

May 1986 Spec. Sess.
Assembly Bill 8

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1985 Wisconsin Act 335

AN ACT to amend 605.01 (1), 611.19 (2), 613.19 (2), 614.19 (2), 619.01 (1) (a), 631.36 (3), 631.36 (4) (a) and 631.36 (5); to repeal and recreate 611.19 (1), 613.19 (1) and 614.19 (1); and to create 614.19 (4), 631.36 (4) (am) and 631.36 (4m) of the statutes, relating to establishing liability insurance risk sharing plans; insurance company surplus requirements; cancellations, nonrenewals and renewals on altered terms of insurance policies; and participation in the local government property insurance fund.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

SECTION 1. 605.01 (1) of the statutes is amended to read:

605.01 (1) "Local governmental unit" means any local governmental association, authority, board, commission, department, independent agency, institution, office, society or other body, including any city, county, town or village board or common council, school or library board, or board of control of a cooperative educational service agency.

SECTION 2. 611.19 (1) of the statutes is repealed and recreated to read:

611.19 (1) MINIMUM CAPITAL AND PERMANENT SURPLUS. The commissioner may by rule establish the minimum capital for a stock corporation or the minimum permanent surplus for a nonassessable mutual organized under this chapter. In the absence of such a rule, the minimum capital or minimum permanent

surplus shall be \$2,000,000 or such greater amount as the commissioner specifies by order.

SECTION 3. 611.19 (2) of the statutes is amended to read:

611.19 (2) INITIAL EXPENDABLE SURPLUS. A corporation organized under this chapter shall have an initial expendable surplus, after payment of all organizational expenses, of at least 50% of the minimum capital or minimum permanent surplus specified under sub. (1), or such smaller other percentage as the commissioner specifies by order.

SECTION 4. 613.19 (1) of the statutes is repealed and recreated to read:

613.19 (1) MINIMUM PERMANENT SURPLUS. The commissioner may by rule establish the minimum permanent surplus for a corporation organized under this chapter. In the absence of such a rule, the minimum permanent surplus shall be \$2,000,000 or such greater amount as the commissioner specifies by order.

SECTION 5. 613.19 (2) of the statutes is amended to read:

613.19 (2) INITIAL EXPENDABLE SURPLUS. A corporation organized under this chapter shall have an initial expendable surplus, after payment of all organizational expenses, of at least 50% of the minimum permanent surplus specified under sub. (1), or such ~~smaller~~ other percentage as the commissioner specifies by order.

SECTION 6. 614.19 (1) of the statutes is repealed and recreated to read:

614.19 (1) MINIMUM PERMANENT SURPLUS. The commissioner may by rule establish the minimum permanent surplus for a fraternal organized under this chapter. In the absence of such a rule, the minimum permanent surplus shall be \$2,000,000 or such greater amount as the commissioner specifies by order.

SECTION 7. 614.19 (2) of the statutes is amended to read:

614.19 (2) INITIAL EXPENDABLE SURPLUS. A corporation organized under this chapter shall have an initial expendable surplus, after payment of all organizational expenses, of at least 50% of the minimum permanent surplus specified under sub. (1), or such ~~smaller~~ other percentage as the commissioner specifies by order.

SECTION 8. 614.19 (4) of the statutes is created to read:

614.19 (4) REDUCTION OF MINIMUM SURPLUS. The commissioner may, by order, reduce the minimum amounts of surplus required under subs. (1) and (2) if in the commissioner's opinion the extent and nature of providers' contracts, financial guarantees and other support by financially sound private or public corporations, a pressing social need in a particular community for the formation of a fraternal to provide needed insurance coverage, or other special circumstances, justify the proposed reduction in the required surplus. A person who will directly compete with the proposed fraternal is aggrieved within the meaning of s. 601.62 (3) (a).

SECTION 9. 619.01 (1) (a) of the statutes is amended to read:

619.01 (1) (a) *Establishment of plans.* If the commissioner finds after a hearing that in any part of this state automobile insurance, property insurance, health care liability insurance, ~~municipal~~ liability insurance but not to include coverage for risks which are determined to be uninsurable, worker's compensation insurance, insurance coverage for foster homes or insurance coverage for group homes is not readily available in the voluntary market, and that the public interest requires such availability, the commissioner may by rule either promulgate plans to provide such insurance coverages for any risks in this state which are equitably entitled to but otherwise unable to obtain such coverage, or may call upon the insurance industry to prepare plans for the commissioner's approval.

SECTION 10. 631.36 (3) of the statutes is amended to read:

631.36 (3) ANNIVERSARY CANCELLATION. A policy may be issued for a term longer than one year or for an indefinite term with a clause providing for cancellation by the insurer by giving notice ~~30~~ 60 days prior to any anniversary date, as provided in sub. (4) (a) for nonrenewals except that an insurer may not cancel a policy solely because of the termination of an insurance marketing intermediary's contract with the insurer unless the insurer complies with sub. (4m).

SECTION 11. 631.36 (4) (a) of the statutes is amended to read:

631.36 (4) (a) *Notice required.* Subject to subs. (2) and (3), a policyholder has a right to have the policy renewed, on the terms then being applied by the insurer to similar risks, for an additional period of time equivalent to the expiring term if the agreed term is a one year or less, or for one year if the agreed term is longer than one year, unless at least ~~30~~ 60 days prior to the date of expiration provided in the policy a notice of intention not to renew the policy beyond the agreed expiration date is mailed or delivered to the policyholder, or with respect to failure timely to pay a renewal premium a notice is given, not more than ~~45~~ 60 days nor less than 10 days prior to the due date of the premium, which states clearly the effect of non-payment of premium by the due date.

SECTION 12. 631.36 (4) (am) of the statutes is created to read:

631.36 (4) (am) *Prohibited nonrenewals.* Notwithstanding par. (a) an insurer may not refuse to renew a policy solely because of the termination of an insurance marketing intermediary's contract with the insurer unless the insurer complies with sub. (4m).

SECTION 13. 631.36 (4m) of the statutes is created to read:

631.36 (4m) *POLICY CANCELLATION.* An insurer may refuse to renew or may cancel a policy under sub. (3) or (4) solely because of the termination of an insurance marketing intermediary's contract with the insurer only if the notice of nonrenewal or cancellation contains an offer to continue or renew the policy with the insurer if the insurer receives a written request from the policyholder prior to the cancellation or renewal date. The insurer shall continue or renew the policy if a timely request is received unless the policyholder does not meet normal underwriting criteria.

SECTION 14. 631.36 (5) of the statutes is amended to read:

631.36 (5) *RENEWAL WITH ALTERED TERMS.* (a) *General.* Subject to par. (b), if the insurer offers or purports to renew the policy but on less favorable terms or at higher rates, the new terms or rates take effect on the renewal date if the insurer sent by 1st class mail or delivered to the policyholder notice of the new terms or rates at least ~~30~~ 60 days prior to the expiration date. If the insurer has not so notified the policyholder, the new terms or rates do not take effect

until ~~30~~ 60 days after the notice is mailed or delivered, in which case the policyholder may elect to cancel the renewal policy at any time during the ~~30-day~~ 60-day period. Return premiums or additional premium charges shall be calculated proportionately on the basis of the old rates.

(b) *Exception.* This subsection does not apply if the only change in terms that is adverse to the policyholder is a rate increase of less than 25% that either is generally applicable to the class of business to which the policy belongs or a rate increase resulting results from a classification change based on the altered nature or extent of the risk insured against.

SECTION 15. Initial applicability. The treatment of section 631.36 (4) (a) and (5) of the statutes by this act first applies to nonrenewals and renewals occurring on or after the effective date of those provisions.”.

SECTION 16. Effective dates. (1) Except as provided in subsection (2), this act takes effect on the day following publication.

(2) The treatment of section 631.36 (4) (a) and (5) of the statutes takes effect on the first day of the 4th month commencing after publication.
