RULES CLEARINGHOUSE

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CLEARINGHOUSE RULE 00−188

Comments

[NOTE: All citations to "Manual" in the comments below are to the Administrative Rules Procedures Manual, prepared by the Revisor of Statutes Bureau and the Legislative Council Staff, dated September 1998.]

2. Form, Style and Placement in Administrative Code

a. The definitions in s. Ins 3.455 (3) should be in alphabetical order. [See s. 1.01 (7), Manual.] The definitions that are being added in SECTION 2 are not themselves alphabetized correctly. Moreover, they will cause the existing definitions to be out of alphabetical order.

In s. Ins 3.46 (3) (j), the definition that will be inserted will not be out of alphabetical order. However, current s. Ins 3.46 (3) (i) should be renumbered to put the existing definitions in alphabetical order.

b. In s. Ins 3.455 (3) (d) 1., "rules" should replace "regulations."

c. In s. Ins 3.455 (3) (f), American Academy of Actuaries should not be capitalized. [See s. 1.01 (4), Manual.] A similar comment applies to s. Ins 3.455 (9m) (a) 1.

d. SECTION 3 should indicate that s. Ins 3.455 (5) (title) is amended, rather than s. Ins 3.455 (intro.). Also, the period at the end of the title should not be stricken-through. [See s. 1.06 (4), Manual.]

e. Throughout the rule, the text following the treatment clause should include the number of the provision being affected. [See s. 1.04 (2), Manual for examples.] For example, in SECTION 1, "Ins. 3.455 (3)" should be inserted before "(c)."

f.   The rule is replete with the phrase "(revisor inserts date)" or variations of this phrase, such as "6 months after (revisor inserts date)." See, e.g., ss. Ins 3.455 (5) (d), (9m) (j) and (10) (intro.) and 3.46 (9) (j) and (19) (h). Except for s. Ins 3.46 (9) (e), there is no indication as to which date the Revisor of Statutes is to insert.

Moreover, there is no effective date provision at the end of the rule as required by s. 1.02 (4), Manual.

If the intention is that the revisor is to insert the effective date of the rule or the effective date of a particular provision (or a date related to the effective date), then a provision should use a phrase such as "the effective date of this order . . . . [revisor inserts date]," "six months after the effective date of this order . . . . [revisor inserts date]," or "the effective date of this subsection . . . . [revisor inserts date]" as appropriate. The entire rule should be reviewed for this problem so that it is clear what calendar date the revisor is supposed to insert in each affected provision.

g.   In the treatment clause for SECTION 5, "to" should replace "To."

h.   SECTION 5 creates s. Ins 3.455 (5) (d) to specify that s. Ins 3.455 (5) (a) applies only to policies issued prior to a certain date. It would be less confusing to amend s. Ins 3.455 (5) (a) to provide that "~~Insurers~~ For policies issued prior to the effective date of this order . . . [revisor inserts date], insurers shall . . . ."

i.   Section Ins 3.455 (9m) (a) 3. a. should not be further subdivided. [See s. 1.03 (6), Manual.]

j.   In s. Ins 3.455 (9m) (a) 3. a. (iii), the reference to "par. b." should be changed to "this subd. 3. b." [See s. 1.07 (2), Manual.]

k.   Section Ins 3.455 (9m) (a) 3. a. (iv) and 6. indicate that the projected experience "should be" limited to certain increases. The phrase "should be" is ambiguous. If this is a requirement, it should be phrased as "shall be" limited to certain increases. [See s. 1.01 (2), Manual.]

Similarly, s. Ins 3.455 (9m) (a) 3. e. indicates that the insurer "will need to" file composite rates. This should be changed to "shall" file composite rates.

In s. Ins 3.455 (9m) (b) 4., "will also" should be changed to "shall also."

In s. Ins 3.46 (19) (d) 2., it appears that "will be" should be changed to "shall be."

l.   In s. Ins 3.455 (10), "(a)" should be inserted after the subsection title and "(b)" should replace "(a)."

m. In s. Ins 3.455 (10) (a) 4., the reference to "sub. 10 (intro.)" is ambiguous and incorrectly drafted.

n. In s. Ins 3.46 (5) (b) 5., all of the text that is not being changed should be included but not stricken-through. [See s. 1.06, Manual.] Currently, the beginning part of the text is missing. Also, was the intent to change the paragraph breaks? They are different than shown in the current rule.

o. The title to s. Ins 3.46 (19) should be shown in solid capital letters. [See s. 1.05 (2) (c), Manual.]

p. In s. Ins 3.46 (19) (c) 4. (intro.), "sub.d. 3." should be changed to "subd. 3." Also, in s. Ins 3.46 (19) (c) 4. b., "subdivision paragraph c." should be changed to "this subd. 4. c." In s. Ins 3.46 (19) (c) 4. c., "subdivision paragraph b." should be changed to "this subd. 4. b." [See s. 1.07 (2), Manual.]

q. In s. Ins 3.46 (19) (d) 1., the phrase "Attained age rating" should be set off in quotation marks. Also, it should be clarified as applying "in this paragraph."

r. In s. Ins 3.46 Appendix 1., the material inserted in (5) (c) and (d) and (6) should be underlined.

4.   Adequacy of References to Related Statutes, Rules and Forms

a. In the listing of statutory authority, it appears that references to ss. 632.72 and 632.76, Stats., should be eliminated as they do not appear to be related to this rule. Also, the listing of statutes interpreted is too broad as some of those statutes provide general rule-making authority but are not actually being interpreted by the rule.

b. Section Ins 3.455 (3) (g) indicates that the definition applies "in this chapter," that is, in all of ch. Ins 3. However, s. Ins 3.455 (3) (intro.) indicates that the definitions apply "in the section," that is, only in s. Ins 3.455. It appears that the phrase "in this chapter" should be deleted from s. Ins 3.455 (3) (g).

c. In s. Ins 3.455 (9m) (a) 1., it appears that the reference should be to s. Ins 3.46 (9) (b).

d. There are two provisions labeled s. Ins 3.455 (9m) (g). It appears that the second one should be labeled s. Ins 3.455 (9m) (h).

Also, in s. Ins 3.455 (9m) (f) 1., it appears that the reference to "par. (g)" should be changed to "par. (h)."

e. In s. Ins 3.455 (9m) (f) 2., it appears that the reference to "par. (b) 1. a. and c." should be changed to "par. (b) 3. a. and c."

f. In s. Ins 3.46 (9) (g), should the reference to "par. (b) 1. and 5." be changed to "par. (b) 1. to 5."?

g. In s. Ins 3.46 (9) (h), it appears that the reference to "pars. (b) and (j)" should be changed to "par. (b)" inasmuch as par. (j) is simply an initial applicability provision.

h. In s. Ins 3.46 (19) (c) 3., "set forth below" is not an appropriate reference. The agency might substitute "set forth in the table in this subdivision."

5. *Clarity, Grammar, Punctuation and Use of Plain Language*

a. In s. Ins 3.455 (title), the last comma should be stricken-through and followed by an underlined semicolon.

b. The term being defined in s. Ins 3.455 (3) (c) should be changed to "guaranteed renewable for life" to be consistent with s. Ins 3.46 (3) (b) which is being cross-referenced.

c. In s. Ins 3.455 (3) (c), "Ins" should be changed to "s. Ins". A similar comment applies to s. Ins 3.455 (9m) (a) 1. and (b) 5. and (10) (a) 1.

d. In s. Ins 3.455 (9m) (a) 3. a. (intro.), the semicolon should be deleted. Also, a comma should be added following "sale" to set off the "including" clause.

e. In s. Ins 3.455 (9m) (a) 3. e. and elsewhere in the rule "In the event that" should be simplified to be "If."

f. In s. Ins 3.455 (9m) (a) 6., a comma should be inserted after "increases" to set off the introductory phrase. It would be preferable to split the provision into two sentences with the second sentence beginning with the material after "and." Also, a period should be inserted at the end.

g. In the last sentence of s. Ins 3.455 (9m) (b) 5., the phrase "as part of the actuarial memorandum" should be set off by commas.

h. In s. Ins 3.455 (9m) (c), a comma should be inserted after "implemented" to set off the introductory phrase.

i. In s. Ins 3.455 (9m) (f) (intro.), a comma should be inserted after "lapse" to set off the introductory phrase.

j. In s. Ins 3.455 (9m) (g) 1. (intro.), "lapsing" should replace "lapsation."

k. In s. Ins 3.455 (9m) (g) 1. c., it appears that the last sentence would more appropriately be included at the beginning of s. Ins 3.455 (9m) (g) 2. inasmuch as it is not part of the listing of conditions in s. Ins 3.455 (9m) (g) 1. In any case, that last sentence should end with a period.

l. In s. Ins 3.455 (9m) (i), "Pars." should be changed to "Paragraphs" since it is the first word.

m. In s. Ins 3.455 (9m) (j), it appears that the reference to time should include a reference to policies issued "on or after" the established date. A similar comment applies to s. Ins 3.455 (10) (intro.). Also, in pars. (j) and (l), "and" should replace the first "to."

n. In s. Ins 3.455 (9m) (l), a comma should be added after "commissioner" to set off the introductory phrase.

o. In s. Ins 3.46 (3) (j), "noncancelable" should begin with a capital letter.

p. In the next-to-last sentence of s. Ins 3.46 (5) (b) 5., a comma should be inserted after "CARE" to set off the introductory phrase. Also, in the last sentence, "POLICY"S" should be changed to "~~POLICY"S~~ POLICY'S".

q. In s. Ins 3.46 (9) (b) 2., the comma is not needed.

r. In s. Ins 3.46 (9) (b) 4., a comma should be inserted prior to the word "such." Also, the comma following "anniversary date" should be replaced with the word "or."

s. In s. Ins 3.46 (9) (b) 5., the comma in the last sentence should be deleted.

t. In s. Ins 3.46 (9) (d), (e) and (f), a comma should be inserted after "par. (b)" to set off the introductory phrase.

u. In s. Ins 3.46 (9) (e), the phrase "on or before the later of the effective date of this section" is unclear. Section Ins 3.46 apparently was created around 1981. Was the intent to refer to the effective date of this paragraph?

Similarly, s. 3.46 (19) (c) 1., refers to policies issued after the effective date "of this section." Was the intent to refer to the effective date of this subsection?

Also, s. Ins 3.46 (9) (j) indicates that "this section" applies to policies issued 6 or 12 months after a specified date. Was the intent to refer to "this subsection," rather than "this section"? Or was it the intent to refer to "Paragraphs (b) to (i)" since s. Ins 3.46 (9) (a) already exists? This should be clarified.

Section s. Ins 3.46 (19) (h) includes effective dates and initial applicability provisions that refer to "this section." Was the intent to refer to "this subsection"?

v. In s. Ins 3.46 (9) (f), a comma should be inserted after the last use of the phrase "nonaffiliated insurers" to set off the introductory clause. Also, a comma should be inserted after the word "required" to set off the including provision.

w. In s. Ins 3.46 (9) (j) 2., "shall apply on first policy" should be changed to "shall apply on the first policy."

x. In s. Ins 3.46 (19) (d) (intro.), commas should be inserted to set off the "including . . . par. (b)" clause.

y. Section Ins 3.46 (19) (d) 1. refers to premiums that increase at least 1% prior to age 50 and at least 3% "beyond age 50." It is suggested that this latter phrase be changed to "for age 50 and beyond."

z. In the last sentence of s. Ins 3.46 (19) (d) 2., commas should be inserted to set off the phrase "but not increased thereafter."

aa. In s. Ins 3.46, Appendix 1, (5) (intro.), a comma should be inserted after the word "certificates" to set off the introductory clause.

ab. In SECTION 15, "Ins" should replace "INS." Also, under "INCOME," "$10,000-20,000" should replace "$10-20,000" and similar changes should be made in the other income brackets. [See the brackets under "SAVINGS AND INVESTMENTS."]

ac. In s. Ins 3.46, Appendix 5, the first two paragraphs under "Contingent Nonforfeiture" are identical. One of them should be deleted.