

INS 3

Filed January 30, 1975
8:10 am GJP

STATE OF WISCONSIN)
OFFICE OF THE COMMISSIONER OF INSURANCE) ss.

TO ALL TO WHOM THESE PRESENTS SHALL COME, GREETINGS:

I, S. C. DuRose, Commissioner of Insurance and custodian of the official records of said office, do hereby certify that the annexed order repealing and re-creating rules relating to mortgage guaranty insurance was issued by this office on January 30, 1975.

I further certify that said copy has been compared by me with the original on file in this office and that the same is a true copy thereof, and of the whole of such original.

IN TESTIMONY WHEREOF, I have hereunto subscribed my name in the City of Madison, State of Wisconsin, this 30th day of January, 1975.



S. C. DuRose
Commissioner of Insurance

STATE OF WISCONSIN
DEPARTMENT OF STATE
RECEIVED AND FILED

JAN 30 1975

DOUGLAS LAFOLLETTE
SECRETARY OF STATE

ORDER OF THE OFFICE OF THE COMMISSIONER OF INSURANCE

JAN 30 1975

Adopting Rules

DOUGLAS LAFOLLETTE
SECRETARY OF STATE

Pursuant to the authority vested in the Commissioner of Insurance by Section 601.41 (3), Wis. Stats., the Commissioner of Insurance hereby repeals and re-creates rules as follows:

Section Ins 3.09 of the Wisconsin Administrative Code is repealed.

Section Ins 3.09 of the Wisconsin Administrative Code is re-created to read:

Ins 3.09 Mortgage guaranty insurance. (1) PURPOSE. This rule implements and interprets, including but not limited to, Sections 201.04 (19), 611.02, 611.24, 618.01, 618.21, 620.02 and 623.04, Wis. Stats., for the purpose of establishing minimum requirements for the transaction of mortgage guaranty insurance.

(2) SCOPE. This rule shall apply to the underwriting, investment, marketing, rating, accounting and reserving activities of insurers which write the type of insurance authorized by section 201.04 (19), Wis. Stats.

(3) DEFINITIONS. (a) Mortgage guaranty insurance is that kind of insurance authorized by section 201.04 (19), Wis. Stats., and includes the guarantee of the payment of rentals under leases of real estate in which the lease extends for 3 years or longer.

(b) As used in this rule, "person" means any individual, corporation, association, partnership or any other legal entity.

(4) DISCRIMINATION. No mortgage guaranty insurer may discriminate in the issuance or extension of mortgage guaranty insurance on the basis of the applicant's sex, marital status, race, color, creed or national origin.

(5) LIMITATION OF TOTAL LIABILITY ASSUMED. A mortgage guaranty insurer shall not at any time have outstanding a total liability under its aggregate insurance policies, computed on the basis of its election to limit coverage and net of reinsurance assumed and of reinsurance ceded to an insurer authorized to transact such reinsurance in this state, exceeding twenty-five times the sum of its contingency reserve established under subsection (14) and its surplus as regards policyholders.

(6) LIMITATION ON INVESTMENT. A mortgage guaranty insurer shall not invest in notes or other evidences of indebtedness secured by mortgage or other lien upon real property. This section shall not apply to obligations secured by real property, or contracts for the sale of real property, which obligations or contracts of sale are acquired in the course of the good faith settlement of claims under policies of insurance issued by the mortgage guaranty insurer, or in the good faith disposition of real property so acquired.

(7) LIMITATION ON ASSUMPTION OF RISKS. A mortgage guaranty insurer shall not insure loans secured by properties in a single or contiguous housing or commercial tract in excess of ten (10) per cent of the insurer's admitted assets. A mortgage guaranty insurer shall not insure a loan secured by a single risk in excess of ten (10) per cent of the insurer's admitted assets. In determining the amount of such risk or risks, the insurer's liability shall be computed on the basis of its election to limit coverage and net of reinsurance ceded to an insurer authorized to transact such reinsurance in this state. "Contiguous" for the purpose of this subsection means not separated by more than one-half mile.

(8) REINSURANCE. A mortgage guaranty insurer may, by contract, reinsure any insurance it transacts in any assuming insurer authorized to transact mortgage guaranty insurance in this state, except it shall not enter into reinsurance arrangements designed to circumvent the compensation control provisions of subsection (15) or the contingency reserve requirement of subsection (14). It is the intent of this rule that the unearned premium reserve required by subsection (13) and the contingency reserve required by subsection (14) shall be established and maintained in appropriate proportions in relation to risk retained by the original insurer and by the assuming reinsurer so that the total reserves established shall not be less than the reserve required by subsections (13) and (14).

(9) ADVERTISING. No mortgage guaranty insurer or any agent or representative of a mortgage guaranty insurer shall prepare or distribute or assist in preparing or distributing any brochure, pamphlet, report or any form of advertising to the effect that the real estate investments of any financial institution are "insured investments", unless the brochure, pamphlet, report or advertising clearly states that the loans are insured by insurers possessing a certificate of authority to transact mortgage guaranty insurance in this state or are insured by an agency of the federal government, as the case may be.

(10) POLICY FORMS. All policy forms and endorsements shall be filed with and be subject to approval of the commissioner. With respect to owner-occupied, single-family dwellings, the mortgage guaranty insurance policy shall provide that the borrower shall not be liable to the insurance company for any deficiency arising from a foreclosure sale.

(11) PREMIUM. (a) The total consideration charged for mortgage guaranty insurance policies, including policy and other fees or similar charges, shall be considered premium and must be stated in the policy and shall be subject to the reserve requirements of subsections (13) and (14).

(b) The rate making formula for mortgage guaranty insurance shall contain a factor or loading sufficient to produce the amount required for the contingency reserve prescribed by subsection (14).

(12) REPORTING. (a) The financial condition and operations of a mortgage guaranty insurer shall be reported annually on the fire and casualty annual statement form specified by Wisconsin Administrative Code section Ins 7.01 (5) (a).

(b) The total contingency reserve required by subsection (14) shall be reported on line 1, page 3 or on line 22, page 3 of the annual statement. If the contingency reserve is reported on line 1, page 3, appropriate entries must be made on Exhibit 3-A, page 9 of the annual statement. The change in contingency reserve for the year shall be reported on line 5, page 4 of the annual statement as a deduction from underwriting income. The development of the contingency reserve shall be shown in Schedule K of the annual statement as follows:

1. Net premiums earned on policies during the 120 months prior to the annual statement date shall be shown on line 3 (a) of Schedule K;
2. Incurred losses in excess of 35% of earned premiums of any calendar year included in line 3 (a) shall be reported in line 3 (c) of Schedule K; and
3. Appropriate entries shall be made in lines 3 (b), 3 (d), 3 (e), 3 (f), (4) and (5) of Schedule K.

(c) A mortgage guaranty insurer shall compute and maintain adequate case basis and other loss reserves to be reported in Underwriting and Investment Exhibit Part 3-A - Unpaid Losses and Loss Adjustment Expenses, page 9 of the annual statement form. The method used to determine the loss reserve shall accurately reflect loss frequency and loss severity and shall include components for claims reported and unpaid, and for claims incurred but not reported, including estimated losses on:

1. Insured loans which have resulted in the conveyance of property which remains unsold;
2. Insured loans in the process of foreclosure;
3. Insured loans in default for four months or for any lesser period which is defined as default for such purposes in the policy provisions; and
4. Insured leases in default for four months or for any lesser period which is defined as default for such purposes in the policy provisions.

(d) Expenses shall be recorded and reported in accordance with Wis. Adm. Code sections Ins 6.30 and Ins 6.31.

(e) Amounts released from the contingency reserve pursuant to subsection (14) shall be treated on a first-in-first-out basis.

(13) UNEARNED PREMIUM RESERVE. (a) A mortgage guaranty insurer shall compute and maintain an unearned premium reserve on an annual or on a monthly pro rata basis on all unexpired coverage, except that in the case of premiums paid in advance for any coverage issued with a term shown in the schedule below the annual unearned premium factor specified shall apply:

**Unearned Premium Factor to be Applied
to Premiums in Force on Valuation Date**

| <u>Contract Year Current at Valuation Date</u> | <u>4 Year Coverage Period</u> | <u>5 Year Coverage Period</u> | <u>6 Year Coverage Period</u> | <u>7 Year Coverage Period</u> | <u>8 Year Coverage Period</u> | <u>9 Year Coverage Period</u> |
|--|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|---------------------------------------|
| 1 | 95.7% | 96.5% | 97.0% | 97.3% | 97.5% | 97.7% |
| 2 | 76.4 | 81.0 | 83.7 | 85.4 | 86.5 | 87.3 |
| 3 | 45.2 | 56.0 | 62.2 | 66.2 | 68.8 | 70.4 |
| 4 | 14.5 | 31.3 | 41.1 | 47.4 | 51.3 | 53.8 |
| 5 | | 9.8 | 22.7 | 31.0 | 36.2 | 39.4 |
| 6 | | | 7.1 | 17.1 | 23.3 | 27.2 |
| 7 | | | | 5.4 | 12.5 | 16.9 |
| 8 | | | | | 3.8 | 8.6 |
| 9 | | | | | | 2.5 |
| 10 | | | | | | |
| 11 | | | | | | |
| 12 | | | | | | |
| 13 | | | | | | |
| 14 | | | | | | |
| 15 | | | | | | |

| <u>Contract Year Current at Valuation Date</u> | <u>10 Year Coverage Period</u> | <u>11 Year Coverage Period</u> | <u>12 Year Coverage Period</u> | <u>13 Year Coverage Period</u> | <u>14 Year Coverage Period</u> | <u>15 Year Coverage Period</u> |
|--|--|--|--|--|--|--|
| 1 | 97.7% | 97.8% | 97.8% | 97.8% | 97.8% | 97.8% |
| 2 | 87.6 | 87.9 | 88.1 | 88.1 | 88.2 | 88.2 |
| 3 | 71.3 | 71.9 | 72.3 | 72.5 | 72.6 | 72.6 |
| 4 | 55.3 | 56.1 | 56.7 | 57.1 | 57.2 | 57.3 |
| 5 | 41.3 | 42.5 | 43.2 | 43.7 | 43.9 | 44.0 |
| 6 | 29.5 | 30.9 | 31.8 | 32.3 | 32.7 | 32.8 |
| 7 | 19.6 | 21.2 | 22.1 | 22.8 | 23.2 | 23.3 |
| 8 | 11.6 | 13.3 | 14.4 | 15.1 | 15.5 | 15.7 |
| 9 | 5.6 | 7.5 | 8.6 | 9.3 | 9.9 | 10.1 |
| 10 | 1.6 | 3.4 | 4.6 | 5.4 | 6.0 | 6.2 |
| 11 | | 0.9 | 2.1 | 2.9 | 3.5 | 3.7 |
| 12 | | | 0.6 | 1.3 | 1.9 | 2.1 |
| 13 | | | | 0.4 | 0.9 | 1.1 |
| 14 | | | | | 0.3 | 0.5 |
| 15 | | | | | | 0.1 |

These unearned premium factors are calculated on the assumption that on the average a contract is written in the middle of the calendar year and that these factors are applied annually to groups of contracts segregated by term and expiration year. These factors include one-half of the earned premium applicable to the contract year current at the valuation date.

(b) On an annual premium plan that portion of the first year premium, excluding policy and other fees or similar charges, which exceeds twice the subsequent renewal premium rate, shall be considered a deferred risk charge and amortized in accordance with factors specified for a ten year term coverage in paragraph (a) or in accordance with factors specified for a lesser term coverage in paragraph (a) as approved by the commissioner.

(c) On premiums paid in advance for coverage periods in excess of 15 years, the unearned portion of the premium during the first 15 years of coverage shall be the premium collected minus an amount equal to the premium that would have been earned had the applicable premium for 15 years' coverage been received. The premium remaining after 15 years shall be released from the unearned premium reserve pro rata over the remaining term of coverage.

(14) CONTINGENCY RESERVE. (a) A contingency loss reserve shall be established and maintained for the purpose of protecting insureds against the effect of adverse economic cycles and to permit mortgage guaranty insurers to comply with section 832 (e) of the Internal Revenue Code of 1954, as amended.

(b) Subject to subsection (8) relating to reinsurance there shall be an annual contribution to the contingency reserve which in the aggregate shall be the greater of:

1. 50% of the earned premium reported on line 1, page 4 of the fire and casualty annual statement; or
2. The sum of:
 - a. \$1.25 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on residential buildings designed for occupancy by not more than four families with coverage not exceeding 25% of the entire indebtedness; and
 - b. \$1.875 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on residential buildings designed for occupancy by five or more families with coverage not exceeding 20% of the indebtedness; and
 - c. \$2.50 per \$1,000 of face amount of mortgage guaranty insurance in force at year end on buildings occupied for industrial or commercial purposes with coverage not exceeding 20% of the entire indebtedness.

(c) If the coverage of residential mortgages on buildings designed for occupancy by not more than four families exceeds 25 per cent, or if the coverage on residential mortgages on buildings designed for occupancy by five or more families exceeds 20 per cent or if the mortgage guaranty coverage is not expressly provided for in this rule, the commissioner shall establish a rate formula factor that will produce a contingency reserve adequate for the risk assumed. The face amount of an insured mortgage shall be computed before any reduction by the insurer's election to limit its coverage to a portion of the entire indebtedness.

(d) The contingency reserve established by this subsection shall be maintained for 120 months. That portion of the contingency

reserve established and maintained for more than 120 months shall be released and shall no longer constitute part of the contingency reserve.

(e) Subject to the approval of the commissioner, the contingency reserve shall be available to the extent necessary to make loss payments either when the incurred losses in a year exceed 35 per cent of the earned premium in that year or when incurred losses in a year exceed 70 per cent of the amount contributed to the contingency reserve, whichever is greater. Funds used in this manner shall be accounted for on a first-in-first-out basis as provided in subsection (12) (a).

(15) CHARGES, COMMISSIONS AND REBATES. (a) Every mortgage guaranty insurer shall adopt, print and make available a schedule of premium charges for mortgage guaranty insurance coverages. The schedule shall show the entire amount of premium charge for each type of mortgage guaranty insurance coverage issued by the insurer.

(b) A mortgage guaranty insurer shall not knowingly pay, either directly or indirectly, to any owner, purchaser, mortgagee of the real property or any interest therein or to any person who is acting as agent, representative, attorney or employee of such owner, purchaser, or mortgagee any commission, remuneration, dividend or any part of its premium charges or any other consideration as an inducement for or as compensation on any mortgage guaranty insurance business.

(c) In connection with the placement of any insurance, a mortgage guaranty insurer shall not cause or permit any commission, fee, remuneration, or other compensation to be paid to, or received by: any insured lender; any subsidiary or affiliate of any insured; any

officer, director or employee of any insured; any member of their immediate family; any corporation, partnership, trust, trade association in which any insured is a member, or other entity in which any insured or any such officer, director, or employee or any member of their immediate family has a financial interest; or any designee, trustee, nominee, or other agent or representative of any of the foregoing.

(d) A mortgage guaranty insurer shall not make any rebate of any portion of the premium charge shown by the schedule required by paragraph (a). A mortgage guaranty insurer shall not quote any premium charge to any person which is different than that currently available to others for the same type of mortgage guaranty insurance coverage sold by the mortgage guaranty insurer. The amount by which any premium charge is less than that called for by the current schedule of premium charges is a rebate.

(e) A mortgage guaranty insurer shall not use compensating balances, special deposit accounts or engage in any practice which unduly delays its receipt of monies due or which involves the use of its financial resources for the benefit of any owner, mortgagee of the real property or any interest therein or any person who is acting as agent, representative, attorney or employee of such owner, purchaser or mortgagee as a means of circumventing any part of this rule.

Except for commercial checking accounts and normal deposits in support of an active bank line of credit, any deposit account bearing interest at rates less than is currently being paid other depositors on similar deposits or any deposit in excess of amounts insured by an agency of

the federal government shall be presumed to be an account in violation of this paragraph.

(f) A mortgage guaranty insurer shall make provision for prompt refund of any unearned premium in the event of termination of the insurance prior to its scheduled termination date. If the borrower paid or was charged for the premium, the refund shall be made to the borrower, or to the insured for the borrower's benefit, otherwise refund may be paid to the insured.

(g) This subsection is not intended to prohibit payment of appropriate policy dividends to borrowers.

(16) TRANSITION. Unearned premium reserves and contingency loss reserves shall be computed and maintained on risks insured after the effective date of this rule as required by subsections (13) and (14). Unearned premium reserves and contingency loss reserves on risks insured before the effective date of this rule may be computed and maintained either as required by subsections (13) and (14) or as required by Wisconsin Administrative Code section Ins 3.09 which was previously in effect and which was repealed on the effective date of this rule.

(17) CONFLICT OF INTEREST. (a) If a member of a holding company system as defined in Wis. Adm. Code section Ins 12.01 (3) (e), a mortgage guaranty insurer licensed to transact insurance in this state shall not, as a condition of its certificate of authority, knowingly underwrite mortgage guaranty insurance on mortgages originated by the holding company system or an affiliate or on mortgages originated by any mortgage lender to which credit is extended, directly or indirectly, by the holding company system or any affiliate.

(b) A mortgage guaranty insurer, the holding company system of which it is a part or any affiliate shall not as a condition of the mortgage guaranty insurer's certificate of authority, pay any commissions, remuneration, rebates or engage in activities proscribed in subsection (15).

(12) LAWS OR REGULATIONS OF OTHER JURISDICTIONS. Whenever the laws or regulations of another jurisdiction in which a mortgage guaranty insurer subject to the requirements of this rule is licensed, require a larger unearned premium reserve or a larger contingency reserve in the aggregate than that set forth in this rule, the establishment and maintenance of the larger unearned premium reserve or contingency reserve shall be deemed to be compliance with this rule.

Dated at Madison, Wisconsin, January 30, 1975.



S. C. DuRose
Commissioner of Insurance