

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 continu-

ously 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 into kinds of insurance according to the provisions of section 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 section Ins 6.75 (2) (a).

(b) Life insurance includes the kinds in section 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 section 6.70, Wis. Adm. Code.

(c) Casualty insurance includes the kinds in section 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 Ins 6.75 (1) (e) or (2) (c) if the applicant company has transacted any of the kinds of insurance in 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 Ins 6.75 (1) (e) 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.

Client _____

Risk to be insured _____

Coverage desired _____

_____, hereby states that:

(Soliciting agent)

1. After investigation it was found or demonstrated that the coverage desired could not be placed, either in total or a portion thereof, with any of the insurers for which the agent is listed because of: (check applicable box)

- Capacity problems
- Refusal of the insurer(s) to accept the risk
- Terms unacceptable to the potential insured (briefly explain)

2. This exchange is occasional and originated in the normal course of business;

3. Unless the client objects, the coverage requested will be obtained, if possible, from

(agent or broker)

(soliciting agent)

Date

Original - Client

Copy - Soliciting Agent's File

(5) **LIMITATIONS.** (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 speciality 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 forwarding of business from an intermediary-agent to an intermediary-broker shall be deemed an exchange of business within this section. This section shall not limit in any way the amount of business that an intermediary-broker may place or forward to an intermediary-agent.

(7) The exchange of business among intermediary-brokers 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.

Ins 6.67 Unfair discrimination in life and disability insurance based on physical or mental impairment. (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, 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 (4), 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 the effective date of this rule 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 the effective date of this rule.

(3) **SPECIFIC EXAMPLES OF UNFAIR MARKETING PRACTICES OR UNFAIRLY DISCRIMINATORY ACTS UNDER S. 628.34.** The following are hereby identified as acts or practices in life and disability insurance which constitute unfair discrimination between individuals of the same class: 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, except where the refusal, limitation or rate differential is based on sound actuarial principles or is related to actual or reasonably anticipated experience.

Note: This rule sets forth standards which require that life and disability insurers be objective and fair in placing individuals with physical or mental impairment in various risk classifications.

Register, December, 1979, No. 288

The rule does not restrict a life or disability insurer's choice of the number and size of rating classes which it will use. Many life and disability insurers have a number of extra premium classes. Some life and disability insurers, however, have relatively simple underwriting procedures and only 2 risk classes: accept and reject. In group insurance elaborate underwriting procedures and a multiplicity of rating classes are not available because this is not consistent with the over-all aim of group insurance of providing insurance to many people at low administrative cost. Similar simplicities are desirable in some other marketing situations (e.g., individual policy pension plans and direct-mail business).

The rule is not intended to mandate the inclusion of a particular coverage such as benefits for normal pregnancy or of levels of benefits such as for mental illness in an insurer's policies or contracts. Mandates of any coverages or benefits are the subject of separate legislation. The unfair marketing practices law has never been interpreted to provide for mandated benefits but rather to assure that such coverage and benefits as are offered by insurers are provided on a basis which is not unfairly discriminatory among individuals of the same class.

To make life and disability insurance available to as many individuals as possible the rule does not restrict the use of riders (waivers) which exclude from coverage risks related to impairments which existed prior to the date on which the individual's coverage became effective. Also, it does not restrict the use of pre-existing condition limitations in disability insurance contracts.

(4) **SEVERABILITY.** If any part of this rule or its application to any person or circumstance is held invalid, the invalidity does not affect other parts or applications of the rule which can be given effect without the invalid part or application and to this end the parts of the rule are declared to be severable.

History: Cr. Register, December, 1979, No. 288, eff. 1-1-80.

Ins 6.68 Unfair discrimination based on geographic location or age of risk (s. 628.34, Stats.) (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 a subterfuge for unfair discrimination should likewise fall upon the person charged with a violation of this rule.

Register, December, 1979, No. 288

(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 four 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.

(4) SEVERABILITY. If any part of this rule or its application to any person or circumstances is held invalid, the invalidity does not affect other parts or applications of the rule which can be given effect without the invalid part or application, and to this end the parts of the rule are declared to be severable.

History: Cr. Register, September, 1979, No. 285, eff. 10-1-79.

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 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 Ins 2.05, any combination of the lines and classes of insurance defined and delimited by Ins 6.75, except for those described in 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 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. The provisions of s. 201.16, 1973 Stats., are incorporated herein by reference in their entirety, all statutory references therein being to 1973 Wisconsin Statutes.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76.

Ins 6.73 Reinsurance. The provisions of ss. 201.27 and 201.31, 1973 Stats., are incorporated hereby by reference in their entirety.

History: Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76.