

**Chapter Ins 6**

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**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.

**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 (A) into kinds of insurance according to the provisions of section 201.04, Wis. Stats., each subsection setting forth a separate kind, and (B) into classes of insurance upon the basis of and including the said kinds as follows: (a) Fire insurance includes the kinds in section 201.04 (1), Wis. Stats., (as extended by section 203.28), (2) and (12).

(b) Life insurance includes the kinds in section 201.04 (3), Wis. Stats., but excluding all insurance on the health of persons other than that authorized in section 206.03, Wis. Stats.

(c) Casualty insurance includes the kinds in section 201.04 (4) through (11), and (13) through (18), Wis. Stats.

(2) Provided, however, that nothing herein shall preclude consideration of an application to transact the kind of insurance in section 201.04 (4), Wis. Stats., if the applicant company has transacted any of the kinds of insurance in sections 201.04 (3), (5), (13), (15), (16) and (18), Wis. Stats., continuously for 2 years immediately prior to the making of application for license to transact the kind of insurance in section 201.04 (4), Wis. Stats.

**Ins 6.03 Nonresident casualty and fire insurance agents.** (1) Separate licenses are required for the solicitation of casualty insurance business and of fire insurance business.

(2) A separate license is required for each company for which the nonresident agent solicits business in Wisconsin but the provisions of subsections 201.53 (5) and 209.04 (5), Wis. Stats., permit a licensed nonresident agent to interchange business and receive the whole or any part of the commission from a resident agent on business obtained under such nonresident license and exchanged with the resident agent.

(3) A license will be revoked if the nonresident agent brokers insurance, either in Wisconsin, his state of residence, or elsewhere, of the class (casualty or fire) of insurance covered by the license, unless the placing of such business constitutes an exchange between agents as authorized by subsection 209.04 (5), Wis. Stats. One who solicits brokerage business is not eligible to have a nonresident agent's license for the same class (casualty or fire) of business.

(4) The company which a nonresident wishes to represent as an agent must furnish a statement showing that the applicant is appointed to solicit insurance in Wisconsin as its agent and agree that it will be bound by his knowledge and acts to the same extent as it is in connection with authorized resident agents in Wisconsin.

(5) The applicant for a nonresident agent's license must agree that each policy written by him covering property or risks in Wisconsin will be countersigned by a duly licensed resident agent of the company issuing the policy.

(6) A statement by the supervisory head of the insurance department of the state of residence showing that the applicant is a licensed agent in his state of residence for the company which he desires to represent in Wisconsin must be furnished when application is made for a nonresident agent's license.

(7) The applicant will be required to make full disclosure regarding any connection which he may have as an employe or member of any agency partnership, association or corporation, including the full names and residences of all members, officers, directors and stockholders.

(8) Licenses issued on or after November 1, 1949, shall expire on the next succeeding November 1st. The fee for each nonresident agent's license shall be \$10.00.

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

**History:** Cr. Register, October, 1971, No. 190, eff. 11-1-71.

**Ins 6.13 Public Inspection of Records and Reports. (1) PURPOSE.** The purpose of this rule is to specify which records of the office of the commissioner of insurance are not open to public inspection under section 601.46 (4), Wis. Stats.

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

(a) "Records" includes all reports and writings required or authorized by law to be filed, deposited, or kept at the office of the commissioner of insurance or which are in his lawful possession or control.

(b) "Reports" includes all reports made, issued, or submitted by the commissioner of insurance under section 601.46 (3), Wis. Stats.

(c) "Writing" means handwriting, typewriting, printing, photostating, photographing, electronic recording, and every other means of recording any form of communication or representation.

(3) **LIMITATIONS ON PUBLIC INSPECTION. (a) Procedure.** Records shall be open to public inspection during usual business hours and in such a manner as not to interfere with the efficient and orderly operation of the office of the commissioner of insurance.

(b) *Statutory limitations.* Public inspection shall be denied or limited with respect to records within the purview of section 66.77 (3), Wis. Stats., and any other statute limiting inspection.

(c) *Other limitations.* Except as provided in paragraph (b), all records shall be open to public inspection except:

1. A record which is the work product of an employee in the office of the commissioner of insurance or a person contracting with the commissioner of insurance to provide such record, unless and until such record becomes a public record by operation of other statute or rule.

2. A record whose disclosure would reveal the identity of an informant who furnished information pursuant to a pledge of confidentiality.

3. A record received on a confidential basis from another governmental agency.

4. A record which is a part of a current investigation which may result in administrative, legal or criminal action or which relates to any such pending action, if the disclosure of such record would impede or frustrate such investigation or action.

5. A record whose disclosure would unduly damage a person's reputation so as to outweigh the public interest in disclosure.

6. A record whose disclosure would result in such harm to the public interest as to outweigh the public benefit to be gained by granting inspection.

(4) **JUSTIFICATION FOR REFUSING INSPECTION.** Whenever the commissioner is requested in writing to provide the reasons for his refusing a demand to inspect a particular record, he shall specifically state the reasons for such refusal.

(5) **EXCEPTIONS.** Nothing contained herein shall prevent the commissioner from furnishing a record when required to do so by a

proper court order or when requested to do so by a public officer in the official discharge of his duties, under such safeguards as may be appropriate.

**History:** Cr. Register, June, 1973, No. 210, eff. 7-1-73.

**Ins 6.17 Regulation of surplus lines insurance.** (1) **PURPOSE.** This rule implements and interprets sections 601.42, 601.72, 601.73, 618.41 and 618.42, Wis. 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 subsections (8), (16), and (19) of section 201.04, Wis. Stats., and

(b) For any kind of insurance not specifically authorized by any of the other subsections of section 201.04, Wis. Stats.

(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) File with the commissioner:

1. A copy of the policy, certificate, cover note, or other evidence of insurance issued to the policyholder;

2. A copy of the Surplus Lines Insurance Proposal (Appendix 1) which was furnished to the policyholder.

3. A copy of any Notice required by paragraph (b).

4. The name of the person to whom the commissioner shall mail legal process.

(d) Keep in his office in this state a full and true record of each surplus lines insurance contract procured by him, 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 paragraph (b).

(e) The record required by paragraph (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 paragraph (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 his 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 his surplus lines agent's license and to other forfeitures and penalties provided by section 601.04, Wis. Stats.

## Appendix 1

Ins 6.17

## SURPLUS LINES INSURANCE PROPOSAL

Name and address of applicant DateDear \_\_\_\_\_ : Proposal No. \_\_\_\_\_

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

<i>Type of Insurance</i>	<i>Limits of Coverage</i>
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I can procure the coverage desired from the following insurer(s) at the premium listed:

<i>Insurer(s)—Name and Address</i>	<i>% of Total Risk</i>	<i>Premium Quoted</i>
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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 section 618.41, Wis. Stats. The insurance is regulated by the Commissioner of Insurance only as provided in sections 618.41 and 618.43, Wis. Stats. Section 618.43 (1), Wis. 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,

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 Name and address of licensed surplus lines agent

cc: Commissioner of Insurance  
State of Wisconsin

Appendix 2

Ins 6.17

REPORT OF SURPLUS LINES INSURANCE

Year Ending December 31, 19\_\_\_\_\_

This report is to be filed with the Commissioner of Insurance, State of Wisconsin, Madison, Wisconsin 53702, on or before March 1, 19\_\_\_\_\_

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)

Register, December, 1973, No. 216

\*Proposals are to be numbered consecutively.  
 \*\* $\frac{1}{2}$  of 1% for Ocean Marine Insurance

Premium Collected During Year..... \$ \_\_\_\_\_  
 Tax Due @ 3%\*\*—Total Column (7)..... \$ \_\_\_\_\_  
 Amount Enclosed..... \$ \_\_\_\_\_

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

COMMISSIONER OF INSURANCE

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**Ins 6.18 Reporting and payment of tax by unauthorized insurers transacting business in violation of law.** (1) **PURPOSE.** This rule implements and interprets sections 601.42, 610.11 and 618.43, Wis. 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 TRANSAKTING 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 section 601.64, Wis. Stats.

**Ins 6.19 Reporting and taxation of directly placed unauthorized insurance.** (1) **PURPOSE.** This rule implements and interprets sections 601.42, 618.42 and 618.43, Wis. 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 section 601.64, Wis. Stats.



## Appendix 1

## Ins 6.19

NOTICE OF DIRECTLY PLACED UNAUTHORIZED  
INSURANCE

To: Commissioner of Insurance  
State of Wisconsin  
201 East Washington Avenue  
Madison, WI 53702

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 information, knowledge, and belief.

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*Note:* This report, pursuant to section 618.42 (2), Wis. 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.

Appendix 2

Ins 6.19

PREMIUM TAX REPORT

Year Ending December 31, 19\_\_\_\_\_

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, 19\_\_\_\_\_

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)

Register, December, 1973, No. 216

\*½ 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 information, knowledge, and belief.

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

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 \_\_\_\_\_, 19\_\_\_\_\_

COMMISSIONER OF INSURANCE

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**Ins 6.20 Investments of insurance companies.** (1) **PURPOSE.** The purpose of this rule is to implement and interpret chapter 620, Wis. 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 chapter 620, Wis. Stats.

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

(a) "Fixed charges" includes interest on all debt, and amortization of debt discount.

(b) "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.

(c) "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.

(d) "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.

(e) "Real estate" or "real property" includes leaseholds.

(4) **GENERAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under section 620.03, Wis. 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; or

(b) Any asset under section 620.22 (8), Wis. Stats.

(5) **SPECIAL LIMITATIONS ON RESTRICTED INSURERS.** No insurer restricted under section 620.03, Wis. Stats., shall invest:

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

1. They are rated Aaa, Aa, or A in Moody's Bond Ratings, or AAA, AA, or A in Standard and Poor's Service; 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  $1\frac{1}{2}$  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 subsection (8) (b) of this rule 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  $\frac{1}{2}$  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  $\frac{1}{2}$  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

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