

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 ss. 632.50 and 632.71, Stats., or shall indulge in any practice which is at variance with said section.

History: 1-2-56; emerg. am. eff. 6-22-76; am. Register, September, 1976, No. 249, eff. 10-1-76.

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 ss. 601.04, 601.42, 601.43, 628.34, 632.62, Stats., and chs. 611 and 618, Stats.

(2) **SCOPE.** This rule shall apply to stock insurance corporations when transacting the kinds of insurance authorized by s. Ins 6.75 (1) (a) 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 10% of such profits or 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 s. 632.62, Stats., the agreement required by sub. (4) (e) 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 s. 601.42, Stats.

Note: Before issuing a new or renewal license to transact insurance in this state, the commissioner of insurance is required by ss. 201.045 and 201.34, 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, 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, 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, s. 206.36, 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, 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. SS. 206.51 (1) and

628.34, Stats., and will improve the ability of prospective buyers of life insurance to select appropriate coverage under s. 628.38, Stats.

(2) **PURPOSE.** (a) The purpose of this section is to require insurers to include in advertisements for life insurance which show a rate of return on cash values or premiums, information on the factors which affect the calculation of the yield. This section also places restrictions on the use of nonguaranteed amounts in life insurance advertisements.

(b) This section interprets and implements ss. 628.34 (12) and 628.38, Stats.

(3) **DEFINITIONS.** In this section:

(a) "Guaranteed interest rate" on a policy means the lowest rate of interest which may be paid on cash values during the lifetime of the contract.

(b) "Illustrated rate" means a rate shown in a solicitation, representation or advertisement, which may be guaranteed for a limited period of time, but is not guaranteed for the lifetime of the contract.

(4) **SCOPE.** (a) Except as provided in par. (b), this section applies to any solicitation, representation or advertisement in this state of any life insurance specified in s. Ins 6.75 (1) (a) or (b), made directly or indirectly by or on behalf of any insurer, fraternal benefit society, agent, or the state life insurance fund.

(b) This section shall not apply to:

1. Annuities
2. Credit life insurance
3. Group life insurance
4. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employee retirement income security act of 1974 (ERISA).
5. Life insurance policies registered as securities.

(5) **DISCLOSURE.** (a) All life insurance solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also include:

1. A general statement describing the existence of first year and annual expense charges, mortality charges and surrender charges which will be deducted from the premium before the interest rate is applied;
2. The guaranteed rate of interest paid on the cash value;
3. The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, if interest on the first \$1,000 of cash value is limited to the guaranteed rate this shall be disclosed;
4. An indication that the interest rate credited on cash value amounts which have been borrowed is different from that for cash values which have not been borrowed, if that is the case;

5. An indication of any other significant factors which affect the manner in which cash values are computed.

(b) All information required to be disclosed shall be set out in such a manner as not to minimize or render any portion obscure.

(6) **NONGUARANTEED AMOUNTS.** Nonguaranteed features of a policy, if illustrated in a life insurance solicitation, representation or advertisement, may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, and other variable components currently used by the insurer. For purposes of this paragraph, an interest rate, dividend scale, or other variable component which has been publicly declared by the insurer with an effective date not more than 3 months subsequent to the date of declaration shall be considered current.

History: Cr. Register, October, 1982, No. 322, eff. 11-1-82; r. (5) (b) 1. and 2. and (6) (b), Register, May, 1984, No. 341, eff. 6-1-84; r. (7) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 2.20 Unisex nonforfeiture values in certain life insurance policies. (1) **PURPOSE.** The purpose of this section is to allow insurers who have elected an operative date under s. 632.43 (6m) (h), Stats., to provide for cash surrender and paid-up nonforfeiture benefits which do not vary with the sex of the life insured. Some life insurance policies are subject to the decision of the United States supreme court in *Arizona Governing Committee v. Norris*, 103 Supreme Court Reporter 3492, which makes it illegal for an employer to make contributions after August 1, 1983, to a defined contribution pension plan if the benefits derived from those contributions differ by sex. Separate provisions are set forth in this section for unisex policies that may be subject to that decision and for unisex policies in general.

(2) **SCOPE.** Except as provided for in sub. (4) (b), this section applies only to those policies issued in this state for which the insurer or employer has determined that the implications of *Norris* would prohibit the use of cash surrender and paid-up nonforfeiture benefits which vary with the sex of the insured.

(3) **DEFINITIONS.** (a) "lx" means the number of lives surviving to age x.

(b) "1000 qx" means the yearly death rate per thousand at age x.

(c) 1. "Table A" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for male lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, for these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NA and SA" means the corresponding 1980 nonsmoker and smoker mortality tables for male lives.

(d) 1. "Table G" means the 1980 CSO Mortality Table and the 1980 CET Mortality Table for female lives, with or without 10-Year Select Mortality Factors. The yearly death rate per thousand, 1000 qx, from these tables is published in Appendix A and Appendix B, pages 618 and 619, Volume 33, Transactions of the Society of Actuaries.

2. "Tables NG and SG" means the corresponding 1980 nonsmoker and smoker mortality tables for female lives.

(e) 1. "Tables B through F" means the blended 1980 CSO and 1980 CET Mortality Tables for policies issued on an age nearest birthday basis with varying proportions of male lives to total lives. The ratio of male lives to total lives is 80% for Table B, 60% for Table C, 50% for Table D, 40% for Table E and 20% for Table F. These tables are published in the proceedings of the National Association of Insurance Commissioners for the 1983 December meeting, pages 396 last birthday basis, the tables shall be modified by interpolation between values of *ix*.

2. "Tables NB through NF and SB through SF" means the corresponding 1980 blended nonsmoker and smoker mortality tables.

(f) "1980 CSO and CET Nonsmoker and Smoker Mortality Tables" means the mortality tables with separate rates of mortality for nonsmokers and smokers derived from the 1980 CSO and 1980 CET Mortality Tables and adopted by the NAIC in December 1983. Mortality rates for these tables are published on pp. 406-409, Proceedings of the National Association of Insurance Commissioners, 1984, Vol. 1, and pp. 521-530 Proceedings of the National Association of Insurance Commissioners, 1987, Vol. 1.

(4) CASH VALUE AND PAID-UP NONFORFEITURE BENEFITS. (a) 1. For any policy of life insurance which falls within sub. (2) of this section and is delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., applicable to the policy, the cash surrender and paid-up nonforfeiture benefits provided under the policy may be calculated using one of the sets of tables designated as Table A through Table G. Tables A and G may not be used for policies issued on or after January 1, 1985 except where the proportion of persons insured is anticipated to be 90% or more of one sex or the other or except for certain policies converted from group insurance. Such group conversions issued on or after January 1, 1986, shall use mortality tables based on the blend of lives by sex expected for such policies if such group conversions are considered extensions of the *Norris* decision.

2. In place of Tables A through G under sub. (1), corresponding Tables NA through NG and SA through SG may be used in situations where separate rates for nonsmokers and smokers are used.

(b) 1. An insurer may elect one of the Tables B through F in lieu of the 1980 CSO and CET tables for all life insurance policies under which all contractual requirements and guarantees are independent of the sex of the life insured, without regard to any opinion as to the applicability of *Norris*; provided that the Table so elected may not be changed unless the insurer can demonstrate to the satisfaction of the commissioner that a different Blend is more appropriate.

2. In lieu of the above, corresponding Tables NB through NF and SB through SF may be used in situations where separate rates for nonsmokers and smokers are used.

(5) RESERVES. The minimum reserve standards for life insurance policies are set forth in s. 623.06, Stats., and are not affected by this section.

History: Emerg. cr. eff. 5-19-84; cr. Register, August, 1984, No. 344, eff. 9-1-84; r. (6) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; renum. (3)(c), (d), (e), (4)(a) and (b) to be (3)(c)1., (d)1., (e)1., (4)(a)1. and (b)1. and am. (4)(a)1. and (b)1., cr. (3)(c)2., (d)2., (e)2., (f), (4)(a)2. and (b)2., Register, November, 1988, No. 395, eff. 12-1-88.

Register, November, 1988, No. 395

Ins 2.30 Annuity mortality tables. (1) PURPOSE. The purpose of this section is to adopt, pursuant to s. 623.06 (2a) (b) and (d), Stats., new mortality tables designated as "1983 Table A" and "1983 GAM Table" for use in determining the minimum standard of valuation for annuity and pure endowment contracts.

(2) DEFINITIONS. (a) "1983 Table A" means that mortality table adopted for the valuation of individual annuity and pure endowment contracts in June of 1982 by the National Association of Insurance Commissioners (NAIC) and published on page 454, NAIC Proceedings, Vol. II 1982.

(b) "1983 GAM Table" means that mortality table adopted for the valuation of group annuity and pure endowment contracts in December of 1983 by the National Association of Insurance Commissioners (NAIC) and published on pages 414-415, NAIC Proceedings, Vol. I, 1984.

(3) INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) The 1983 Table A may, at the option of the insurer, be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after November 8, 1977.

(b) The 1983 Table A shall be used to determine the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1986.

(4) GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS. (a) The 1983 GAM Table and the 1983 Table A may, at the option of the insurer, be used to value any annuity or pure endowment purchased on or after November 8, 1977 under a group annuity or pure endowment contract.

(b) The 1983 GAM Table shall be used to determine the minimum standard of valuation for any annuity or pure endowment contract purchased on or after January 1, 1986 under a group annuity or pure endowment contract.

History: Cr. Register, November, 1985, No. 359, eff. 12-1-85.

Ins 2.35 Smoker and nonsmoker mortality tables for minimum reserve liabilities and minimum nonforfeiture benefits. (1) PURPOSE. This section implements ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., by permitting the use of mortality tables that reflect differences in mortality between smokers and nonsmokers. These mortality tables are used in determining minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits for plans of insurance with separate premium rates for smokers and nonsmokers.

(2) DEFINITIONS. In this section:

(a) "1980 CSO table, with or without 10-year select mortality factor" means that mortality table, consisting of separate rates of mortality for male and female lives, incorporated in ss. 623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., and referred to in those statutes as the commissioner's 1980 standard ordinary mortality table, with or without 10-year select mortality factors.

(b) "1980 CET table" means that mortality table consisting of separate rates of mortality for male and female lives incorporated in ss. Register, November, 1988, No. 395

623.06 (2) (am) 3 and 632.43 (6m) (e) 3 f, Stats., and referred to in those statutes as the commissioner's 1980 extended term insurance table.

(c) "1980 CSO smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (a), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(d) "1980 CET smoker and nonsmoker mortality tables" means the mortality tables with separate rates of mortality for smokers and nonsmokers derived from the tables defined in par. (b), and adopted by the National Association of Insurance Commissioners in December 1983.

Note: Mortality rates for these tables are published on pp. 406-413, Proceedings of the National Association of Insurance Commissioners, 1984 Vol. I.

(e) "Composite mortality tables" means the mortality tables defined in pars. (a) and (b), as originally published with rates of mortality that do not distinguish between smokers and nonsmokers.

(3) ALTERNATE TABLES. At the option of the company and subject to the condition that the company use the same select factors for both smoker and nonsmoker tables, and the conditions stated in sub. (4), for any policy of insurance delivered or issued for delivery in this state after the operative date of s. 632.43 (6m) (h), Stats., for that policy form:

(a) The company may substitute the 1980 CSO smoker and nonsmoker mortality tables, with or without 10-year select mortality factors for the 1980 CSO table, with or without 10-year select mortality factors, for use in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; and

(b) The company may substitute the 1980 CET smoker and nonsmoker mortality tables for the 1980 CET Table for use in determining minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

(4) CONDITIONS. For each plan of insurance with separate rates for smokers and nonsmokers the company may:

(a) Use composite mortality tables to determine minimum reserve liabilities, minimum cash surrender values and amounts of paid-up nonforfeiture benefits;

(b) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine the valuation net premiums and additional minimum reserves, if any, required by s. 623.06 (7), Stats., and use composite mortality tables to determine the basic minimum reserves, minimum cash surrender values and amounts of paid-up nonforfeiture benefits; or

(c) Use 1980 CSO or 1980 CET smoker and nonsmoker mortality tables to determine minimum reserve liabilities and minimum cash surrender values and amounts of paid-up nonforfeiture benefits.

History: Cr. Register, November, 1988, No. 395, eff. 12-1-88.