

1. Available for fixed charges and dividends that during the previous 5 fiscal years have averaged not less than twice the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

2. Available for fixed charges and dividends that for each of the previous 3 fiscal years have been not less than 1 1/2 times the sum of the fixed charges, maximum contingent interest and preferred dividend requirements of the issuing company; or

3. Available to meet preferred dividend requirements of the previous 5 years, after allowance for fixed charges and federal and state income taxes, that have averaged not less than 3 times the preferred dividend requirements.

(e) *Common stock.* In common stock except:

1. In accordance with a plan of acquisition proposed by the insurer and approved by the commissioner; and

2. In common stocks which are authorized securities for NASDAQ, the automated quotation system of the National Association of Securities Dealers.

(f) *Real property.* In any investment under s. 620.22 (4) or (5), Stats., except with prior written approval of the commissioner.

(g) *Limitations on amount of investment.* More than 3% of assets in any single issue of a security to which this rule is applicable unless it obtains the prior approval of the commissioner except that such limitations shall not be applicable to securities of the government of the United States or its instrumentalities or securities guaranteed by the full faith and credit of the United States (and except that such limitation shall be 10% as to the securities of any state, governmental unit therein, or instrumentality thereof).

(6) **TOWN MUTUAL INSURANCE COMPANIES.** (a) Town mutual insurance companies authorized to operate under the provisions of ch. 612, Stats., shall be considered restricted insurers and shall be subject to the restrictions of s. 620.03 (1), Stats., except as provided in s. 620.03 (2), Stats., or in sub. (6) (b) of this rule.

(b) A town mutual insurance company may invest up to 50% of its assets in shares in mutual funds provided the assets of such mutual funds are invested only in accordance with subs. (4) and (5) (a) through (f) of this rule and provided that such mutual fund shall:

1. Invest no more than 5% of its aggregate assets and securities in any one issuer, excepting securities of the United States government,

2. Own no more than 10% of the securities of any one issuer,

3. Submit quarterly statements to the commissioner in such detail as he requests,

4. Be audited annually by a certified public accountant acceptable to the commissioner.

(c) A town mutual insurance company may invest up to 75% of its assets in any common trust fund of which a Wisconsin state bank or trust company serves as trustees but only so long as such bank, in the

administration of said common trust fund complies with the following conditions:

1. The fund shall be administered in compliance with applicable Wisconsin banking statutes and any rules and regulations promulgated by the commissioner of banking.

2. The bank shall furnish to the commissioner of insurance a copy of the plan establishing the common trust fund and shall promptly furnish the commissioner with copies of all amendments to such plan,

3. Notwithstanding the scope of any investment powers granted to the bank as trustees of such fund, the bank as trustee shall invest the assets of the fund only in:

a. Commercial paper rated "prime 1" by Moody's Investors Service, Inc., or "A-1" by Standard & Poor's Corporation or "F-1" by Fitch Investor Service, Inc.;

b. Prime banker's acceptances;

c. Certificates of deposits issued by banks;

d. Obligations of the United States government or any of its instrumentalities;

e. Bank repurchase agreements, if fully collateralized by obligations of the United States government or any of its instrumentalities.

4. The maturity date of each of the investments listed in subdivision 3 of this paragraph shall not exceed 91 days,

5. All income received by the fund shall be distributed monthly by the banks as trustee and there shall be no accumulation or re-investment of such income by the bank,

6. The bank shall furnish monthly reports to each insurer-investor stating the value of such investor's participation in such common trust fund and the amount of income distributed to each insurer for such month,

7. The bank shall furnish annually to the commissioner an audited year-end financial statement of the common trust fund,

8. The common trust fund shall be subject to examination by the commissioner of banking.

(7) BONDS PERMISSIBLE. Bonds permissible under s. 620.22 (1), Stats., include:

(a) Direct obligations of the United States or Canada, or of other governmental units therein;

(b) Obligations payable from and adequately secured by specifically pledged revenues of such governmental units or their instrumentalities, including corporations owned by or operated for such units; and

(c) Evidences of indebtedness of any solvent corporation of the United States or Canada.

(8) ADDITIONAL AUTHORIZED INVESTMENTS. An insurer may, in addition to investments authorized by s. 620.22 (1) to (7), Stats., invest its assets

in the following classes of investments, up to the limits stated, and in the case of insurers that are subject to special restrictions under s. 620.03, Stats., in accordance with any other rules made applicable to them:

(a) Mortgage bonds of farm loan banks authorized under the federal farm loan act, and debentures issued by the banks for cooperatives established pursuant to the farm credit act of 1933, as amended;

(b) Equipment securities or certificates of any equipment trust evidencing rights to receive partial payments agreed to be made upon any contract of leasing or conditional sale;

(c) The purchase and ownership of machinery or equipment, which is or will become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than 5 years but the aggregate of such investments shall not exceed 3% of the insurer's assets;

(d) Loans upon the collateral security of any securities that the insurer could lawfully purchase, but not exceeding 90% of the market value of the securities up to an amount which, together with like securities owned, does not exceed the limits on the purchase of such securities;

(e) Evidences of indebtedness not otherwise authorized of the kind which if held by a bank would be eligible for discount, rediscount, purchase or sale by federal reserve banks or other government agencies having similar powers and functions but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(g) The cash surrender values of life insurance policies of companies authorized to do business in Wisconsin;

(h) For a company authorized to transact a credit insurance business, the claims and demands that it has guaranteed;

(i) For a company authorized to transact a title insurance business, materials and plant necessary for the convenient transaction of business—not exceeding 50% of minimum capital or 5% of assets, whichever is greater;

(j) Direct obligations of foreign governments but the aggregate of such investments shall not exceed 1% of the insurer's assets;

(k) Loans, securities or investments in countries other than the United States and Canada which are of substantially the same kinds, classes and investment grades as those eligible for investment under ch. 620, Stats., and supplementary rules, but the aggregate of such investments shall not exceed 2% of the insurer's assets;

(l) Direct obligations of the international bank for reconstruction and development, the inter-American development bank and the Asian development bank but the aggregate of such investments shall not exceed 2% of the insurer's assets;

(m) For an insurer doing business in a foreign country, the assets needed to meet its obligations in the foreign country in the kinds of securities within the foreign country that would be permissible investments if made in this state; and

(n) Shares of investment companies or investment trusts registered under the Federal Investment Company Act of 1940, as amended—regarded as part of the common stock portfolio of the insurer.

(9) CHANGES IN QUALIFICATION OF INVESTMENTS. Any investment originally made under s. 620.22 (8), Stats., may thereafter be considered as falling within any other class of investment for which it subsequently qualifies.

(10) VALUATION. (a) *General*. Security valuations contained in "Valuations of Securities", issued by the Committee on Valuation of Securities of the National Association of Insurance Commissioners, will be followed in implementing this chapter.

(b) *Insurance policies*. Insurance policies purchased under sub. (8) (g) of this rule will be valued at their cash surrender value.

(c) *Claims and demands guaranteed by insurer*. When an insurer authorized to sell credit insurance purchases, under sub. (8) (h) of this rule, claims and demands it has guaranteed, it shall value them at face value or at cost, whichever is less, and shall set up a separate and adequate "loss reserve for guaranteed claims purchased" in an amount satisfactory to the commissioner.

**History:** Cr. emerg. eff. 5-2-72; cr. Register, July, 1972, No. 199, eff. 8-1-72; am. (5) (a) 1, Register, October, 1974, No. 226, eff. 11-1-74; r. and recr. (5) (g), cr. (6) (c), Register, December, 1974, No. 228, eff. 1-1-75; emerg. am. (6) (a), eff. 6-22-76, am. (6) (a), Register, September, 1976, No. 249, eff. 10-1-76; am. (8) (intro.), (b), (c), (e), (j), (k) and (l), Register, August, 1981, No. 308, eff. 9-1-81.

#### Ins 6.25 Joint underwriting and joint reinsurance associations.

(1) **PURPOSE.** This rule, pursuant to s. 625.04, Stats., is intended to encourage an active, economical and efficient insurance market; to provide for the regulation of marketing practices; and to exempt certain insurers and organizations from the provisions of s. 625.33, Stats., with respect to joint underwriting or joint reinsurance.

(2) **SCOPE.** This rule shall apply to joint underwriting and joint reinsurance involving the insurance of risks associated with:

- (a) Nuclear energy
- (b) Commercial aircraft
- (c) Aircraft products liability
- (d) Crude oil production and processing
- (e) Municipal bonds

(3) **PERSONS EXEMPTED.** If any of the following joint underwriting associations and joint reinsurance associations is licensed as a rate service organization under s. 625.32, Stats., each insurer-member thereof shall be exempted from the provisions of s. 625.33, Stats., with respect to agreements between or among insurer-members to adhere to certain rates and rules in providing insurance or reinsurance as members of such association:

- (a) Aircraft Products Insurance Association
- (b) Industrial Risk Insurers
- (c) Mutual Atomic Energy Liability Underwriters
- (d) Mutual Atomic Energy Reinsurance Pool
- (e) American Nuclear Insurers

The rule does not restrict a life or a 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 plan and direct-mail business).

The rule is not intended to mandate the inclusion of a particular coverage such as benefits for normal pregnancy or 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 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 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, December, 1979, No. 288, eff. 1-1-80.

**Ins 6.88 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,

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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.

(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 4 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.** (1) Except as otherwise provided by law, no single risk assumed by any insurance company shall exceed 10% of the admitted assets, except that in a mutual company it may be a greater amount not exceeding 3 times the average policy or  $\frac{1}{4}$  of 1% of the insurance in force, whichever is the greater. Upon the business mentioned in Ins 6.75 (2) (h), the maximum single risk may be a greater amount not exceeding 50% of the admitted assets. Any reinsurance taking effect simultaneously with the policy shall be deducted in determining risk.

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(2) In a mutual company organized for the insurance or guaranty of depositors or deposits in banks or trust companies, the maximum single risk may be fixed at a higher amount by the bylaws. Any such company may effect reinsurance in any authorized or unauthorized company that complies with s. 627.23, Stats. Insurance in any unauthorized company shall be reported annually and the same taxes paid upon the premiums as are paid by authorized companies.

**History:** Emerg. cr. eff. 6-22-76; cr. Register, September, 1976, No. 249, eff. 10-1-76; r. and rec. Register, August, 1981, No. 308, eff. 9-1-81.

**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.