rev.) and filed with the office of the commissioner of insurance. A completed application consists of a completed form OCI 11-070 (rev.) giving the current address for the residence of the applicant; and any documentation required in answer to questions on the application.

(b) *Scheduling the examinations.* Applicants shall notify the testing vendor, at least one business day prior to the scheduled date and time of the examination.

(c) *Issuance of license.* An applicant for an original license or an enlargement of authority who passes the examination, if required, satisfies the requirements in par. (a), (am) or (as) and meets the standards of competence and trustworthiness as described in sub. (5) shall be issued a license for those kinds of authority for which the applicant is qualified. Examination scores are valid for 30 days. Failure to apply for a license within 30 days will require candidate to re-take the examination. Determination of the acceptance or rejection of a completed application shall be made within 90 days of receipt by the office of the commissioner of insurance of the completed application including any documentation required.

(5) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used in assessing trustworthiness and competence:

(a) *Criminal record.* The conviction for crimes which are substantially related to the circumstances of holding an insurance license.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on the application form.

(c) *Regulatory action.* Any regulatory action taken with regard to any occupational license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence, including but not limited to:

1. Providing incorrect, misleading, incomplete or materially untrue information in the license application.

2. Violating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner.

3. Obtaining or attempting to obtain a license through misrepresentation or fraud;

4. Improperly withholding, misappropriating or converting any monies or properties received in the course of doing insurance business.

5. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.

6. Having been convicted of a felony or misdemeanor substantially related to the circumstances of holding an insurance license.

7. Having admitted or been found to have committed any insurance unfair trade practice or fraud.

8. Using fraudulent, coercive, or dishonest practices, or demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of business in this state or elsewhere.

9. Having an insurance producer license, or its equivalent, denied, suspended or revoked in any other state, province, district or territory.

10. Forging another's name to an application for insurance or to any document related to an insurance transaction.

11. Improperly using notes or any other reference material to complete an examination for an insurance license.

12. Knowingly accepting insurance business from an individual who is not licensed.

13. Failing to comply with an administrative or court order imposing a child support obligation.

14. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(e) *Age.* Is at least eighteen (18) years of age.

(6) **FREQUENCY AND LOCATION.** Examinations for each kind of agent authority will be administered at least once a month in accordance with a schedule adopted by the commissioner.

(8) **CHANGE IN RESIDENCY STATUS.** (a) A licensed nonresident agent, after becoming a Wisconsin resident, may retain authority under the nonresident agent license for a maximum of 60 days, at

which time all authority granted under the nonresident license shall cease.

(b) A licensed resident agent after becoming a resident of another state, may retain authority under the resident license for a maximum of 60 days, at which time all authority granted under the resident license shall cease.

(c) If an agent changes residency status and becomes licensed under the new status, all authority granted by the license issued under the former status shall terminate on the date the new license is issued.

(d) Criteria used by the insurance commissioner to establish residency shall include, but not be limited to:

1. Jurisdiction for payment of state taxes.
2. Jurisdiction for automobile driver's license and motor vehicle registration.
3. Location of voter registration.
4. Location of principal residence, such as owned or rented dwelling, condominium or apartment.

(e) A licensed nonresident agent after becoming a resident of a state other than Wisconsin, may retain licensing authority under the nonresident license for a maximum of 60 days, at which time all authority granted under the nonresident license shall cease, unless a letter of certification or other comparable evidence from the new state of residence is provided to the commissioner.

Note: A free copy of each form referenced in this section may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://loci.wi.gov/>.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am. (8), Register, June, 1978, No. 270, eff. 7-1-78; cr. (10), Register, September, 1978, No. 273, eff. 10-1-78; am. (3) and (7), Register, February, 1980, No. 290, eff. 3-1-80; r. (6) and (9), renun. (7), (8) and (10) to be (6), (7) and (8), Register, August, 1980, No. 296, eff. 9-1-80; r. and recr. Register, September, 1981, No. 309, eff. 10-1-81; am. (4), cr. (8), Register, December, 1984, No. 348, eff. 1-1-85; am. (2), (3), (4) (a) and (b) and (6), Register, May, 1987, No. 377, eff. 7-1-87; am. (4) (a) and (5) (b), Register, January, 1992, No. 433, eff. 2-1-92; cr. (8) (e), Register, April, 1992, No. 436, eff. 5-1-92; am. (4) (a) and (c), Register, June, 1992, No. 438, eff. 7-1-92; emerg. am. (1), (2), (4) (a), (c), (5) (a), (8) (a) to (c) and (e), cr. (9), eff. 3-12-93; emerg. am. (3), (4) (b), (c) and (6), r. and recr. (4) (a), cr. (4) (am) and (as), eff. 7-1-93; am. (1), (2), (3), (c), (5) (a), (8) (a) to (c) and (e), cr. (4) (am), (as), (9), r. and recr. (4) (a), Register, July, 1993, No. 451, eff. 8-1-93; emerg. am. (4) (a), eff. 10-9-95; am. (4) (a) and (am), Register, February, 1996, No. 482, eff. 3-1-96; am. (4) (a), (am) and (as), Register, January, 1999, No. 517, eff. 2-1-99; cr. (4) (av), Register, October, 2000, No. 538, eff. 11-1-00; CR 01-074: am. (4) (am), (5) (a), (c) and (d), cr. (5) (d) 1. to 14. and (5) (e), r. (7) and (9), Register January 2002 No. 553, eff. 2-1-02; CR 05-111: am. (3) and (4) (a) to (av), cr. (4) (ax) Register October 2006 No. 610, eff. 11-1-06; CR 07-096: am. (2) and (4) (a) Register March 2008 No. 627, eff. 4-1-08; CR 09-022: am. (2), (3), (4) (a), (b), (c), (8) (a), (b), (c) and (e), cr. (4) (an) and (ap) Register August 2009 No. 644, eff. 9-1-09.

Ins 6.595 Exemption of licensing of individuals as intermediaries. (1) DEFINITIONS. In this section:

(a) "Negotiate" means to confer directly with or offer advice directly to a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms or conditions of the contract, provided that the person engaged in that act either sells insurance or obtains insurance from insurers for purchasers.

(b) "Sell" or "Place" means to exchange a contract of insurance by any means, for money or its equivalent, on behalf of an insurance company.

(c) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(2) EXEMPTIONS. The following persons are not required to obtain an intermediary license:

(a) A town mutual agent exempt from licensing under s. 628.03 (1), Stats., by s. 628.05 (1), Stats., includes an agent for a town mutual not authorized to insure members against loss to property by windstorm or hail insurance as provided in ss. 612.31 (2) (a) 3. and 612.33 (2) (a), Stats., who provides windstorm or hail insurance to the town mutual's members through an insurance policy issued by another authorized insurer operating on an

assessment plan. The town mutual agent need not be licensed but the other insurer must list the agent and pay the listing fee in accordance with s. Ins 6.57.

(b) An officer, director or employee of an insurer or of an insurance producer, provided that the officer, director or employee does not receive any commission on policies written or sold to insure risks residing, located or to be performed in this state and any of the following apply:

1. The officer, director or employee's activities are executive, administrative, managerial, clerical or a combination of these, and are only indirectly related to the sale, solicitation or negotiation of insurance.

2. The officer, director or employee's function relates to underwriting, loss control, inspection or the processing, adjusting, investigating or settling of a claim on a contract of insurance.

3. The officer, director or employee is acting in the capacity of a special agent or agency supervisor assisting insurance producers where the person's activities are limited to providing technical advice and assistance to licensed insurance producers and do not include the sale, solicitation or negotiation of insurance.

(c) A person who secures and furnishes information for the purpose of group life insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance; or for the purpose of enrolling individuals under plans; issuing certificates under plans or otherwise assisting in administering plans; or performs administrative services related to mass marketed property and casualty insurance; where no commission is paid to the person for the service;

(d) An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, director or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;

(e) Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating or classification of risks, or in the supervision of the training of insurance producers and who are not individually engaged in the sale, solicitation or negotiation of insurance;

(f) A person whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the person does not sell, solicit or negotiate insurance that would insure risks residing, located or to be performed in this state;

(g) A person who is not a resident of this state who sells, solicits or negotiates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one state insured under that contract, provided that that person is otherwise licensed as an insurance producer to sell, solicit or negotiate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state; or

(h) A salaried full-time employee who counsels or advises his or her employer relative to the insurance interests of the employer or of the subsidiaries or business affiliates of the employer provided that the employee does not sell or solicit insurance or receive a commission.

(i) Persons selling rental car insurance which is provided in connection with and incidental to the lease or rental of a motor vehicle which do not require a commercial license to operate for a total period of 90 consecutive days or less and not exceeding the

lease or rental period. This exemption does not relieve the person of the requirement to reply to the commissioner under s. 601.42, Stats.

History: CR 01-074; cr. Register January 2002 No. 553, eff. 2-1-02.

Ins 6.60 Prohibited business practices. (1) In this section:

(a) “Affiliate” means any person who is under the control of or acts at the direction of the agent.

(b) “Agent” means an intermediary as defined in s. 628.02, Stats.

(c) “Customer” means a natural person with whom the agent or affiliate is doing or has, within 3 years from the act or transaction regulated by this section, done an insurance business as that term is defined in s. 618.02 (2) and (3), Stats.

(d) “Personal financial transaction” includes a transaction in which the agent or an affiliate of the agent borrows money, property or securities from a customer; loans money, property or securities to a customer; acts as custodian for money, property or securities of a customer; obtains power of attorney over money, property or securities of a customer; obtains a guarantee of any loan from a customer; shares directly or indirectly in profits or losses with a customer; or without furnishing equal consideration obtains title to or ownership of any property of a customer. In this section “personal financial transaction” does not include transactions conducted by an agent or affiliate in the normal course of doing an insurance business such as holding an insurance policy for analysis or servicing, or receiving an insurance premium from a customer provided the transaction is properly recorded on the records of the agent or affiliate as required by s. Ins 6.61, including the name of the insurer for whom the premium was received, and the agent or affiliate immediately issues a written receipt to the customer for the policy or premium.

(2) The following are deemed to be unfair trade practices by an agent or affiliate pursuant to s. 628.34 (12), Stats., without limiting those terms to the practices specified in this section:

(a) Effecting or attempting to effect a personal financial transaction with a customer unless any of the following apply:

1. The customer is a relative of the agent or affiliate as defined in s. 13.62 (12g), Stats.

2. The customer is a person residing in the household of the agent or affiliate at the time of the transaction.

3. The transaction is a bona fide arm’s length business transaction where the customer is either qualified to understand and assess the transaction or has been advised or represented in the transaction by a qualified individual who is not the agent or affiliate.

4. The agent or affiliate is acting lawfully pursuant to authority given under federal or state law governing the securities or investment advisory business.

(b) Knowingly being listed as a beneficiary of any proceeds of a life insurance policy or annuity issued to a customer unless the agent or affiliate has an insurable interest in the life of the customer.

(c) Engaging in transactions with a customer in violation of ch. 551, Stats., the Wisconsin uniform securities law, ch. 553, Stats., the Wisconsin franchise investment law, the U.S. securities act of 1933 (15 USCS 77a et seq), the U. S. securities exchange act of 1934 (15 USCS 78a-78kk), the U. S. investment company act of 1940 (15 USCS 80 a-1 – 80a-52), or any rules or regulations promulgated under any of such laws.

(d) Making misleading statements to a customer regarding or otherwise misrepresenting one’s qualifications or services. This includes using terms such as “financial”, “investment” or “retirement” in conjunction with terms such as “planner”, “planning” or “consulting” when, under the circumstances, the statements, representations or use of these terms do not accurately describe the

nature of the services offered or the qualifications of the person offering the services.

(e) Selling, soliciting the sale, or assisting the sale, of health coverage that is:

1. Provided by a person who is not licensed as an insurer in this state; and

2. Represented to be authorized under, or exempt from state insurance regulation under, the federal employee retirement income security act (29 USCS 1001 et seq).

(3) (a) For the purpose of s. 618.39 (1), Stats., an agent should know that placement of insurance is illegal if the agent:

1. Sells, solicits the sale, or assists in the sale, of health coverage offered by a person not licensed as an insurer in this state; and

2. Knows that the health coverage is represented to be authorized, or exempt from state insurance regulation, under the federal employee retirement income security act (29 USCS 1001 et seq).

(b) An agent’s lack of knowledge of any of the following is not a defense to a violation of s. 618.39 (1), Stats.:

1. That the person providing the coverage is not licensed in this state.

2. That the person is an insurer as defined under s. 600.03 (27), Stats.

3. That the represented authorization or exemption under the federal employee retirement income security act is false (29 USCS 1001 et seq).

(4) The commissioner shall order, for any agent who violates s. 618.39, Stats., not less than revocation of the agent’s license and that the agent pay any claims not paid within 60 days by the unauthorized insurer. An agent may establish the basis for a lesser penalty for a violation of s. 618.39, Stats., only if the agent shows all of the following:

(a) Substantial mitigating factors.

(b) The agent made, and solicited to make, only a few sales of the coverage.

(c) The agent did not serve as a general agent, was not eligible for override commissions, and was not responsible for recruiting, and did not recruit, other agents to sell the coverage.

(5) A violation of sub. (2) is a cause for denial of an agent license application under s. 628.04 (1), Stats., and a cause for agent license suspension, revocation or limitation under s. 628.10 (2) (b), Stats.

History: CR 01-072; cr. Register January 2002 No. 553, eff. 2-1-02.

Ins 6.61 Intermediary records. (1) PURPOSE. This section protects insurance policyholders by prescribing minimum standards and techniques of accounting and data handling of intermediaries to ensure that timely and reliable information will exist and be available to the commissioner. This section implements and interprets ss. 601.42 and 628.34, Stats., by establishing minimum records to be maintained by intermediaries.

(2) SCOPE. This section applies to all intermediaries transacting insurance business in this state and to Wisconsin insurance transactions of nonresident intermediaries unless the nonresident is required to maintain records in a similar specified manner by the intermediary’s state of domicile.

(3) DEFINITIONS. As used in this section:

(a) “Business checking account” means any account utilized by an intermediary for insurance-related transactions.

(b) “Cash disbursed record” means a record showing all monies paid out by the intermediary in connection with insurance.

(c) “Cash receipts record” means a record showing all monies received by the intermediary in connection with insurance.

(d) “Commission statements” means records or statements which show the commissions and fees allocated to the intermediary for insurance transactions.

(e) “Formal administrative action” means consent decrees, cease and desist orders, stipulations, suspensions, revocations,

license denials, fines, forfeitures, settlement agreements, license restrictions or actions limiting the intermediary's method of conducting an insurance business but does not include administrative actions based solely on failing to comply with continuing education requirements or solely on failing to pay a regulation fee for licensing.

(f) "Intermediary" means an agent, broker or producer and any person, partnership or corporation requiring a license under the provisions of ch. 628, Stats.

(g) "Personnel records" means those records pertaining to anyone who is directly retained or employed by an intermediary in connection with insurance including subagents, secretaries, phone solicitors, and independent contractors.

(h) "Policyholder records" means all records, applications, request for changes, claims, and complaints associated with a policy generated by or through the intermediary.

(4) CASH DISBURSED RECORD. The cash disbursed record shall show the name of the party to whom the payment was made, date of payment, and reason for payment.

(5) CASH RECEIPTS RECORD. The cash receipts record shall show the name of the party who remitted the money, date of receipt, and reason for payment.

(6) COMMISSION STATEMENTS. The commission statements shall show the insured name, policy number, premium, amount of commission, and date allocated or paid or both.

(7) PERSONNEL RECORDS. Personnel records shall include dates of employment, position, description of principal duties, name of employee, and last known address and phone number of employee.

(8) RECORDKEEPING REQUIREMENTS. Beginning on January 1, 1988, each intermediary shall maintain, for a 3-year period, unless a specific period is provided elsewhere, the following records:

- (a) Cash receipts record.
- (b) Cash disbursed record.
- (c) Commission statements.
- (d) Policyholder records.
- (e) Business checking account.
- (f) Personnel records.

(9) SPECIAL REQUIREMENTS FOR NEWLY ISSUED CONTRACTS. Each intermediary shall maintain records for a 3-year period giving the effective date of the coverage on all newly issued contracts.

(10) SPECIAL REQUIREMENTS FOR INDIVIDUALLY-ISSUED LIFE AND ACCIDENT AND HEALTH CONTRACTS. Each intermediary shall maintain records for a 3-year period indicating that the necessary suitability inquiry and replacement procedures required by ss. [Ins 2.07](#), [2.14 \(5\) \(f\)](#), [2.15 \(9\) \(f\)](#), [3.27 \(7\)](#), and [3.29](#) were followed for each individually-issued life and accident and health contract written or replaced or both.

(11) SPECIAL REQUIREMENTS FOR TITLE INSURANCE. Each intermediary who is employed by, or is, an affiliate of a producer of title insurance shall maintain records for 3 years for each application or order for title insurance accepted in this state. The records shall state whether the application or order was directly or indirectly referred as provided by s. [Ins 3.32 \(5\)](#) by a producer of title insurance which is an affiliate as defined by s. [Ins 3.32 \(3\) \(a\)](#), [\(bm\)](#) and [\(c\)](#) and the name of each producer of title insurance who is an affiliate and acts as broker, agent, lender, representative or attorney in the transaction which resulted in the application or order. Each intermediary who is an affiliate of a producer of title insurance shall maintain a record of gross revenue from operations in this state from title insurance by quarter calendar year which shall separately show gross revenue from operations in this state derived

from applications or orders for title insurance directly or indirectly referred by the affiliate.

(12) PLACE OF MAINTAINING RECORDS. The intermediary shall maintain records required by subs. (8), (9), (10) and (11) at the business address of the intermediary or the insurer recorded with the commissioner of insurance, or at another location only if the intermediary provides written notice of the other location to the commissioner of insurance.

(13) UPDATING RECORDS. The intermediary shall update all intermediary records at reasonable intervals or as necessary and shall maintain all financial intermediary records according to accepted accounting principles.

(14) MAINTAINING POLICYHOLDER RECORDS. The intermediary shall retain policyholder records for a period of at least 3 years after termination or lapse of the policy.

(15) CHANGE OF NAME OR ADDRESS. Each intermediary shall, within 30 days, notify the commissioner of insurance in writing of any change in the intermediary's name, residence address, and mailing address.

(16) NOTIFICATION OF FORMAL ADMINISTRATIVE ACTIONS, CRIMINAL PROCEEDINGS AND LAWSUITS. Each intermediary shall notify the commissioner in writing of the following within 30 days:

(a) Except for action taken by the Wisconsin office of the commissioner of insurance, any formal administrative action against the intermediary taken by any state's insurance regulatory agency, commission or board or other regulatory agency which licenses the person for any occupational activity. The notification shall include a description of the basis for the administrative action and any action taken as a result of the proceeding, a copy of the notice of hearing and other documents describing the problem, a copy of the order, consent to order, stipulation, final resolution and other relevant documents.

(b) Any initial pretrial hearing date related to any criminal prosecution of the intermediary taken in any jurisdiction, other than a misdemeanor charge related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint filed, the order resulting from the hearing and any other relevant legal documents.

(c) Any felony conviction or misdemeanor conviction in any jurisdiction, other than a misdemeanor conviction related to the use of a motor vehicle or the violation of a fish and game regulation. The notification shall include a copy of the initial criminal complaint or criminal charging document filed, the judgement of conviction, the sentencing document, the intermediary's explanation of what happened to cause criminal proceedings, the intermediary's reasons why no action should be taken regarding the intermediary's license and any other relevant legal documents.

(d) Any lawsuit filed against the licensee or the licensee's business in which there are allegations of misrepresentation, fraud, theft or embezzlement involving the licensee or the licensee's business. The notification shall include a copy of the initial suit documents, the intermediary's explanation of what happened to cause the civil proceedings, the intermediary's reasons why no action should be taken regarding the intermediary's license and any other relevant legal documents.

(17) RECORDS MAINTAINED BY INSURERS. An insurer shall inform its intermediaries in writing of the requirements of this section and may, by written agreement, assume the responsibility to maintain these records for an individual intermediary if the records can be made immediately available to the commissioner of insurance on demand.

History: Cr. Register, March, 1977, No. 255, eff. 4-1-77; am., Register, March, 1979, No. 279, eff. 4-1-79; cr. (5), Register, September, 1981, No. 309, eff. 10-1-81; cr. (2m), Register, November, 1986, No. 371, eff. 12-1-86; r. and recr. Register, December, 1987, No. 384, eff. 1-1-88; am. (16), Register, August, 1988, No. 392, eff. 9-1-88; am. (16), Register, April, 1992, No. 436, eff. 5-1-92; am. (15), Register,

January, 1999, No. 517, eff. 2-1-99; CR 01-074; am. (3) (e), r. and recr. (16), Register January 2002 No. 553, eff. 2-1-02; CR 05-111; am. (3) (f) Register October 2006 No. 610, eff. 11-1-06; CR 09-022; am. (15) Register August 2009 No. 644, eff. 9-1-09.

Ins 6.62 Filing requirements for multiple employer trusts and associations. (1) In this section:

(a) “Intermediary” has the meaning provided under s. 628.02 (1), Stats.

(b) 1. “Multiple employer trust or association,” except as provided by subd. 2., means a trust, association or other person which provides or offers to provide health care benefits or coverage to employees of 2 or more employers and which is:

a. A multiple employer welfare arrangement as defined by 29 USC 1002 (40);

b. Represented as an employee welfare benefit plan which is subject to the Employee Retirement Income Security Act, 29 USC 1001 to 1461; or

c. Located outside this state and is not organized and regulated as an insurer domiciled in the United States.

2. “Multiple employer trust or association” does not include a person which:

a. Provides benefits or coverage under or pursuant to a collective bargaining agreement;

b. Is, or which provides benefits or coverage which are fully insured by, an insurer licensed to do business in this state;

c. Provides health care benefits or coverage solely to employees of governmental units;

d. Is an individual; or

e. The commissioner exempts in writing.

(2) No intermediary may solicit, advertise, or market in this state or accept an application or place coverage for a person who resides in this state with a multiple employer trust or association unless prior to solicitation, advertising, marketing, acceptance of the application, or placing the coverage:

(a) The multiple employer trust or association files with the office the information required under sub. (5); or

(b) The intermediary files the information required under sub. (5).

(3) No multiple employer trust or association may solicit, advertise, or market in this state or accept an application for coverage from a person who is a resident, or who has employees who are residents, of this state unless prior to soliciting, advertising, marketing, or accepting an application it files with the office the information required under sub. (5).

(4) If subsequent to a filing under sub. (2) or (3) changes occur so that the information contained in the filing is no longer accurate, the multiple employer trust or association or intermediary which made the filing shall within 15 days of the date the change is effective make a filing under sub. (5) with the correct information.

(5) A multiple employer trust or association or intermediary required to file information under sub. (2), (3), or (4) shall file a properly completed form prescribed by the commissioner and shall attach:

(a) A copy of any insurance policy or contract covering benefits or coverage offered by the multiple employer trust or association;

(b) A copy of the organizational documents of the multiple employer trust or association, including the articles of incorporation, bylaws or trust instrument; and

(c) A statement that the benefits or coverage are fully insured or a description of the extent to which they are not fully insured.

(6) A violation of sub. (2), (3), or (4) is an unfair and deceptive trade practice under s. 628.34 (12), Stats., constitutes a method or practice in the conduct of business which endangers the legitimate interests of customers and the public under s. 628.10 (2), Stats.,

and, if the multiple employer trust or association is an unauthorized insurer, establishes that the person violating the rule should have known that the multiple employer trust or association is an unauthorized insurer for the purpose of ss. 618.39 and 618.44, Stats.

(7) This section is in addition to any provision of chs. 600 to 646, Stats.

Note: This rule requires use of a reporting form “Multiple Employer Trust Filing” which may be obtained from the Office of the Commissioner of Insurance, 121 E. Wilson Street, P.O. Box 7873, Madison, Wisconsin, 53707-7873.

History: Emerg. cr. eff. 1-1-90; cr. Register, May, 1990, No. 413, eff. 6-1-90

Ins 6.63 Regulation charge. (1) The renewal fee to be paid biennially in a payment type prescribed by the commissioner, by each licensed individual intermediary-agent is:

Resident agent \$ 35.00

Nonresident agent \$ 70.00

(2) Renewal fees are due on the last day of the intermediary’s birth month every other year. OCI will send a form OCI 11-051 renewal fee notice by first-class mail at least 60 days prior to the fee due date to each intermediary at the mailing address on file with the office of the commissioner of insurance.

(3) Any resident individual intermediary whose license is revoked for failing to pay renewal fees, failing to complete required continuing education or failing to pay delinquent taxes may, within 12 months from the revocation date, apply to be relicensed for the same license without completing preclicensing education or passing a written examination. Resident licensees who are required to complete continuing education must have all previous requirements met. The application fee shall be as specified in s. 628.10 (5) (a), Stats. If a resident license has been revoked for more than 12 months, the intermediary shall, in order to be relicensed, satisfy the examination and licensing requirements established by s. Ins 6.59.

(4) Intermediaries with a Surplus Lines license shall pay an annual renewal fee of \$100.00 on or before the assigned expiration date each year. OCI will send an OCI renewal fee notice by first-class mail at least 60 days prior to the fee due date to each intermediary surplus lines agent at the home address on file with the office of the commissioner of insurance. Any resident individual intermediary whose surplus lines license is revoked for failing to pay renewal fees or failing to pay delinquent taxes may, within 12 months from the revocation date for failing to pay delinquent taxes or within 10 months from the revocation date for failure to pay a renewal fee or complete continuing education, apply to be relicensed for the same license. If a license has been revoked for more than 12 months for failing to pay delinquent taxes or revoked for more than 10 months for failure to pay a renewal fee, the intermediary shall, in order to be relicensed, satisfy the licensing requirements established by s. Ins 6.59.

Note: A free copy of each form referenced in this section may be obtained from the office of the commissioner of insurance, P.O. Box 7872, Madison, WI 53707-7872 or on the office of the commissioner of insurance website at <http://oci.wi.gov/>.

History: Cr. Register, December, 1977, No. 264, eff. 1-1-78; am. (1) to (3), Register, September, 1981, No. 309, eff. 1-1-82; r. and recr. (4) to (6), Register, October, 1981, No. 310, eff. 11-1-81; am. (1), Register, November, 1995, No. 479, eff. 12-1-95; CR 01-074; am. (3) to (5), r. (2), Register January 2002 No. 553, eff. 2-1-02; CR 05-111; r. and recr. Register October 2006 No. 610, eff. 11-1-06; CR 09-022; am. (1) (a), (2) and (3), r. (1) (b) Register August 2009 No. 644, eff. 9-1-09; renumber of (1) (a) to (1) made under s. 13.92 (4) (b) 1., Stats., Register August 2009 No. 644.

Ins 6.66 Proper exchange of business. (1) The purpose of this rule is to interpret s. 628.61, Stats., regarding the proper exchange of business between agent intermediaries.

(2) Proper exchange of business means the forwarding of insurance business from one agent who cannot, after due consideration, place the business with any of the insurers for which the agent is listed because of capacity problems, the refusal of the company to accept the risk or the onerous conditions it imposes on the insured, to another agent licensed for those lines of insurance whose insurers are able to accommodate the risk under con-

ditions more favorable to the insured. The agent forwarding the business is entitled to split the commission involved. Proper exchange of business is not the regular course of business and such forwarding of business is thereby distinguished from brokerage by its occasional and exceptional nature.

(3) No agent may properly exchange business with another agent, unless:

(a) The agent forwarding the business to a listed agent is licensed for the lines of business that are being exchanged;

(b) The agent who receives the business and agrees to place it is licensed in the line or lines of insurance involved in the exchange; and

(c) Both the agent forwarding the business and the agent who places the business with the insurer sign the insurance application, or if no application is completed, the names of the agents involved in the transaction appear on the policy issued.

(4) No agent shall accept business solicited by another intermediary-agent which he or she knows, or has reason to know, is not exchanged in compliance with the provisions of this rule.

(5) (a) In the absence of evidence to the contrary, an intermediary-agent shall be presumed to have exceeded the occasional exchange of business if he or she places more than 5 insurance risks per calendar year with any single insurer with which he or she is not listed as an intermediary-agent, or exchanges in total more than 25 insurance risks per calendar year.

(b) The burden of showing that specialty lines, non-standard and professional liability business placed through surplus lines intermediaries in accordance with s. 618.41, Stats., or written on an excess rate or other individually rated risk basis beyond the limits prescribed for other exchanges of business in par. (a) is occasional and otherwise in compliance with this rule, shall be upon the intermediary-agent soliciting and forwarding such business.

(6) The exchange of business among intermediary-agents and participation by intermediaries in risk sharing plans approved according to ch. 619, Stats., shall not be limited in any way by this section.

History: Cr. Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (d), Register, May, 1979, No. 281, eff. 6-1-79; am. (1), (2) (intro.) and (3), r. (2) (a) and (4), renum. (2) (b), to (d) to be (2) (a) to (c) and am., Register, September, 1982, No. 321, eff. 10-1-82; renum. (1) to (3) and (7) to be (2) to (4) and (6) and am. (6), cr. (1), r. (6), Register, August, 1988, No. 392, eff. 9-1-88.

Ins 6.67 Unfair discrimination in life and disability insurance. (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices in life and disability insurance found to be unfairly discriminatory under s. 628.34 (3) (b), Stats.

Note: The need for a rule has arisen because of questions as to whether life and disability insurers are in all cases fairly "charging different premiums or offering different terms of coverage except on the basis of classifications related to the nature and degree of the risk covered." (s. 628.34 (3), Stats.) The main purpose of the rule is to make clear that life and disability insurers cannot classify individuals arbitrarily—without a rational basis for each decision.

(2) **APPLICABILITY AND SCOPE.** This rule shall apply to all life and disability insurance policies delivered or issued for delivery in Wisconsin on or after January 1, 1980 and to all existing life and disability group, blanket and franchise insurance policies subject to Wisconsin insurance law which are amended or renewed on or after January 1, 1980.

(2m) **DEFINITIONS.** In this section:

(a) "Disability insurance" has the meaning given under s. Ins 6.75 (1) (c).

(b) "Territorial classification" means an arrangement of persons into categories based upon geographic characteristics other than zip code.

(3) **SPECIFIC EXAMPLES.** The following are specific examples of unfair discrimination under s. 628.34 (3) (b), Stats.

(a) Refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual or charging a different rate for the same coverage solely because of physical or mental impairment, other than blindness or

partial blindness, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

(b) Except as provided in subds. 1. and 2., refusing to insure, or refusing to continue to insure, or limiting the amount, extent or kind of coverage available to an individual, or charging an individual a different rate for the same coverage solely because of blindness or partial blindness.

1. Individuals who are blind or partially blind may be subject to standards based on sound actuarial principles or actual or reasonably anticipated experience with respect to any other condition they may have, including a condition which is the cause of the blindness or partial blindness.

2. Refusal to insure under sub. (3) includes a denial of disability insurance on the basis that the policy presumes disability if the insured loses his or her eyesight. However, an insurer may exclude from coverage, or apply a waiting period, to coverage of treatment of blindness or partial blindness if that condition exists at the time the policy is issued.

(4) **INSURER RESPONSIBILITY.** An insurer has the burden of proof to show that an act, standard or practice of the insurer is based on sound actuarial principles or is related to actual or reasonably anticipated experience in any action to enforce s. 628.34 (3) (b), Stats. For the anticipated experience to be reasonable it must be based on medical or actuarial research on morbidity or mortality.

(5) **SEXUAL ORIENTATION.** (a) An insurer may not use sexual orientation in the underwriting process or in the determination of insurability, premium, terms of coverage, or nonrenewal.

(b) No insurer may include any inquiry about the applicant's or insured's sexual orientation in an application for disability or life insurance coverage or directly or indirectly investigate in connection with an application for disability or life insurance coverage the applicant's or insured's sexual orientation.

(c) No insurer may use the marital status, occupation, gender, medical history, beneficiary designation, or the zip code or territorial classification of an applicant or insured or any other factor to establish, or aid in establishing, the applicant's or insured's sexual orientation.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80; r. (4) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; am. (1), r. and rec. (3), cr. (4), Register, April, 1987, No. 376, eff. 5-1-87; correction in (2), (3) (b) 2. and (4) made under s. 13.93 (2m) (b) 14., 12. and 1., Stats., Register, April, 1987, No. 376; cr. (5), Register, May, 1987, No. 377, eff. 6-1-87.

Ins 6.68 Unfair discrimination based on geographic location or age of risk. (1) **PURPOSE.** The purpose of this rule is to identify specific acts or practices found to be unfair trade practices that are unfairly discriminatory under s. 628.34, Stats.

(2) **APPLICABILITY AND SCOPE.** This rule shall apply to property and casualty insurance contracts delivered or issued for delivery in Wisconsin on or after the effective date of the rule.

(3) **SPECIFIC EXAMPLES OF UNFAIR TRADE PRACTICES UNDER S. 628.34, STATS.** The following are hereby identified as specific acts or practices which are unfairly discriminatory.

(a) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a property or casualty risk because of the geographic location of the risk, unless:

1. The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation or limitation is required by law or regulatory mandate.

Note: Paragraph (a) is intended to prohibit insurance underwriting shortcuts which unfairly label risks as poor risks because of their geographic location. A refusal, nonrenewal, cancellation or limitation of insurance coverage is prohibited if the reason for such refusal, nonrenewal, cancellation or limitation is the geographic location of the risk. An exception to this general rule is provided, however, in situations where the refusal, nonrenewal, cancellation or limitation is based upon a legitimate business need and the refusal, nonrenewal, cancellation or limitation is not a

mere pretext for unfair discrimination. Examples of such situations include refusals to insure when the risk is located in areas prone to natural catastrophes, i.e., earthquakes, floods, hurricanes, and refusals to insure because the insurer already has a very high concentration of risks in a particular geographic area. It is intended that the person charged with a violation of this rule be given the burden of proof in establishing any "business purpose" exception. The burden of proving that a refusal, nonrenewal, cancellation or limitation of insurance coverage is not subterfuge for unfair discrimination should likewise fall upon the person charged with a violation of this rule.

(b) Making or permitting any unfair discrimination between individuals or risks of the same class and of essentially the same hazards by refusing to issue, refusing to renew, cancelling or limiting the amount of insurance coverage on a residential property risk of 4 units or less, or the personal property contained therein, because of the age of the residential property, unless:

1. The refusal, cancellation or limitation is for a business purpose which is not a mere pretext for unfair discrimination, or

2. The refusal, cancellation or limitation is required by law or regulatory mandate.

(c) Refusing to insure a risk solely because the applicant was previously denied coverage, terminated by another insurer or had obtained coverage in a residual market.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79; r. (4) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348.

Ins 6.70 Combinations of lines and classes of insurance. This rule defines and delimits the permissible combinations of the lines and classes of insurance defined and delimited by s. Ins 6.75 which may be written in the same policy. Except as provided in this rule, lines and classes of insurance may not be combined in the same policy.

(1) COMBINATION WITH SEPARATE PREMIUM CHARGES. Subject to s. Ins 2.05, any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75, except for those described in s. Ins 6.75 (2) (h), (i) and (k), may be written in the same policy if a statement of separate premium charge is shown on the declarations page or on the face of the policy or in a separate written statement furnished to the policyholder. The requirement for a statement of separate premium charge does not prohibit such charges equitably reflecting differences in expected losses or expenses as contemplated by s. 625.11 (4), Stats.

(2) COMBINATION WITH OR WITHOUT SEPARATE PREMIUM CHARGES. Any combination of the lines and classes of insurance defined and delimited by s. Ins 6.75 (2) (a), (b), (d), (e), (f) and (j) may be written in the same policy with or without showing separate premium charges.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1977, No. 260, eff. 9-1-77.

Ins 6.72 Risk limitations. (1) Except as otherwise provided by law or by order of the commissioner, no single risk assumed by any insurance company shall exceed 10% of surplus as regards policyholders, except that in an assessable mutual company it may be a greater amount not exceeding 3 times the average policy or $\frac{1}{4}$ of 1% of the insurance in force, whichever is the greater. Upon the business mentioned in s. Ins 6.75 (2) (h), the maximum single risk may be a greater amount not exceeding 50% of the admitted assets. Any reinsurance taking effect simultaneously with the policy shall be deducted from the original risk assumed in determining compliance with this subsection.

(2) In a mutual company organized for the insurance or guaranty of depositors or deposits in banks or trust companies, the maximum single risk may be fixed at a higher amount by the bylaws. Any such company may effect reinsurance in any authorized or unauthorized company that complies with s. 627.23, Stats. Insurance in any unauthorized company shall be reported annually and the same taxes paid upon the premiums as are paid by authorized companies.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and recr. Register, August, 1981, No. 308, eff. 9-1-81; am. (1), Register, January, 1992, No. 433, eff. 2-1-92.

Ins 6.74 Suretyship and risk limitations of surety obligations. (1) PURPOSE. The purpose of this rule is to establish minimum requirements for the transaction of surety obligations.

(2) SCOPE. This rule shall apply to the limitations on bond penal amounts imposed on insurers engaged in the business of suretyship. This section shall not apply to insurers issuing only that type of surety insurance known as municipal bond insurance.

(3) DEFINITIONS. (a) For purposes of this rule suretyship shall be construed to be insurance.

(b) An insurance corporation authorized to write fidelity insurance may guarantee the fidelity of, or become the surety for: 1. persons holding positions of public or private trust; 2. the performance of any act, duty or obligation or the refraining from any act; 3. the performance of any contract; 4. bonds of insurance companies required by law as a condition of transacting business; 5. indemnifying banks, brokers and other financial or moneyed associations or corporations, against the loss of documents and money, except against loss caused by marine risks or risks of transportation or navigation; 6. indemnifying any federal land bank against loss by reason of defective title to or incumbrances on real property on which such bank may have a mortgage.

(c) As used in this rule any one surety risk shall be equivalent to the penal amount established on the surety bond.

(4) RISK LIMITATIONS ON SURETY OBLIGATIONS. (a) No corporation shall execute any suretyship obligation or expose itself to any loss on any one surety bond in an amount in excess of one-tenth of its capital and surplus as reported in its most recent filed annual statement, unless it shall be protected in the excess of that amount:

1. By reinsurance in a corporation licensed to transact surety business where the risk is located; or

2. By the cosuretyship of a surety corporation likewise licensed.

(b) A surety corporation may execute transportation or warehousing bonds for the United States internal revenue taxes to an amount equal to 5 times the underwriting limitation specified in par. (a) of this rule.

(c) No corporation writing surety shall guarantee the deposits of any single financial institution in an aggregate amount in excess of the underwriting limitation set forth in par. (a) unless it shall be protected in excess of that amount by reinsurance or cosuretyship as specified in par. (a).

(d) A surety corporation shall not issue multiple bonds on a single contract (splitting bonds) and a surety corporation's liability on a single contract shall not be in excess of the limitations established in par. (a).

(e) No domestic corporation writing surety business shall execute, reinsure or be cosurety on a suretyship obligation in favor of the U.S. governments, or any other obligee, whereby a surety issues a bond to an obligee for a penal amount which is 10%, or an amount substantially less than, the total contract amount, unless the surety reinsures or obtains a cosurety for at least 50% of the bond penal amount with a corporation licensed to transact surety business where the risk is located. This is tantamount to a maximum exposure for any single loss on any one surety bond of this type of not more than one-twentieth of a domestic surety corporation's capital and surplus.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; emerg. am. (2), eff. 6-5-84; am. (2) Register, October, 1984, No. 346, eff. 11-1-84.

Ins 6.75 Classifications of insurance. This rule defines and delimits lines and classes of insurance for any purposes within the commissioner's regulatory power unless the language or context of a statute or rule otherwise provides.

(1) LIFE AND DISABILITY INSURANCE. Life and disability insurance includes the following:

(a) Life insurance and annuities — except insurance or annuities included in par. (b), insurance or annuities upon the lives of persons, and annuity contracts without life contingencies, as provided in s. 632.66, Stats.;

1. Credit life insurance — insurance on the lives of borrowers or purchasers of goods in connection with specific loans or credit transactions when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(b) Variable life insurance and variable annuities — insurance or annuities which provide for immediate or future benefits, the cost of which is funded and the payment of which is computed on the basis of experience factors derived from one or more segregated investments accounts established and managed as provided in ss. 611.24, 611.25, and 620.02, Stats.;

(c) Disability insurance — insurance covering injury or death of persons caused by accident, or insurance covering health of persons;

1. Credit accident and sickness insurance — insurance in connection with specific loans or credit transactions against loss of time of debtors resulting from accident or sickness when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(2) PROPERTY AND CASUALTY INSURANCE. Property and casualty includes all lines or classes of insurance which may lawfully be the subject of insurance other than those classes defined in sub. (1) (a) or (b), including but not limited to the following:

(a) Fire, inland marine and other property insurance — insurance against loss or damage to real and personal property, while stationary or in transit, arising out of fire or any other peril but not including any insurance defined in any other paragraph of this rule;

(b) Ocean marine insurance — insurance against the perils of seas and other related perils usually insured against by ocean marine insurance.

(c) Disability insurance — insurance covering injury or death of persons caused by accident, or insurance covering health of persons;

1. Credit accident and sickness insurance — insurance in connection with specific loans or credit transactions against loss of time of debtors resulting from accident or sickness when all or a portion of the insurance is payable to the creditor to reduce or extinguish the debt;

(d) Liability and incidental medical expense (other than automobile) insurance — insurance against liability for damages to persons or property, and incidental insurance for medical expenses when written in the same policy, but not including any liability insurance defined in other paragraphs of this rule;

(e) Automobile insurance — insurance against loss, medical or other expense, and liability for damages arising out of the ownership, maintenance or use of and automobile or other motor vehicle;

(f) Fidelity insurance — insurance against loss arising out of the acts or defaults of persons in positions of trust, excluding commercial bail bond insurance except as a surety under s. 345.61, Stats.

(g) Surety insurance — payment for loss arising out of failure to perform contracts or obligations, excluding commercial bail bond insurance except as a surety under s. 345.61, Stats.

(h) Title insurance — insurance against loss by reason of defects in titles to property;

(i) Mortgage guaranty insurance — insurance against loss arising from failure of:

1. Debtors to meet financial obligations to creditors under evidences of indebtedness which are secured by either:

a. A first lien or charge on residential real estate designed for occupancy by not more than four families; or

b. i. A first lien or charge on residential real estate designed for occupancy by 5 or more families; or

ii. A first lien or charge on real estate designed for industrial or commercial purposes; or

c. A stock or membership certificate issued to the tenant stockholders or resident members of a completed fee simple cooperative housing corporation as defined in 26 U.S.C. s. 216 (b) (1); or

d. A junior lien or charge on residential real estate.

2. Lessees to make payment of rentals under leases of real estate in which the lease extends for 3 years or longer.

(j) Credit insurance — insurance against loss arising from failure of debtors to meet financial obligations to creditors, except as defined in par. (i) 1. a., b., c., and 2.;

(k) Worker's compensation insurance — insurance against obligations under ch. 102, Stats., or any similar law, and including employers' liability insurance when written in the same policy;

(L) Legal expense insurance — insurance against expense for the professional services of licensed lawyers;

(m) Credit unemployment insurance — insurance against loss of income of debtors resulting from either labor disputes or involuntary unemployment;

(n) Miscellaneous — insurance against any other property or casualty insurance risk which lawfully may be the subject of insurance not specifically defined in any other paragraph of this rule;

(o) Aircraft insurance — insurance against loss, medical or other expense, and liability for damages arising out of the ownership, maintenance or use of any aircraft.

History: Cr. Register, August, 1977, No. 260, eff. 9-1-77; am. (2) (f) and (g), Register, March, 1980, No. 291, eff. 4-1-80; am. (2) (i) and (j), Register, October, 1982, No. 322, eff. 11-1-82; emerg. am. (1) (a), eff. 10-4-88, am. (1) (a) (intro.), Register, December, 1988, No. 396, eff. 1-1-89; CR 01-074: am. (2) (e) and (n), cr. (2) (o), Register January 2002 No. 553, eff. 2-1-02.

Ins 6.76 Grounds for disapproval of and authorized clauses for fire, inland marine and other property insurance forms. (1) PURPOSE.

The purpose of this rule is to set out characteristics and provision of fire, inland marine and other property insurance forms, as defined by s. Ins 6.75 (2) (a), which may constitute grounds for disapproval of such forms under the provisions of s. 631.20 (2), Stats., and to promulgate authorized clauses for such forms under s. 631.23, Stats., because it has been found that:

(a) Price or coverage competition is ineffective because diversity in language or content makes comparison difficult;

(b) Provision of language, content or form of these specific clauses is necessary to provide certainty of meaning of them;

(c) Regulation of contract forms will be more effective and litigation will be substantially reduced if there is increased standardization of certain clauses; and

(d) Reasonable minimum standards of insurance protection are needed for policies to serve a useful purpose.

(2) GROUNDS FOR DISAPPROVAL. A fire, inland marine or other property insurance form may be considered misleading, deceptive or obscure within the meaning of s. 631.20 (2), Stats., if it does not clearly state the perils covered, the limitations, and the conditions, or if it contains provisions contrary to the law, or if it does not include clauses covering the following provisions where appropriate:

(a) Location and description of the property covered;

(b) Effect of other insurance on the coverage provided;

(c) Conditions suspending, restricting or voiding the coverage provided;

(e) Termination of the contract;

(f) Mortgagee interests and obligations;

(g) Obligations in case loss occurs.

(3) **AUTHORIZED CLAUSES.** The following clauses, or any of them, shall be considered authorized clauses pursuant to s. 631.23, Stats. Appropriate liberalization of the prescribed language shall also be permitted.

(a) *Insuring clause.*

IN CONSIDERATION OF THE PROVISIONS AND STIPULATIONS HEREIN OR ADDED HERETO

and of the premium above specified this Company, for the term of

from at noon _____ (12:01 a.m.) [choose one] Standard Time to at location of property involved, to an amount not exceeding the amount(s) above specified does insure

and legal representatives, to the extent of the actual cash value of the property at the time of loss, but not exceeding the amount which it would cost to repair or replace the property with material of like kind and quality within a reasonable time after such loss, without compensation for loss resulting from interruption of business or manufacture, nor in any event for more than the interest of the insured against all DIRECT LOSS BY FIRE, LIGHTNING AND BY REMOVAL FROM PREMISES ENDANGERED BY THE PERILS INSURED AGAINST IN THIS POLICY, EXCEPT AS HEREINAFTER PROVIDED, to the property described herein while located or contained as described in this policy, or pro rata for 5 days at each proper place to which any of the property shall necessarily be removed for preservation from the perils insured against in this policy, but not elsewhere. Assignment of this policy shall not be valid except with the written consent of this Company. This policy is made and accepted subject to the foregoing provisions and stipulations and those hereinafter stated, which are hereby made a part of this policy, together with such other provisions, stipulations and agreements as may be added hereto, as provided in this policy.

(b) *Uninsurable and excepted property.* This policy shall not cover accounts, bills, currency, deeds, evidences of debt, money or securities; nor, unless specifically named hereon in writing, bullion or manuscripts.

(c) *Perils not included.* This company shall not be liable for loss by fire or other perils insured against in this policy caused, directly or indirectly, by: 1. enemy attack by armed forces, including action taken by military, naval or air forces in resisting an actual or an immediately impending enemy attack; 2. invasion; 3. insurrection; 4. rebellion; 5. revolution; 6. civil war; 7. usurped power; 8. order of any civil authority except acts of destruction at the time of and for the purpose of preventing the spread of fire, provided that such fire did not originate from any of the perils excluded by this policy; 9. neglect of the insured to use all reasonable means to save and preserve the property at and after a loss, or when the property is endangered by fire in neighboring premises; 10. nor shall this company be liable for loss by theft.

(d) *Other insurance.* Other insurance may be prohibited or the amount of insurance may be limited by endorsement attached hereto.

(e) *Conditions suspending or restricting insurance.* Unless otherwise provided in writing added hereto this Company shall not be liable for loss occurring:

1. While the hazard is increased by any means within the control or knowledge of the insured; or
2. While a described building, whether intended for occupancy by owner or tenant, is vacant or unoccupied beyond a period of sixty consecutive days; or
3. As a result of explosion or riot, unless fire ensue, and in that event for loss by fire only.

(f) *Other perils or subjects.* Any other peril to be insured against or subject of insurance to be covered in this policy shall be by endorsement in writing hereon or added hereto.

(g) *Added provisions.* The extent of the application of insurance under this policy and of the contribution to be made by this Company in case of loss, and any other provision or agreement not inconsistent with the provisions of this policy, may be provided for in writing added hereto, but no provision may be waived except such as by the terms of this policy is subject to change.

(h) *Waiver provisions.* No permission affecting this insurance shall exist, or waiver of any provision be valid, unless granted herein or expressed in writing added hereto. No provision, stipulation or forfeiture shall be held to be waived by any requirement or proceeding on the part of this Company relating to appraisal or to any examination provided for herein.

(i) *Mortgagee interests and obligations.* If loss hereunder is made payable, in whole or in part, to a designated mortgagee not named herein as the insured, such interest in this policy may be cancelled by giving to such mortgagee a ten days' written notice of cancellation. If the insured fails to render proof of loss such mortgagee, upon notice, shall render proof of loss in the form herein specified within sixty (60) days thereafter and shall be subject to the provisions hereof relating to appraisal and time of payment and of bringing suit. If this Company shall claim that no liability existed as to the mortgagor or owner, it shall, to the extent of payment of loss to the mortgagee, be subrogated to all mortgagee's rights of recovery, but without impairing mortgagee's right to sue; or it may pay off the mortgage debt and require an assignment thereof and of the mortgage. Other provisions relating to the interests and obligations of such mortgagee may be added hereto by agreement in writing.

(j) *Pro rata liability.* This company shall not be liable for a greater portion of any loss than the amount hereby insured shall bear to the whole insurance covering the property against the peril involved, whether collectible or not.

(k) *Requirements in case loss occurs.* The insured shall give written notice as soon as reasonably possible to this Company of any loss, protect the property from further damage, forthwith separate the damaged and undamaged personal property, put it in the best possible order, furnish a complete inventory of the destroyed, damaged and undamaged property, showing in detail quantities, costs, actual cash value and amount of loss claimed; and within sixty days after the loss, unless such time is extended in writing by this Company, the insured shall render to this Company a proof of loss signed and sworn to by the insured, stating the knowledge and belief of the insured as to the following: the time and origin of the loss, the interest of the insured and of all others in the property, the actual cash value of each item thereof and the amount of loss thereto, all encumbrances thereon, all other contracts of insurance, whether valid or not, covering any of said property, any changes in the title, use, occupation, location, possession or exposures of said property since the issuing of this property, by whom and for what purpose any building herein described and the several parts thereof were occupied at the time of loss and whether or not it then stood on leased ground, and shall furnish a copy of all the descriptions and schedules in all policies and, if required, verified plans and specifications of any building, fixtures or machinery destroyed or damaged. The insured, as often as may be reasonably required, shall exhibit to any person designated by this Company all that remains of any property herein described, and submit to examinations under oath by any person named by this Company, and subscribe the same; and, as often as may be reasonably required, shall produce for examination all books of account, bills, invoices and other vouchers, or certified copies thereof if originals be lost, at such reasonable time and place as may be designated by this Company or its representative, and shall permit extracts and copies thereof to be made.

(L) *Appraisal.* In case the insured and this Company shall fail to agree as to the actual cash value or the amount of loss, then, on the written demand of either, each shall select a competent and disinterested appraiser and notify the other of the appraiser selected within twenty days of such demand. The appraisers shall first select a competent and disinterested umpire; and failing for fifteen days to agree upon such umpire, then, on request of the insured or this Company, such umpire shall be selected by a judge of a court of record in the state in which the property covered is located. The appraisers shall then appraise the loss, stating separately actual cash value and loss to each item; and, failing to agree, shall submit their differences, only, to the umpire. An award in writing, so itemized, of any two when filed with this Company shall determine the amount of actual cash value and loss. Each appraiser shall be paid by the party selecting him or her and the expenses of appraisal and umpire shall be paid by the parties equally.

(m) *Company's options.* It shall be optional with this Company to take all, or any part, of the property at the agreed or appraised value, and also to repair, rebuild or replace the property destroyed or damaged with other of like kind and quality within a reasonable time, on giving notice of its intention so to do within thirty days after the receipt of the proof of loss herein required.

(n) *Abandonment.* There can be no abandonment to this Company of any property.

(o) *When loss payable.* The amount of loss for which this Company may be liable shall be payable sixty days after proof of loss, as herein provided, is received by this Company and ascertainment of the loss is made either by agreement between the insured and this Company expressed in writing or by the filing with this Company of an award as herein provided.

(p) *Suit.* No suit or action on this policy for the recovery of any claim shall be sustainable in any court of law or equity unless all the requirements of this policy shall have been complied with, and unless commenced within 12 months next after inception of the loss.

(q) *Subrogation.* This Company may require from the insured an assignment of all right of recovery against any party for loss to the extent that payment therefor is made by this Company.

History: Cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (3) (a), Register, November, 1978, No. 275, eff. 12-1-78.

Ins 6.77 Exemption from mid-term cancellation requirements. (1) **PURPOSE.** This section is intended to exempt certain classes of insurance contracts from s. 631.36 (2) (a), (b) and (c), Stats. This section implements the provisions of ss. 631.01 (5) and 631.36 (1) (c), Stats.

(2) **SCOPE.** This section applies to all insurers authorized to write umbrella or excess liability insurance policies in Wisconsin and to all insurers authorized to write aircraft insurance policies in Wisconsin.

(3) **DEFINITIONS.** (a) "Aircraft insurance" has the meaning given in s. Ins 6.75 (2) (e).

(ac) "Application form" means a policy form that is designated an application by the insurer and that is filed with the office of the commissioner of insurance under s. 631.20, Stats.

(b) "Excess liability policy" means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying liability insurance coverage.

(c) "Umbrella liability policy" means an insurance contract providing at least \$1,000,000 of liability coverage per person or per occurrence in excess of certain required underlying liability insurance coverage or a specified amount of self-insured retention.

(d) "War risks coverage" means insurance coverage provided under an aircraft insurance policy for bodily injury, mental anguish, medical expense, or damage or loss to the covered aircraft or a third party's property caused by declared or undeclared

war, invasion, rebellion, insurrection or warlike operations or by an attempt to or the actual seizure or detention of an aircraft by any government, military, naval, or usurped power.

(4) **EXEMPTION.** (a) Any umbrella liability or excess liability insurance policy is exempt from the requirements of s. 631.36 (2) (a), Stats.

Note: Section 632.32 (4), Stats., refers to the requirements as amended by 2009 Wisconsin Act 28.

(d) A war risks coverage provision of an aircraft insurance policy is exempt from the requirements of s. 631.36 (2) (b) and (c), Stats.

(5) **NOTICE.** (a) An insurer cancelling any umbrella liability policy or excess liability policy shall notify the commissioner of the grounds for such cancellation not later than the time at which the insurer notifies the policyholder of such cancellation. Insurers shall provide notice to the insured as set forth in s. 631.36 (2) (b), Stats.

(b) No cancellation under s. 631.36 (2) (a), Stats., of any war risks coverage contained in an aircraft insurance policy is effective until at least 7 days after the 1st class mailing or delivery of a written notice to the policyholder.

History: Emerg. cr. eff. 7-1-77; cr. Register, November, 1977, No. 263, eff. 12-1-77; am. (1), (4) and (5), Register, May, 1987, No. 377, eff. 6-1-87; am. (1) and (2), renum. (3) (a), (4) and (5) to be (3) (c), (4) (a) and (5) (a), cr. (3) (a) and (d), (4) (b) and (5) (b), Register, July, 1990, No. 415, eff. 8-1-90; CR 06-117: am. (1), (2) and (4) (a), cr. (3) (ac), (ag), (am) and (bm), (4) (b) and (c) and (6), renum. (4) (b) to be (4) (d), Register June 2007 No. 618, eff. 7-1-07; correction in (1) made under s. 13.92 (4) (b) 7., Stats., Register January 2010 No. 649; EmR0918: emerg. am. (1), (2), (4) (a), (b) and (6), r. (3) (ag) and (4) (c), cr. (4) (am), eff. 11-1-09; CR 09-097: am. (1), (2), (4) (a) and (6), r. (3) (ag) and (4) (c), cr. (4) (am) Register April 2010 No. 652, eff. 5-1-10; correction in (1) and (4) (a) made under s. 13.92 (4) (b) 7., Stats., Register, January, 2012 No. 673; CR 15-032: am. (title), (1), (2), r. (3) (am), (bm), (4) (am), (b), and (6) Register November 2015 No. 719, eff. 12-1-15; correction in (1), (2) made under s. 35.17, Stats., Register November 2015 No. 719.

Ins 6.78 Exemption from filing of rates. (1) **PURPOSE.** The purpose of this section is to exempt from the filing requirements of s. 625.13, Stats., those rates for risks which have been customarily written on a consent-to-rate basis and certain title insurance rates, it having been determined that such filing is not necessary to protect policyholders and the public. This rule implements and interprets ss. 625.04, 625.13, and 625.15, Stats.

(2) **SCOPE.** This section applies to the following lines or classes of insurance:

(a) The classes specified in s. Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (L), (m), and (n).

(b) Individual rate modifications that are a reduction from the filed title insurance rate.

(3) **EXEMPT FILINGS.** If a specific risk in a line or class of insurance set forth in sub. (2) (a) is of the type which is customarily written on a consent-to-rate basis wherein the insured agrees to accept a rate that is different from the insurer's filed rates, the consent-to-rate shall not be filed with the commissioner, provided:

(a) The insurer keeps for at least 1 year after the expiration date of the policy;

1. Record of the rate development; and

2. The written application signed by the insured stating the insured's reason for requesting the rate.

(b) Prior to entering into such insurance agreements in Wisconsin the insurer has notified the commissioner of insurance of its intention so to do, identifying the contemplated lines and classes of insurance.

(4) **EXEMPT FILING.** If a title insurance rate as set forth in sub. (2) (b) is a downward deviation of an existing filed rate, the rate shall not be filed with the commissioner provided that all of the following apply:

(a) The insurer keeps for at least five years after the inception date of the policy the following information:

1. The filed rate and premium and the deviated rate and premium;

2. The effective date of the policy and the location and description of the risk;
3. The reason for the deviation; and
4. A record of the deviated rate development.

(b) Prior to entering into such insurance agreements in Wisconsin, the insurer has notified the commissioner of its intentions to do so, identifying the contemplated rate deviation program.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; am. (1), (2) and (3) (intro.), cr. (4), Register, February, 1993, No. 446, eff. 3-1-93; reprinted to restore dropped copy in (3), Register, May, 1993, No. 449.

Ins 6.785 Exemption from rate filing requirements.

(1) PURPOSE. This section is intended to exempt certain classes of property and casualty rates from the rate filing requirements. This section implements and interprets ss. 625.04, 625.13 and 625.15, Stats.

(2) SCOPE. This section applies to the lines or classes of insurance which are listed in s. Ins 6.75 (2) (a), (d), (e), (f), (g), (h), (i), (j), (L), (m) and (n) of direct insurance written on risks or operations in this state subject to s. 625.03, Stats., and which are exempted under the consent-to-rate provision of s. Ins 6.78.

(3) FINDINGS. The commissioner of insurance finds that for certain classes of business certain risks within other classes of business and certain situations, the rate filing requirements set forth in s. 625.13, Stats., are unnecessary to achieve the purposes of ch. 625, Stats. The commissioner bases this finding on the following reasons:

(a) The manual rate, classification or form is inappropriate because it does not adequately reflect the exposure represented by the risk;

(b) The risk is so different from other risks that no single manual rate or classification could be representative of all such risks;

(c) The risk belongs to a classification that does not develop enough experience to warrant sufficient credibility for rate-making purposes; or

(d) The risk involves a new product or coverage as to which there are no appropriate analogous exposures for rate-making purposes.

(4) RATE FILING EXEMPTION. The following rates shall not be filed with the commissioner by the insurer or rate service organization on behalf of the insurer provided the insurer complies with sub. (7):

(a) The rate for an individual risk written under a rating rule class filed with the commissioner which must be accompanied by a certification by a qualified actuary that the rate under the rating rule class cannot be objectively rated for at least one of the following reasons:

1. The class generates insufficient loss experience to be reliably used in rating;
2. The class loss experience is so volatile as to make it unreliable;
3. Prospective losses for this class are likely to change rapidly and unpredictably; or
4. Risks within the class are so dissimilar that a single rate would not be representative of all risks in the class.

(b) Rates for excess liability insurance provided in an amount not less than \$1,000,000 in excess of a specified retained limit provided such retained limit is not less than:

1. \$350,000 per occurrence as respects those exposures covered by underlying insurance; or
2. \$10,000 per occurrence as respects those exposures not covered by underlying insurance.

(c) Rates for risks developing annual products liability and completed operations insurance premiums of \$5,000 or more at the basic limit.

(d) Rates for risks developing annual increased limits written premium determined by customary rating procedures of \$5,000 or more.

(e) Rates for risks developing \$100,000 or more annual manual basic limit premium individually or in any combination of general liability insurance, commercial automobile, crime or glass.

(f) Rates for liability insurance increased limits if the risk is reinsured on a facultative basis.

(g) Rates for an adjustment of the aggregate limit of general liability insurance at any time during the policy period.

(h) Rates for coverage which is materially broader or more restrictive than the coverage upon which the manual rate is based.

(5) UTILIZATION OF RATE FILING EXEMPTION. An insurer or a rate service organization wishing to utilize the rate filing exemption or modification granted by sub. (4) shall have on file with the commissioner rating rules pertaining to the situations described in sub. (4).

(6) DISAPPROVAL OF FILED RULES. If the commissioner determines that a rating rule does not meet the rate standards set forth in s. 625.11, Stats., the commissioner may exercise the authority granted by s. 625.22, Stats., and disapprove the rate.

(7) INSURER RECORDS. An insurer using a rate subject to the exemption granted by sub. (4) shall maintain separate records and documentation for a period of 3 years after the rate is no longer used. This documentation shall include all details of the factors used in determining the rate or classification for a particular risk, including conditions used to qualify a rate for an exemption under sub. (4). The insurer shall provide these records to the commissioner upon request.

History: Emerg. cr. eff. 8-3-92; cr. Register, February, 1993, No. 446, eff. 3-1-93.

Ins 6.79 Advisory councils and committees.

(1) PURPOSE. The purpose of this section is to delineate the process by which the commissioner may create advisory councils and committees under s. 15.04 (1) (c), Stats., to assist in dealing with regulatory problems pursuant to s. 601.20, Stats., and may include assistance with rule-making pursuant to s. 227.13, Stats.

(2) DUTIES. Each council or committee shall advise the commissioner on matters relating to specific issues or subjects presented to the members for study and review by the commissioner of insurance.

(3) EXPENSE REIMBURSEMENT. Members of the councils and committees shall receive no salary or compensation for service on the councils or committees but shall be reimbursed for their actual and necessary expenses in attending meetings or while performing other duties as directed by the commissioner.

(4) MEETINGS. The councils or committees shall meet as needed or at such times as requested by the commissioner.

(5) MEMBERSHIP. For each council or committee created by the commissioner, membership may not exceed 15 members and shall be representative of the various interested parties and include persons who possess expertise or interest on the issue or topic of the council or committee.

(6) CHAIRS. The commissioner shall appoint the chair, unless the commissioner authorizes a different process for selection. The commissioner shall appoint an employee of the office as a non-voting member to assist the council or committee with its duties. The commissioner or a designee shall keep a record of all proceedings, transactions, communications, and other official acts of the councils and committees. The commissioner or a designee appointed by the commissioner shall serve as a voting member when the council or committee is convened in accordance with s. 15.04 (1) (c), Stats. The files and records of the councils and committees shall be maintained at the office of the commissioner of insurance.

(7) TERM. Members of the councils and committees serve at the pleasure of the commissioner.

History: Cr. Register, January, 1980, No. 289, eff. 2-1-80; correction in (1) under s. 13.93 (2m) (b) 7., Stats., Register, September, 1984, No. 348; r. (2) (c), Register, November, 1991, No. 431, eff. 12-1-91; correction in (1) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530; CR 08-064: r. and recr. Register December 2008 No. 636, eff. 1-1-09.

Ins 6.80 Retention of records. (1) PURPOSE. The purpose of this section is to establish standards for record retention by insurers and other persons subject to the regulation of the commissioner.

(2) SCOPE. (a) This section shall apply to all insurers licensed under chs. 611, 612, 613, 614, and 618, Stats., and including the Local Property Insurance Fund, the State Life Insurance Fund, and the State Indemnity Fund.

(b) The following sections also apply:

1. Section **Ins 1.01 (3)** applies to fraternal.

2. Sections **Ins 2.07 (5) (a) 2. d.** and **(b) 2. b.** apply to life insurance.

Note: Sections **Ins 2.07 (5) (a) 2. d.** and **(b) 2. b.** do not exist. Section **Ins 2.07** was repealed and recreated eff. 3-1-82.

3. Section **Ins 3.25 (9) (d)** applies to credit life and accident and sickness insurance.

4. Section **Ins 3.27 (28)** applies to disability insurance.

5. Section **Ins 6.17 (3) (c)** and **(d)** apply to surplus lines.

6. Sections **Ins 6.30 (2) (a) 1. e.**, **6.30 (3) (a) 3. e.**, **(4) (a) 2. e.** and **(5) (a) 3.** apply to property and casualty insurers.

7. Section **Ins 6.55 (5) (b)** applies to all insurers.

8. Section **Ins 6.61** applies to intermediaries.

9. Section **Ins 8.09** applies to employee welfare funds.

10. Sections **Ins 8.65 (4)** and **8.69 (6)** apply to small employer insurers.

(3) DEFINITIONS. (a) "Domestic insurer" has the meaning set forth in s. **600.03 (17)**, Stats.

(b) "Insurer" has the meaning set forth in s. **600.03 (17)**, Stats.

(c) "Nondomestic insurer" has the meaning set forth in s. **600.03 (32)**, Stats.

(d) "Hard copy" means any information which is procured from an alternate storage facility such as microfilm, microfiche or electronic data processing and reproduced into proper form.

(4) DOMESTIC INSURERS. (a) Corporate records such as minute books, articles and by-laws, and stock and membership records shall be retained as permanent records.

1. General ledgers shall be retained as permanent records.

2. Rate books, agents' handbooks, underwriting manuals, specimen forms, and related actuarial material, as well as reinsurance contracts, shall be retained as long as the related insurance coverage remains in force.

(b) Records of insurance company operations and other financial records reasonably related to insurance operations for the preceding 3 years shall be maintained and be available to the commissioner.

(c) Records maintained under par. (b) may be in written form or in any other form capable of being converted to written form within a reasonable period of time.

1. Original documents, such as claim files, invoices, cancelled checks, underwriting information and other similar materials may be maintained on microfilm or microfiche so long as the records thus maintained are readily available to the commissioner and can be reproduced in hard copy.

2. Accounting records, policy master files, reserve inventories, and other similar records normally produced in hard copy may be maintained on electromagnetic tape provided such tapes are preserved and that the company can and will reproduce the appropriate hard copy within a reasonable period of time at the request of the commissioner.

(d) The statutes of limitations, escheat laws, and statutes regarding minors of the various jurisdictions in which the insurer does business shall control the retention of pertinent records, other than permanent records, beyond the period mentioned in par. (b). These records may include, but shall not be limited to, claims files, supplementary contract files, records of uncashed checks, and underwriting files.

(e) Subject to this rule and applicable statutes and rules or regulations of this and other jurisdictions in which the insurer is licensed to do business, the insurer may set its retention of records to conform to its storage facilities.

(5) NONDOMESTIC INSURERS. (a) Records with regard to insurance company operations in the state of Wisconsin for the preceding 3 years shall be maintained in the form specified under sub. (4) and be available to the commissioner, or the insurance regulatory agency of the insurer's state of domicile.

(b) The requirements of this rule pertaining to an insurer's operations in the state of Wisconsin may be met by compliance with the record retention law of its state of domicile. If no such law or regulation exists, an insurer may comply with this rule by presenting a statement attesting to the fact that its record retention system is acceptable to its state of domicile.

(7) PENALTY. Violations of this rule by any person shall subject the person to the penalties set forth in s. **601.64**, Stats.

(8) EFFECTIVE DATE. As provided in s. **227.22 (2) (intro.)**, Stats., this rule shall take effect on the first day of the month following its publication.

History: Cr. Register, June, 1981, No. 306, eff. 7-1-81; r. (6) under s. 13.93 (2m) (b) 16., Stats., Register, December, 1984, No. 348; correction in (8) made under s. 13.93 (2m) (b) 7., Stats., Register, May, 1987, No. 377; cr. (2) (b) 10., Register, November, 1993, No. 455, eff. 2-1-94; corrections in (3) made under s. 13.93 (2m) (b) 7., Stats., Register, February, 2000, No. 530; correction in (2) (b) 5. and 6. made under s. 13.93 (2m) (b) 7., Stats., Register January 2002 No. 553; correction in (2) (a) made under s. 13.92 (4) (b) 7., Stats., Register August 2014 No. 704.

Ins 6.85 Notification of a person's right to file a complaint with the commissioner. (1) PURPOSE. This section interprets and implements s. **631.28**, Stats., by specifying the contents of a notice insurers must provide to insureds about their right to file a complaint with the office of the commissioner of insurance. This section also describes when and the manner in which such notice must be provided.

(2) SCOPE. This section applies to all policies or certificates in force, issued or renewed in Wisconsin on or after the effective date of this section.

(3) DEFINITIONS. For purposes of this section, "insured" means the policyholder for individual policies and both the group policyholder and certificate holder for group policies.

(4) NOTICE FORMAT. Every insurer shall disclose the insured's right to contact the office of the commissioner of insurance regarding an insurance problem by providing a notice which shall:

(a) Be in the form as prescribed in Appendix I or for policies subject to sub. (5) (d) in form as prescribed in Appendix 2;

(b) Include the issuer's address, toll free phone number, if available, and phone number in no less than 12-point type and bold print.

Note: The language in sub. (4) (b) applies to notices sent on or after March 1, 1995.

(c) Be in no less than 10-point type; and

(d) Have the phrase "KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS," "PROBLEMS WITH YOUR INSURANCE?" in Appendix I and the "OFFICE OF THE COMMISSIONER OF INSURANCE" in Appendices I and 2 capitalized and in bold lettering.

(5) NOTICE DELIVERY. (a) For policies issued prior to the effective date of this section, except for policies included under pars. (c) and (d):

1. The notice shall be provided on or before the insured's first renewal date after the effective date of this section or within one year after the effective date of this section, whichever is earlier, with a separate notice to the insured; or

2. For single premium policies, a separate notice shall be provided on or before the insured's next anniversary date or within

one year after the effective date of this section, whichever is earlier.

(b) For policies or certificates issued on or after the effective date of this section, except for policies included under pars. (c) and (d), a separate notice shall be provided at the time the policy or certificate is issued.

(c) For surety and title insurance policies the notice must be given as a separate notice to each claimant at the time a claim is denied.

(d) For policies subject to s. 632.83, Stats., the insurer shall either give notice in the form as prescribed in Appendix 2 and as specified in pars. (a) and (b) or may include the language in Appendix 2 as part of the grievance procedure language in the policy and certificates issued after the effective date and, for policies issued prior to the effective date, provide a policy or certificate amendment on or before the first renewal date after the effective date or within one year after the effective date of this section, whichever is earlier.

History: Emerg. cr. eff. 2-1-93; cr. Register, February, 1993, No. 446, eff. 3-1-93; correction in (5) (d), Register, April, 1993, No. 448, eff. 5-1-93; am. (4) (b) and Appendix, Register, January, 1995, No. 469, eff. 2-1-95; correction in (5) (d) made under s. 13.93 (2m) (b) 7., Stats., Register January 2002 No. 553.

Ins 6.90 Prohibited uses of senior-specific designations. (1) **PURPOSE.** The purpose of this rule is to set forth standards to protect consumers from advertising and trade practices that are deceptive, misleading, or restrain competition unreasonably, with respect to the use of senior-specific certifications and professional designations in the advertising, solicitation, sale or purchase of, or advice made in connection with, life or health insurance, or an annuity product.

(2) **AUTHORITY.** (a) This rule is adopted pursuant to the Office of the Commissioner of Insurance's authority under ss. 601.42 (3) and 628.34 (12), Stats.

(b) Nothing in this rule shall limit the commissioner's authority to enforce existing provisions of law.

(3) **SCOPE.** This rule shall apply to any advertising, solicitation, or sale or purchase of, or advice made in connection with, a life or health insurance policy, or annuity product by an insurance producer.

(4) **DEFINITIONS.** In this section:

(a) "Advertising" means all of the following:

1. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and television scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of recruiting employees, intermediaries or agencies.

2. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third party for presentation to members of the public, including circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written.

3. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employees or intermediaries; and

4. Packaging, including envelopes, used in connection with subds. 1., 2., and 3.

5. "Advertising" does not include a policy summary as defined in s. Ins 2.14 (3) (f), the "life insurance buyer's guide" as

set forth in s. Ins 2.14 (3) (d), an illustration as defined in s. Ins 2.17 (3) (i), a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and the "Wisconsin Buyer's Guide to Annuities" as defined in s. Ins 2.15 (4) (c).

(b) "Health insurance" includes any policy of individual or group sickness and accident insurance, long term care insurance, Medicare advantage, Medicare supplement, and Medicare part D.

(c) "Insurance producer" means a person required to be licensed under chs. 600 to 655, Stats., to advertise, sell, solicit or negotiate insurance, including life insurance, health insurance and annuities.

(5) **PROHIBITED USES OF SENIOR-SPECIFIC CERTIFICATIONS AND PROFESSIONAL DESIGNATIONS.** (a) It is an unfair and deceptive trade practice under s. 628.34 (12), Stats., for an insurance producer to use a senior-specific certification or professional designation that indicates or implies in such a way as to mislead a purchaser or prospective purchaser that the insurance producer has special certification or training in advising or providing services to seniors in connection with the advertising, solicitation, sale, or purchase of a life or health insurance policy, or annuity product or in the provision of advice as to the value of or the advisability of purchasing or selling a life or health insurance policy or annuity product, either directly or indirectly, through publications or writings, or by issuing or promulgating analyses or reports related to a life or health insurance policy or annuity product as follows:

1. Use of a certification or professional designation by an insurance producer who has not actually earned or is otherwise ineligible to use such certification or designation.

2. Use of a nonexistent or self-conferred certification or professional designation.

3. Use of a certification or professional designation that indicates or implies a level of occupational qualifications obtained through education, training or experience that the insurance producer using the certification or designation does not have.

4. Use of a certification or professional designation that was obtained from a certifying or designating organization that:

a. Is primarily engaged in the business of instruction in sales or marketing; or

b. Does not have reasonable standards or procedures for assuring the competency of its certificants or designees; or

c. Does not have reasonable standards or procedures for monitoring and disciplining its certificants or designees for improper or unethical conduct; or

d. Does not have reasonable continuing education requirements for its certificants or designees in order to maintain the certificate or designation.

(b) There is a rebuttable presumption that a certifying or designating organization is not disqualified solely for the purposes of par. (a) 4., when the certification or designation issued from the organization does not primarily apply to sales or marketing and when the organization or the certification or designation in question has been accredited by:

1. The American National Standards Institute (ANSI);

2. The National Commission for Certifying Agencies; or

3. Any organization that is on the U.S. Department of Education's list entitled "Accrediting Agencies Recognized for Title IV Purposes."

(c) In determining whether a combination of words or an acronym standing for a combination of words constitutes a certification or professional designation indicating or implying that a person has special certification or training in advising or servicing seniors, factors to be considered shall include:

1. Use of one or more words such as "senior," "retirement," "elder," or like words combined with one or more words such as "certified," "registered," "chartered," "advisor," "specialist,"

“consultant,” “planner,” or like words, in the name of the certification or professional designation; and

2. The manner in which those words are combined.

(d) 1. For purposes of this section, a job title within an organization that is licensed or registered by a state or federal financial services regulatory agency is not a certification or professional designation, unless it is used in a manner that would confuse or mislead a reasonable consumer, when the job title:

- a. Indicates seniority or standing within the organization; or
- b. Specifies an individual’s area of specialization within the organization.

2. For the purpose of this paragraph, financial services regulatory agency includes an agency that regulates insurers, insurance producers, broker-dealers, investment advisers, or investment companies as defined under the Investment Company Act of 1940 (15 USC 2d).

(6) PENALTIES. A violation of this section is an unfair and deceptive trade practice under s. 628.34 (12), Stats., and shall subject the violator to ss. 601.41, 601.62, 601.64, 601.65 and 628.10, Stats.

History: CR 09-038; cr. Register January 2010 No. 649, eff. 2-1-10.

Ins 6.91 Definitions. In addition to the definitions in s. 628.90, Stats., for the purposes of ss. Ins 6.91 to 6.99 the following apply:

(1) “Business checking account” means any account utilized by a navigator, navigator entity, nonnavigator assister or nonnavigator assister entity in their capacity as a navigator, nonnavigator assister or related entity and in transacting of the business of insurance.

(2) “Cash disbursed record” means a record showing all monies paid out by the navigator, navigator entity, nonnavigator assister or nonnavigator assister entity in their capacity as a navigator, nonnavigator assister or related entity in transacting the business of insurance.

(3) “Cash receipts record” means a record showing all monies received by the navigator, navigator entity, nonnavigator assister or nonnavigator assister entity in their capacity as a navigator, nonnavigator assister or related entity and in transacting the business of insurance.

(4) “Certified application counselors” means a person who is a nonnavigator assister who is not an in-person assister and who is employed, supervised or affiliated with a registered nonnavigator assister entity.

(5) “Commissioner” means the commissioner of insurance.

(6) “Formal administrative action” includes consent decrees, cease and desist orders, stipulations, suspensions, revocations, license denials, fines, forfeitures, settlement agreements, navigator license restrictions or other actions limiting the navigator’s method of transacting the business of insurance.

(7) “Insurance agent” means an “intermediary” as defined in s. 628.02 (4), Stats.

(8) “Navigator entity” means an entity or organization that employs, supervises or is affiliated with, one or more licensed navigators; is designated by the exchange as a navigator, works on behalf of the exchange, and receives federal navigator grant funding; and is registered with the commissioner.

(9) “Nonnavigator assister entity” means an entity or organization that employs, supervises or is affiliated with one or more nonnavigator assisters including certified application counselors; is designated by and works on behalf of the exchange, enters into an agreement with the exchange; and is registered with the commissioner.

(10) “Personnel records” means those records pertaining to anyone who is employed by, supervised by or affiliated with a navigator entity or nonnavigator assister entity including independent contractors.

(11) “Policyholder records” means all records, applications, request for coverage changes, and coverage complaints associated with a policy generated by or through the navigator, navigator entity, certified application counselor or nonnavigator assister entity.

History: EmR1314; emerg. cr. eff. 9-10-13; CR 13-113; cr. Register August 2014 No. 704, eff. 9-1-14.

Ins 6.92 Individual navigators. (1) PURPOSE. This section protects insurance consumers by establishing procedures for the licensing of navigators when transacting the business of insurance, prescribing minimum standards and requirements to ensure timely and reliable information will exist and be available to the commissioner. This section implements and interprets ss. 628.095, 628.097, 628.10, 628.90 to 628.95, Stats., as applicable.

(2) PROCEDURE. (a) *Application for navigator license.* An individual applying for a navigator license shall submit an application to the office in the form prescribed by the commissioner. A completed application shall include: the navigator’s name; the navigator’s residence; mailing and business addresses; confirmation of successful completion of prelicensing training; fingerprints provided in a format specified by the commissioner to complete; an electronic confirmation of criminal history from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation completed not more than 180 days prior to the licensing examination date; payment of the non-refundable fees to the testing vendor; an electronic photograph of the applicant taken by the test vendor at the time of testing; confirmation of previous navigator licensure in another state, if applicable; payment of the fee under s. 601.31 (1) (nm), Stats.; proof of financial responsibility under sub. (7); and any documentation required in answer to questions on the application.

Note: A copy of the navigator license application form OCI 11-090, required in par. (a), may be obtained at no cost from the Office of the Commissioner of Insurance at 125 S. Webster Street, Madison WI 53703, or at the Office’s web address: oci.wi.gov.

(b) *Prelicensing Training.* An individual seeking a navigator license, in addition to any training requirements of the federal government, shall complete at least 16 hours of commissioner-approved navigator prelicensing training. Training required under this subsection must be approved by the commissioner and provided by an education provider that is approved by the commissioner.

(c) *Scheduling the navigator licensing examination.* An applicant must schedule an examination with the testing vendor at least twenty-four hours prior to the desired navigator licensing examination date. The written examination will test the applicant’s knowledge of the duties and responsibilities of a navigator; the insurance laws and regulations of this state; and the state’s public assistance programs and eligibility. The written examination shall be approved by the commissioner and offered through a commissioner-approved testing vendor.

(d) *Exception.* 1. An insurance agent who holds an active resident license with the accident and health line of authority and is in compliance with continuing education requirements may apply to be licensed as a navigator if the currently licensed insurance agent demonstrates all of the following:

a. Compliance as set forth in s. 628.92 (1), Stats., including competence and trustworthiness.

b. Satisfactory completion of 4 hours of navigator training specific to public assistance programs, including Medicaid, in addition to the completion of any federally required navigator training and compliance with federal restrictions and requirements including those set forth in 45 CFR 155.205 (d), 155.210, 155.215 (b) and (c), and 155.260 (b), as amended. The state training required under this subsection must be approved by the commissioner and provided by an education provider that is approved by the commissioner.

2. A currently licensed insurance agent who is in compliance with subd. 1. is exempt from passing the navigator examination

and photograph requirements described in par. (a). The currently licensed insurance agent shall provide new fingerprints unless the office has received current, valid fingerprint results provided in a format specified by the commissioner and an electronic confirmation of criminal history from the Wisconsin department of justice, crime information bureau, and the federal bureau of investigation that were completed not more than 180 days prior to the date of the application. The currently licensed insurance agent shall submit a completed application as described in par. (a) and pay the licensing fee in accordance with s. 601.31 (1) (nm), Stats., to the commissioner.

(e) *Issuance of license.* The commissioner shall issue a navigator license to an applicant who completes and satisfies the requirements in pars. (a) and (b), in addition to any federal training or requirements including the requirements set forth in 45 CFR 155.205 (d), 155.210, 155.215 (b) and (c), and 155.260 (b), as amended, has passed the commissioner-approved written examination with a satisfactory grade, and meets the standards of competence and trustworthiness as described in sub. (3). Examination scores are valid for 180 days. Failure to apply for a license within 180 days will require the applicant to re-take the examination. Determination of the acceptance or rejection of a completed application shall be made within 90 days of receipt by the commissioner of the completed application, which is tolled until receipt of any additional required or requested documentation.

(3) **COMPETENCE AND TRUSTWORTHINESS.** The following criteria may be used by the commissioner in assessing trustworthiness and competence of a navigator; failure to meet trustworthiness and competence is cause for denial, suspension or revocation of a license:

(a) *Criminal record.* The conviction for crimes which are substantially related to the circumstances of holding an insurance or navigator license, including a felony or misdemeanor conviction under the law of Wisconsin or any other state or under federal law.

(b) *Accuracy of information.* Any material misrepresentation in the information submitted on the application form.

(c) *Regulatory action.* Any formal regulatory action taken in any jurisdiction with regard to any occupational license held, such as insurance licenses in other states, real estate licenses and security licenses.

(d) *Other criteria.* Other criteria which the commissioner considers evidence of untrustworthiness or incompetence, including:

1. Providing incorrect, misleading, incomplete or materially untrue information in the licensing application.
2. Violating any insurance laws, or violating any regulation, subpoena or order of the insurance commissioner or of another state's insurance commissioner, or of the federal government.
3. Obtaining or attempting to obtain a license through misrepresentation or fraud;
4. Improperly withholding, misappropriating or converting any monies or properties received in the course of acting as a navigator or insurance agent.
5. Intentionally misrepresenting the terms of an actual or proposed insurance contract or application for insurance.
6. Having admitted or been found to have committed any insurance unfair trade practice or fraud.
7. Using fraudulent, coercive, or dishonest practices in the conduct of business in this state or elsewhere.
8. Demonstrating incompetence, untrustworthiness or financial irresponsibility in the conduct of personal financial transactions or professional business in this state or elsewhere.
9. Having an insurance producer license, or its equivalent, denied, suspended, or revoked in any other state, province, district or territory.
10. Forging another's name to an application for insurance or to any document related to an insurance transaction.

11. Improperly using notes or any other reference material to complete an examination for an insurance or navigator license.

12. Failing to comply with an administrative or court order imposing a child support obligation.

13. Failing to pay state income tax or comply with any administrative or court order directing payment of state income tax.

(e) *Minimum Age and Residency.* An applicant for navigator licensure shall have attained at least eighteen (18) years of age and shall be a resident of this state or maintain his or her principal place of business in this state.

(4) **CHANGE OF NAME OR ADDRESS.** (a) A licensed navigator shall, within 30 days, notify the commissioner in writing of any change in the navigator's name, residence address, principal place of business, and mailing address.

(b) A navigator who is not employed or supervised by or affiliated with a navigator entity and changes residency to a location outside of this state or changes his or her principal place of business to an address outside this state and is not a resident of this state shall have his or her navigator license terminated effective 60 days after the change of address.

(c) Criteria used by the commissioner to evaluate state residency shall include:

1. Jurisdiction for payment of state taxes.
2. Jurisdiction for automobile driver's license and motor vehicle registration.
3. Location of voter registration.
4. Location of principal residence, such as owned or rented dwelling, condominium, or apartment.
5. Location of principal place of business.

(5) **APPLICABILITY OF OTHER LAWS.** Licensed navigators are subject to the requirements contained at ss. 628.095, 628.097, and 628.10, Stats., as applicable to individual navigators.

(6) **LICENSE RENEWALS.** (a) The nonrefundable renewal fee of \$35.00 is due before October 1 of each year. The commissioner shall send notice of the renewal fee by 1st-class mail to the mailing address on file at least 60 days prior to the fee due date to each navigator. Applications for navigator license renewal shall be submitted before the October 1 renewal deadline. The navigator shall provide proof financial responsibility under sub. (7).

(b) An individual navigator is required to complete at least 8 hours of accident and health insurance continuing education training before October 1 of each year. Training must be completed prior seeking annual renewal of a navigator license. Recurring training shall be completed and reported at a rate of not less than 8 hours each 12 months of each compliance period. Training required under this subsection must be approved by the commissioner and provided by an education provider that is approved by the commissioner.

(c) Any navigator whose license is revoked for failing to pay renewal fees, failing to complete required annual navigator continuing education, or failing to pay delinquent taxes may, within 12 months from the revocation date, apply to reinstate for the same navigator license without completing preclicensing navigator training or passing a written examination. The navigator must satisfy the requirement of s. 628.10 (2) (a), (am), or (cm), Stats., satisfactorily complete a reinstatement application and pay twice the amount of the license renewal fee under par. (a). If a navigator license has been revoked for more than 12 months, the navigator shall, in order to be relicensed, satisfy the examination and other licensing requirements established by subs. (2) to (4).

(7) **FINANCIAL RESPONSIBILITY REQUIREMENTS.** Each individual navigator not affiliated with a navigator entity shall comply with the requirements of s. 628.92 (5) (b), Stats., by submitting the original bond and form to the office in the form prescribed by the commissioner or by providing evidence of an equivalent coverage alternative subject to the commissioner's prior approval.

Note: A copy of a sample navigator and navigator entity bond form OCI 11-093, required in sub. (7), may be obtained at no cost from the Office of the Commissioner of Insurance at 125 S. Webster Street, Madison WI 53703, or at the Office's web address: oci.wi.gov.

History: EmR1314: emerg. cr. eff. 9-10-13; CR 13-113: cr. Register August 2014 No. 704, eff. 9-1-14; corrections in (2) (d) 1. b., (e) made under s. 13.92 (4) (b) 7., Stats. Register August 2014 No. 704.

Ins 6.93 Registration of navigator entities. (1) INITIAL APPLICATION. (a) *Registration application for navigator entity.* An entity registering as a navigator entity shall submit an application to the commissioner in the form prescribed by the commissioner. A completed application shall include: the navigator entity's name; the names of the entity's officers; the current mailing address; the name of at least one licensed designated responsible navigator; names, license number and mailing addresses for the navigators it employs, supervises or is affiliated with; proof of financial responsibility under sub. (4) (b), and compliance with competence and trustworthiness criteria under s. Ins 6.92 (3), and any documentation required to questions on the application.

Note: A copy of the navigator entity registration application form OCI 11-091, required in par. (a), may be obtained at no cost from the Office of the Commissioner of Insurance at 125 S. Webster Street, Madison WI 53703, or at the Office's web address: oci.wi.gov.

(b) *Payment of fees.* An applicant for an original registration shall pay an initial, non-refundable, registration fee of \$100.00 is due with submission of the application.

(c) *Acknowledgement of registration.* Determination of the acceptance or rejection of a completed application shall be made within 90 days of receipt by the commissioner of the completed application, which is tolled until receipt of any additional required or requested documentation. The commissioner shall accept a registration if the applicant satisfies the requirements of pars. (a) and (b), and if the applicant is designated by the exchange as a navigator entity, receives funding through a federal grant, is in compliance with s. 628.92 (2), Stats., and is in compliance with applicable federal requirements including 45 CFR 155.215 (a) (1), as amended.

(2) **REGISTRATION RENEWALS.** The renewal fee of \$100.00 is due before October 1 of each year. The commissioner shall send notice of the registration renewal fee by 1st-class mail to the mailing address on file at least 60 days prior to the fee due date to each navigator entity. Applications for navigator entity renewal shall be submitted before the October 1 renewal deadline. The navigator entity shall comply with the requirements of s. 628.92 (5) (a), Stats., by submitting proof of a current bond or by providing evidence of an equivalent coverage alternative subject to the commissioner's prior approval. Failure to comply with the requirements of this section may be cause for the commissioner to deny, revoke, or suspend the registration of a navigator entity.

(3) **ENTITY REPORTING.** The navigator entity shall report any updates to the list of navigators given in the application to register as a navigator entity, including additions, deletions, or modifications, within 30 days of the addition, deletion, or modification to the list of navigators.

(4) **ENTITY LIABILITY.** (a) A navigator entity assumes full legal responsibility for the acts of the navigators whom the entity employs, supervises or is affiliated with for acts that are performed in this state and that are within the scope of the apparent authority to act as a navigator on behalf of the entity.

(b) The entity shall provide evidence of financial responsibility consistent with s. 628.92 (5) (a), Stats., by submitting the original bond and form to the office in the form prescribed by the commissioner. Alternatively the navigator entity, subject to the commissioner's prior approval, may provide evidence of an equivalent coverage alternative.

Note: A copy of a sample navigator and navigator entity bond form OCI 11-093, required in sub. (4) (b), may be obtained at no cost from the Office of the Commissioner of Insurance at 125 S. Webster Street, Madison WI 53703, or at the Office's web address: oci.wi.gov.

(5) **INVESTIGATION AND REVIEW.** (a) The commissioner, or designated examiner, may investigate and review all navigator entities under ss. 601.43 and 601.44, Stats. The method and timing of the reviews shall be determined by the commissioner in each case and may consist of any of the following:

1. Consideration of information available from state, federal, or local agencies, private organizations or agencies, or interested persons.

2. Investigation upon receipt of a complaint from any person.

3. Any other information the commissioner deems relevant to the investigation.

(b) If, after the investigation the commissioner suspends, denies or revokes the registration, written notification shall be given with reasons for such action. The suspension, denial or revocation constitutes an order pursuant to s. 601.62 (3) (a), Stats., and the navigator entity may request a hearing before the commissioner under that section.

History: EmR1314: emerg. cr. eff. 9-10-13; CR 13-113: cr. Register August 2014 No. 704, eff. 9-1-14; correction in (1) (title) made under s. 13.92 (4) (b) 2., Stats., and in (1) (c), (2) made under s. 35.17, Stats., Register August 2014 No. 704.

Ins 6.95 Registration of certified application counselors, nonnavigator assisters and nonnavigator assister entities. (1g) REGISTRATION REQUIREMENT. Certified application counselors and other nonnavigator assisters shall be employed or supervised by a registered nonnavigator assister entity, or be affiliated with a registered nonnavigator assister entity.

(1r) **ELECTRONIC REGISTRATION FOR A NONNAVIGATOR ASSISTER ENTITY.** An entity registering as a nonnavigator assister entity shall provide all of the following information to the commissioner in the form prescribed by the commissioner:

(a) The nonnavigator assister entity's name and current mailing address.

(b) The name and contact information for the nonnavigator assister entity.

(c) The name, business address, and type of nonnavigator assister for each nonnavigator assister it employs, supervises, or is affiliated with.

(d) An attestation that each nonnavigator assister is in compliance with applicable state law including any nonnavigator assister who is a certified application counselor and who has complied with s. 628.96 (2), Stats.

(e) The nonnavigator assister entity's agreement to provide to the commissioner all supporting documents as requested by the commissioner.

(2) **CERTIFIED APPLICATION COUNSELORS AND OTHER NONNAVIGATOR ASSISTERS.** (a) Certified application counselors under 45 C.F.R. 155.225, and other nonnavigator assisters, are eligible to be registered by a nonnavigator assister entity if either of the following apply:

1. The application counselor or other nonnavigator assister is designated by the federal government to provide consumer assistance; that designation is not withdrawn; and the person has completed the training and examination requirement under ss. 628.92 (7) and 628.96 (2), Stats.

2. The application counselor or other nonnavigator assister is an insurance agent who hold an active resident license with the accident and health line of authority and is in compliance with continuing education requirements; complies with s. 628.96 (3), Stats., including competence and trustworthiness, and satisfactorily completes 4 hours of navigator training specific to public assistance programs, including Medicaid, in addition to the completion of any federally required nonnavigator assister training and compliance with federal restrictions and requirements. An insurance agent who meets the requirements of this subdivision is not required to complete prelicensing training or the navigator licensing examination under ss. 628.92 (7) and 628.96 (2), Stats.

(b) The nonnavigator assister entity shall maintain records that each certified application counselor and other nonnavigator assister registered under par. (a) has completed the annual continuing education training. The nonnavigator assister entity shall provide an attestation of compliance with such requirement to the commissioner in a form prescribed by the commissioner by October 1 of each year. The commissioner will provide guidance on the topics for the continuing education training required under this subsection.

(c) The commissioner may deny registration for a certified application counselor and other nonnavigator assisters, for any of the following:

1. Failure to possess requisite character, integrity, competency and trustworthiness. In addition to the requirements set forth in s. 628.04, Stats., and s. Ins 6.92 (3)

2. Commission of any act that would warrant the denial, suspension, or revocation of an insurance license or registration including any of the acts delineated in s. Ins 6.92 (3).

3. Failure to fully provide required or requested information, to complete requisite training including continuing education, to maintain certification from the federal government as a certified application counselor or nonnavigator assister entity.

(3) ENTITY REPORTING OF UPDATES. A nonnavigator assister entity shall comply with s. 628.96 (1), Stats., reporting in an electronic format as prescribed by the commissioner, any updates to the list of nonnavigator assisters that the nonnavigator assister entity provided when it first registered with the commissioner, including additions, deletions, or modifications. The information shall be provided within 30 days of the addition, deletion, or modification to the list of nonnavigator assisters.

(4) ENTITY LIABILITY. A nonnavigator assister entity assumes legal responsibility, in accordance with s. 628.96 (3), Stat., for the acts of the nonnavigator assisters, on behalf of the entity, that the entity employs, supervises or is formally affiliated with, that are performed in this state and that are within the scope of the apparent authority to act as a nonnavigator assister.

(5) REVOCATION OF ENTITY REGISTRATION. The commissioner may deny, suspend or revoke a nonnavigator assister entity registration if the nonnavigator assisters it employs, supervises or is affiliated with, fail to comply with s. Ins 6.92 (3), or the nonnavigator assister entity fails to comply with any provision contained in this section or by failing to comply with requests of the commissioner.

(6) INVESTIGATION AND REVIEW. (a) The commissioner, or designated examiner, may investigate and review all nonnavigator entities under ss. 601.43 and 601.44, Stats. The method and timing of the reviews shall be determined by the commissioner in each case and may consist of any of the following:

1. Consideration of information available from state, federal, or local agencies, private organizations or agencies, or interested persons.

2. Investigation upon receipt of a complaint from any person.

3. Any other information the commissioner deems relevant to the investigation.

(b) If, after the investigation the commissioner suspends, denies, or revokes the registration, written notification shall be given with reasons for such action. The suspension, denial or revocation constitutes an order pursuant to s. 601.62 (3) (a), Stats., and the nonnavigator entity may request a hearing before the commissioner under that section.

History: EmR1314; emerg. cr. eff. 9-10-13; CR 13-113; cr. Register August 2014 No. 704, eff. 9-1-14; (1g) and (1r) renumbered from (intro.) and (1) under s. 13.92 (4) (b) 1., Stats., (1g) (title) added under s. 13.92 (4) (b) 2., Stats., correction in (2) (intro.) made under s. 13.92 (4) (b) 7. Register August 2014 No. 704.

Ins 6.96 Prohibited business practices. In addition to the prohibited acts contained in s. 628.95 (2), Stats., navigators,

navigator entities, nonnavigator assisters and nonnavigator assister entities are prohibited from all of the following:

(1) Providing enrollment or other specific information regarding a health benefit plan that is not offered in the federal exchange.

(2) Providing a recommendation comparing health benefit plans that may be better or worse for the consumer or employer.

(3) Making misleading statements to a consumer or employer regarding or otherwise misrepresenting one's qualifications or services.

(4) Offering a recommendation directly to a consumer or employer regarding a particular health benefit plan concerning deductible, coinsurance, or any substantive benefits, terms, or conditions of the contract.

(5) Asking or urging a consumer to apply for a particular health benefit plan from a particular insurance company.

(6) Distributing cards, documents or advertisements regarding a particular health insurer.

(7) Recommending a particular health benefit plan or insurer.

(8) Receiving consideration directly or indirectly from any health insurer in connection with the enrollment of individual or employees into a qualified health plan as defined 45 CFR 155.20, as amended.

(9) Using a single appointment for selling, soliciting or advising a consumer or employer about a product other than health benefit plans by a navigator or nonnavigator assister who is also a licensed insurance agent. Insurance agents shall make a separate appointment with the consumer or employer for selling, soliciting, or advising about a product other than a health benefit plan.

History: EmR1314; emerg. cr. eff. 9-10-13; CR 13-113; cr. Register August 2014 No. 704, eff. 9-1-14; correction in (8) made under s. 13.92 (4) (b) 7. Register August 2014 No. 704.

Ins 6.97 Navigator, nonnavigator assister, navigator entity, and nonnavigator assister entity records.

(1) PURPOSE. This section protects consumers by prescribing minimum standards and techniques of accounting and data handling of navigators, nonnavigator assisters, navigator entities and nonnavigator assister entities to ensure that timely and reliable information will exist, if applicable, and be available to the commissioner. This section implements and interprets ss. 601.42 and 628.34, Stats., by establishing the minimum records that are to be maintained.

(2) RECORDKEEPING REQUIREMENTS. (a) *Records, generally.* Beginning October 1, 2013, each navigator, nonnavigator assister, navigator entity or nonnavigator assister entity shall maintain, for at least a 3-year period, unless a specific period is provided elsewhere, all of the following financial, consumer, and employee records arising from or related to the activities of the navigator or nonnavigator assister, as applicable:

1. Business checking account.

2. Cash disbursed records.

3. Cash receipts records.

4. Personnel records.

5. Consumer or policyholder records.

(b) *Cash disbursed record.* The cash disbursed record shall show the name of the party to whom the payment was made, date of payment, and reason for payment.

(c) *Cash receipts record.* The cash receipts record shall show the name of the party who remitted the money, date of receipt, and reason for payment.

(d) *Personnel records.* Personnel records shall include dates of employment, supervision, or affiliation; position held; description of principal duties; name and last known address and telephone number of employee, supervisee or affiliated person.

(3) PLACE OF MAINTAINING RECORDS. (a) The navigator or navigator entity shall maintain records, if any, required by sub. (2) at the business address of the navigator or the navigator entity, or at

another location only if the navigator provides written notice of the other location to the commissioner.

(b) The nonnavigator assister or nonnavigator assister entity shall maintain records, if any, required by sub. (2), at the business address of the nonnavigator assister entity or at another location only if the nonnavigator assister entity provides written notice of the other location to the commissioner.

(4) UPDATING RECORDS. The navigator, navigator entity, and nonnavigator assister entity shall maintain financial records, if any, all records of compliance with preclicensing training completion, successful passage of the examination and continuing education completion, compliance with federal training and other federal requirements for the navigators and nonnavigator assisters it employs, supervises, or is affiliated with, as applicable for at least 3 years from the transaction of an insurance business.

History: EmR1314: emerg. cr. eff. 9-10-13; CR 13-113: cr. Register August 2014 No. 704, eff. 9-1-14; (2) (a) (title) added under s. 13.92 (4) (b) 2., Stats., Register August 2014 No. 704.

Ins 6.98 Prohibition of uses of designations.

(1) PROHIBITED USES OF DESIGNATIONS. It is an unfair and deceptive trade practice under s. 628.34 (12), Stats., for a person to use terms including “navigator,” “navigator entity,” “nonnavigator assister,” “certified application counselor,” “certified,” and “nonnavigator assister entity,” in such a way as to mislead a purchaser or prospective purchaser that the person has special certification or training in advising or providing services to consumers in connection with the advertising, solicitation, sale, or purchase of a health benefit plan or in the provision of advice as to the advisability of purchasing a health benefit plan, either directly or indirectly, offered in the state either within or outside the exchange. The terms may not be used by a person who is not licensed as a navigator or registered as a nonnavigator assister. The terms may not be used alone or in combination with one or more terms such as “certified,” “licensed,” “registered,” or like words, in the name of a certification or professional designation unless such terms appear in a certification or professional designation and that person has attained the certification or professional designation.

(2) PENALTIES. A violation of this section is an unfair and deceptive trade practice under s. 628.34 (12), Stats., and shall subject the violator to ss. 601.41, 601.62, 601.64, 601.65 and 628.10, Stats.

History: EmR1314: emerg. cr. eff. 9-10-13; CR 13-113: cr. Register August 2014 No. 704, eff. 9-1-14.

Ins 6.99 Exemption. **(1)** (a) State and local governmental entities or any persons acting on behalf of a state or local governmental entity are exempt from ss. Ins 6.91 to 6.98 provided all of the following are met:

1. All communications, advertisements, notices, or other marketing materials including verbal communications must identify the entity as working on behalf of the state or local unit of government.

2. The state or local unit of government, upon request, confirms to the commissioner that the entity is responsible or has an agreement or contract that establishes financial responsibility for the acts of the entity and the individual navigators, and nonnavigator assisters employed, supervised, or affiliated with the entity.

3. The state or local governmental entity shall not use any term or designation denoting that it is certified as a navigator, nonnavigator assister or related entity unless the person, persons, or entity using the term or designation is in compliance with ss. Ins 6.92 or 6.95 and any other applicable sections.

(b) Federal governmental entities or any persons acting on behalf of a federal governmental entity through a federal contract are exempt from ss. Ins 6.91 to 6.98 provided all of the following are met:

1. All communications, advertisements, notices or other marketing materials including verbal communications must identify the entity as working on behalf of the federal government.

2. The federal government, upon request, confirms to the commissioner that the federal governmental is responsible or has an agreement or contract that establishes financial responsibility for the acts of the entity and the individual navigators, and nonnavigator assisters employed, supervised or affiliated with the entity.

3. The state or local unit of [federal] governmental entity shall not use any term or designation denoting that it is certified as a navigator, nonnavigator assister or related entity unless the person, persons, or entity using the term or designation is in compliance with ss. Ins 6.92 or 6.95 and any other applicable sections.

Note: “Federal” shown in brackets should have replaced “state or local unit of”. The office intends to correct this error in future rulemaking.

(c) 1. Employees of a health care facility, including hospitals, clinics and other health care facilities are exempt from ss. Ins 6.91 to 6.98 if as part of their employment they provide assistance to patients including assistance with enrollment in state or federal assistance programs.

2. The health care facility, including hospitals, clinics and other health care facilities shall not use any term or designation denoting that it is certified as a navigator, nonnavigator assister or related entity unless the person, persons or entity using the term or designation is in compliance with ss. Ins 6.92 or 6.95 and any other applicable sections.

History: EmR1314: emerg. cr. eff. 9-10-13; CR 13-113: cr. Register August 2014 No. 704, eff. 9-1-14.

APPENDIX I

KEEP THIS NOTICE WITH YOUR INSURANCE PAPERS

PROBLEMS WITH YOUR INSURANCE?—If you are having problems with your insurance company or agent, do not hesitate to contact the insurance company or agent to resolve your problem.

(INSURER NAME)

(CUSTOMER SERVICE)

(ADDRESS)

(CITY, STATE, ZIP)

(TOLL FREE TELEPHONE NUMBER, if available)

(TELEPHONE NUMBER)

You can also contact the **OFFICE OF THE COMMISSIONER OF INSURANCE**, a state agency which enforces Wisconsin's insurance laws, and file a complaint. You can file a complaint electronically with the **OFFICE OF THE COMMISSIONER OF INSURANCE** at its website at <http://oci.wi.gov/>, or by contacting:

Office of the Commissioner of Insurance

Complaints Department

P. O. Box 7873

Madison, WI 53707-7873

1-800-236-8517

608-266-0103.

APPENDIX 2

You may resolve your problem by taking the steps outlined in your HMO grievance procedure. You may also contact the **OFFICE OF THE COMMISSIONER OF INSURANCE**, a state agency which enforces

Wisconsin's insurance laws, and file a complaint. You can file a complaint electronically with the **OFFICE OF THE COMMISSIONER OF INSURANCE** at its website at <http://oci.wi.gov/>, or by writing to:

Office of the Commissioner of Insurance

Complaints Department

P. O. Box 7873

Madison, WI 53707-7873

or you can call 1-800-236-8517 outside of Madison or 266-0103 in Madison, and request a complaint form.