

Chapter Ins 2

LIFE INSURANCE

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Ins 2.01 Estoppel by report of medical examiner. No company or fraternal benefit society shall issue in this state a contract, based on a medical examination, providing for disability benefits, the provisions of which are in conflict with section 209.07, Wis. Stats., or shall indulge in any practice which is at variance with said section.

Ins 2.02 Stock life insurance corporations writing participating policies. (1) **PURPOSE.** The repeal of the rule previously in effect and the adoption of this rule is for the purpose of revising the formal interpretation of certain statutes consistent with statutes and business methods now in existence. This rule implements and interprets applicable statutes including sections 201.045, ~~206.27~~ 206.32, 206.36, 206.51 (1), 207.04 (1) (a), 601.42 and 601.43 Wis. Stats., and chapters 611 and 618, Wis. Stats. -201.54

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by section 201.04 (3), Wis. Stats., in the form of participating policies.

(3) **LIMITATION OF PROFITS INURING TO THE BENEFIT OF STOCKHOLDERS.** The protection of the interest of the public purchasing participating policies and contracts issued by stock life insurance corporations requires a reasonable limitation of the profits on participating business that shall be made available to stockholders. In consideration of the amount of life insurance customarily transacted in relation to the capital contribution of stockholders and to safeguard the interest of policyholders in this state, no profits on participating policies and contracts in excess of the larger of (a) 10% of such profits or (b) 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders.

(4) **LICENSE REQUIREMENTS.** No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall file an agreement (evidenced by a resolution of its board of directors or other appropriate body having the power to bind such corporation and its stockholders) to the effect that:

(a) no profits on participating policies and contracts in excess of the larger of

1. 10% of such profits or

2. 50¢ per year per \$1,000 of participating life insurance in force at the end of the year shall inure to the benefit of stockholders

(b) the profits on its participating policies and contracts shall be ascertained annually by allocating to such policies and contracts specific items of gain, expense, or loss attributable to such policies and contracts and an equitable proportion of the general gains or outlays of the company

(c) such profits as shall inure to the benefit of stockholders shall be determined and apportioned annually

(d) The accounts of the participating and nonparticipating classes will be kept separate.

(e) No part of the funds accumulated or belonging to the participating class shall be transferred to the nonparticipating class.

(f) The agreement shall remain in effect so long as any outstanding participating policies or contracts of such company are held by persons resident in Wisconsin except as the applicable requirements of statute or administrative rule may be modified or superseded by subsequent enactments.

(5) EXCEPTIONS. In accordance with section 206.13 (3), Wis. Stats., the agreement required by subsection (4) (e) of this rule may be modified to the extent necessary to be consistent with the existing charter of the stock life insurance corporation.

(6) ANNUAL FILING. No stock life insurance corporation doing business in this state in which policyholders are entitled to share in the surplus shall be licensed or relicensed to transact business in this state unless the corporation shall annually file the information required by sections 206.27 (Schedule 14, S.), and 601.42, Wis. Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by sections 201.045 and 201.34, Wis. Stats., to be satisfied that the methods and practices of the insurer adequately safeguard the interests of its policyholders and the people of this state. Section 206.13, Wis. Stats., provides for the issuance of participating life insurance policies by stock companies.

The nature of participating policies is that the premium charge includes an additional loading which acts as the safety factor to provide for various contingencies that may develop during the term of the policy. The additional premium thus collected is then returned to the policyholder in the form of dividends. Section 201.36, Wis. Stats., provides for the annual apportionment and return of such sums after making provision for required reserves and liabilities.

In respect to those policies in which the policyholder is entitled to share in the surplus, section 206.36, Wis. Stats., provides for the payment of authorized dividends on capital stock from the surplus accumulations of the participating business of the company. Section 201.54, Wis. Stats., authorizes distribution of savings, earnings, or surplus to any class of policyholder by filing a schedule thereof with the commissioner in those cases where such a distribution was not specified in the policy. In such cases the commissioner has an obligation to be satisfied that the methods and practices of the company are such as to safeguard the interest of the policyholders.

The principal portion of the earnings on participating policies is due to the additional loading in the premium charged for the policy. It would be a misrepresentation of the participating provisions of any such policy or contract if a substantial portion of the profits accruing from such policies or contracts were not to be returned to the policyholders. Sections 206.51 (1) and 207.04 (1) (a), Wis. Stats., prohibit the misrepresentation of the dividends or share in surplus to be received on any policy.

It is evident that a stock insurance corporation should not have complete freedom in determining the amounts that are to be removed from the funds accumulated or belonging to the participating class of policyholders and used for the benefit of stockholders. A reasonable limitation in the amounts that shall inure to the benefit of stockholders is necessary for the fair and equitable treatment of stock life insurance corporations.