

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

207.04 (1) (a), 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, stockholders, and policyholders. Section 216 (6) of the New York insurance statutes provides for a limitation comparable to that stated in the rule. The record in that state indicates such a limitation to be reasonable and workable and we believe it to be a proper safeguard of the interests of the people of this state. All present tense statutory references herein are to 1973 Stats.

History: 1-2-56; r. and recr. Register, August, 1962, No. 80, eff. 9-1-62; renum. (4) (d) to be (4) (f) cr. (4) (d), (4) (e), (5) and (6), Register, January, 1964, No. 97, eff. 2-1-64; am. (1) and (6), Register, May, 1975, No. 233, eff. 6-1-75; emerg. am. (1), (2), (5) and (6), eff. 6-22-76; am. (1), (2), (5) and (6), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79.

Ins 2.03 Policies not dated back to lower insurance age. (1) No company shall issue for delivery in this state any policy or contract of life insurance which purports to be issued or take effect as of a date more than 6 months before the application therefor was made, if thereby the premium on such policy or contract is reduced below the premium which would be payable thereon as determined by the nearest birthday of the insured at the time when such application was made. The date of application must be considered to be the date on which the application (Part I) or the medical examination (Part II) is completed, whichever is the later.

(2) This ruling does not prohibit the exchange, alteration or conversion of policies of life insurance as of the original date of such policies if the amount of insurance provided under the new policy does not exceed the amount of insurance under the original policy or the amount of insurance which the premium paid for the original policy would have purchased if the new policy had been originally applied for, whichever is greater; nor prohibit the exercise of any conversion privilege contained in any policy or contract.

Ins 2.04 Substandard risk rates. Life insurance companies may charge premiums in excess of the maximum premiums as defined in s. 206.26, 1973 Stats., provided the addition to the maximum premium is made to cover the extra risk owing to the fact that the person is a substandard risk, or is engaged in a hazardous occupation.

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

Ins 2.05 Separate statement of premiums for certain disability insurance benefits included in life or endowment insurance policies. (1) **PURPOSE.** This rule provides guidelines to determine which disability coverages may be included in life or endowment insurance policies without a separate statement of premium charge. This rule interprets and implements the separation of premium requirements stated in s. 632.44 (1) Stats., as they relate to the inclusion of disability insurance by policy provision or rider in life or endowment insurance policies such as authorized by s. Ins 6.70 and s. 627.06, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of disability insurance authorized by s. Ins 6.75 (1) (a) and (c), when such insurance is provided in a life or endowment policy either by specific policy provision or by a rider attached to such policy.

(3) **DEFINITIONS.** (a) *Life or endowment insurance.* The basic life or endowment insurance coverage provided by the policy and additional disability benefits which have been determined by the standards in sub. (4) to be benefits which are life or endowment insurance or an integral part of such coverages.

(b) *Disability insurance benefit.* Insurance coverages written under the authority of s. Ins 6.75 (1) (a) and (c), to indemnify persons in whole or in part for financial loss due to bodily injury, death by accident, or health of persons.

(c) *Separate statement of premium.* Individual statement of the exact gross premium charged for each distinct disability insurance coverage required by this rule to be stated separately from the premium charge for the basic life or endowment insurance coverage.

(4) **STANDARDS AND PROCEDURES FOR DETERMINATION.** The following criteria or standards in pars. (a) through (e) shall be used to determine whether a disability benefit, coverage, or clause may be included in the basic life or endowment policy without a separate statement of the premium charged for such disability benefit. Subject to the approval of the department of insurance, a disability benefit, coverage, or clause which satisfies the standards listed below may be included in the basic life or endowment coverage without a separate statement of cost. Disability coverages not meeting these standards may be included in or attached to the policy only with a separate statement of the premium if they otherwise meet the statutory requirements in respect to combination of coverages. The rule in no way requires that a disability benefit, coverage, or clause be included in the premium charge for the basic life or endowment coverage if the company desires to show the premium separately.

(a) Small or very nominal cost for the disability coverage when compared with the cost of the basic life or endowment coverage.

(b) Logical reason for including the disability benefit without a separate statement of premium.

(c) There is a demonstrated need for, and the applicant would usually desire, the inclusion of the disability benefit.

(d) Inclusion of the disability coverage could be easily understood by the applicant and is not subject to possible misinterpretation.

(e) Custom of the insurance business has classed the disability coverage as basically a life insurance benefit.

(5) **DISABILITY BENEFITS WHICH REQUIRE A SEPARATE STATEMENT.** The following list constitutes a partial listing of disability coverages considered by the department to be additional benefits which generally require a separate statement of premium charge if they are attached to or included in life or endowment coverage in accordance with other statutory requirements. Any such benefit may be included in a life or endowment insurance policy without a separate statement of premium if it is demonstrated that it meets the requirements listed in sub. (4).

(a) Waiver of premium benefit for death and/or disability of payor.

(b) Loss of sight and/or dismemberment benefit.

(c) Disability income benefit.

- (d) Hospital insurance.
- (e) Basic or primary medical insurance.
- (f) Major medical benefit.
- (g) Surgical benefit.

(6) **DISABILITY BENEFITS NOT LISTED.** Disability benefits which are not specifically listed above will be examined at the time of filing to determine whether a separate statement of premium is required.

(7) **RESERVE VALUES.** Reserve values, on account of included provisions, will be based upon the requirements of s. 623.06, Stats., or other applicable statutes or, in the absence of specific requirements, on such additional standards as the commissioner of insurance may prescribe.

(8) **EFFECTIVE DATE.** On or after April 1, 1965, no life insurance policy shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless it meets the requirements of this rule.

Note: The adoption of this rule was prompted by the inconsistency which existed between the prior rule and provision 2 of s. 206.18 (1), 1973 Stats. This inconsistency caused an erosion in the application of the old s. Ins 2.05 at the point where any of the benefits listed in the new rule were acceptable for inclusion in a life policy without a separate statement—a practice which is in almost complete disagreement with the apparent intent of the statute.

Provision 2 of s. 206.17 (1), 1973 Stats., requires an individual statement of the premium charged for any benefit provided in a life or endowment policy separate from the premium charged for the basic life or endowment coverage which is based on a life contingency table and provided by the policy. The commissioner feels that this full disclosure has strong merit even in the present insurance market. However, in the years since the enactment of this statute in 1909 several changes have taken place in the life insurance industry that necessitate a rule providing standards to determine whether certain disability benefits may be included in a life or endowment insurance policy without a separate statement of the premium charge in line with the original intent of the statute. The principal changes are:

1. The automatic inclusion of some benefits in a policy enables an insurance company to provide some additional disability benefits at a relatively small cost in relation to the charge for the basic life or endowment insurance coverage.
2. Custom of the business through the years has now classed some disability coverages as benefits which are a supplemental policy provision in most life or endowment policies and sometimes needed as an integral part of the policy.

The public interest dictates that it is expedient to recognize these 2 changes when the cost for the disability benefit is low or nominal, the coverage is needed and is easily understood by the applicant or insured. This rule provides criteria to determine disability coverages which may be defined as an integral part of the basic life and endowment insurance and are therefore, benefits which may be included without a separate and distinct statement of premium.

The new rule was developed as a result of the following main considerations:

1. The commissioner has a strong concern for disclosure in situations where intentional or unintentional misrepresentation may be present to mislead or confuse prospective purchasers of life insurance. The statutory basis for this authority is set forth in s. 207.04, 1973 Stats.
2. The disclosure philosophy in Wisconsin in respect to life insurance coverage premiums originated in the year 1909 when the legislature enacted section 1948m (now s. 206.18 (1), provision 2, 1973 Stats.) requiring that a policy of life insurance specify "separately for premium charged for any benefit promised in the policy other than life or endowment insurance."

The 1908 Wisconsin Insurance Report to the governor stated:

"Notwithstanding the liberal provisions for expenses which are possible under the new laws, several devices for increasing this amount far beyond the proposed benefits have been submitted to this department for its approval. There is an increasing tendency to introduce into contracts for life insurance provisions for additional benefits such as old

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age, disability and sick benefits. These forms of insurance in many cases are very desirable but it is rarely that the addition of these benefits to policies spring from an honest desire on the part of the companies to furnish the insurance protection. Their addition to policies of life insurance ordinarily only serves as a cloak for the addition of a greatly increased premium. The policyholder should be informed separately of what is charged him for the life insurance and what is charged him for the old age, disability or sick benefit insurance. This information should be contained in the contract of insurance. Policyholders can then judge for themselves whether the additional benefits are worth the charges which it is proposed to exact and both the company and the policyholder can get the resulting economy in agency and medical expenses from writing the two contracts at the same time."

These observations apparently prompted the legislature in the following year to enact section 1948m.

3. Additional insight in respect to the original intent of the disclosure statute is given in Commissioner Cleary's letter on this subject dated October 22, 1915. In this letter the Commissioner has under consideration two filings in which a waiver of premium benefit was included in a policy form previously used. The new coverage with the total and permanent disability benefit was to be sold at the same price previously used only for the basic coverage. Commissioner Cleary indicated the following in respect to liberalization of policies where no direct charge is made for the additional benefit.

"Subdivision 2, of section 1948m, Wisconsin statutes, provided that no policy of insurance (Life) shall be delivered in Wisconsin after the year 1909 unless it contains a table specifying separately the *premium charged* for any benefit promised in the policy other than life or endowment insurance * * *" It is argued that policies such as those proposed by the Prudential are subject to said section, and are required to show in a separate table the charge for such additional benefits.

"I cannot agree with this contention. I do not believe that it was the intention of the legislature, when it enacted this law, to restrict insurance companies in a liberalizing of their policies where no direct charge is the assured was made for the added benefit and where such additional benefit would not endanger the solvency of the company. I conclude after considering the statute carefully, that what the legislature had in mind was rather a situation where the company proposed to give benefits other than death and endowment benefits which involved additional premium charges, in which event the company must specifically state what that additional charge is. I take it that this provision was incorporated so that the assured might know what he was paying for the benefit promised; that the cost should not be concealed in a lump premium charge."

Commissioner Cleary also commented on the fact that even though there is no significant premium charge there is an increased company liability because of the provision and that a limited disclosure was needed to obtain approval. The last paragraph of the letter sets forth this position as follows:

"There can be no question that the added benefits promised in these policies cost the company something. The liability of the company on every outstanding policy containing this provision is greater than it would be if pure life or endowment insurance were the only benefits promised. It will be necessary, therefore, to take this additional benefit into account in valuing these policies. For this reason the policy should, by a printed or stamped provision incorporated in the policy, state the amount estimated as the cost of such benefit. This provision may also state that such sum is included in the premium charged. The sum so stated should be adequate, and will be a guide to actuaries in valuing the policies. The approval hereby given to the policies is subject to the incorporation of such a provision."

The above considerations provide a basis for the standards or criteria adopted in this rule.

History: 1-2-56; r. and recr., Register, March, 1965, No. 111, eff. 4-1-65; emerg. am. (1), (2) and (3) (b), eff. 6-22-76; am. (1), (2) and (3) (b), Register, September, 1976, No. 249, eff. 10-1-76; am. (1), (2) and (3) (b), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16, Stats., Register December, 1984, No. 348.

Ins 2.07 Replacement of life insurance or annuity contracts; disclosure requirements. (1) **PURPOSE.** The interest of life insurance and annuity policyholders must be protected by establishing minimum standards of conduct to be observed in the replacement or proposed replacement of such policies, by reducing the opportunity for misrepresentation in replacement or possible replacement situations, and by precluding unfair methods of competition and unfair practices in the business of insurance.

Register, December, 1984, No. 348

This section implements and interprets s. 628.34, Stats., by establishing minimum standards for the replacement of life insurance and annuities.

(2) **SCOPE.** This section shall apply to the solicitation of life insurance and annuities authorized by s. Ins 6.75 (1) (a) and (b), covering residents of this state, and issued by insurance corporations, fraternal benefit societies, or the State Life Insurance Fund. This section shall not apply credit life insurance; group life insurance or group annuities; contracts issued in connection with employe benefit or welfare plans as defined by Section 3 (3) of the federal employe retirement income security act of 1974 (ERISA) as amended from time to time, except policies or contracts issued in connection with plans providing for purchase of life insurance policies or annuity contracts solely by reason of salary reduction agreements under section 403 (b) of the Internal Revenue Code; to the purchase, within the same insurer, of insurance under a guaranteed insurability option or conversion option; nor to short-term nonrenewable life insurance policies written for periods of 31 days or less.

(3) **DEFINITION.** (a) For the purposes of this section, "replacement" is any transaction in which new life insurance or a new annuity is to be purchased and existing individual life insurance or an annuity has been, may possibly be, or is to be lapsed, surrendered, converted into paid-up insurance, become extended insurance, or the cash or loan value (or a portion thereof) is utilized or contemplated for use in the future in connection with the purchase of new insurance or annuities.

(b) For the purpose of this section, the "Notice" means a document completed by the applicant and the agent or insurer prior to completing a new application for a life insurance or annuity contract, which provides necessary information regarding replacement transactions, in substantially the same format for all insurers, as specified by the commissioner. Appendix I to this section contains the "Notice" to be used when an agent is involved in a solicitation, and Appendix II contains the "Notice" to be used when no agent is involved. Appendix III to this section contains the definitions to be printed on the reverse side of the "Notice".

(4) **DUTIES OF THE AGENT.** (a) The agent shall:

1. Determine prior to completing a new application whether or not replacement is involved.

2. Obtain with or as a part of each application for life insurance or an annuity a statement signed by the applicant as to whether the insurance or annuity will replace existing life insurance or an existing annuity on the same life.

3. Submit to the insurer in connection with each application for life insurance or an annuity the statement obtained under subd. 2 together with a statement as to whether, to the best of the agent's knowledge, replacement is involved in the transaction.

(b) Where replacement is involved or proposed, the agent shall:

1. Before taking an application for life insurance or an annuity furnish the notice contained in Appendix I to the applicant for review and completion of the applicant's portion of the Notice.

2. Complete the certification statement on the Notice, sign and date the Notice, and list the policy number and name of insurer of each policy which there is reason to think may be replaced.

3. Leave a completed copy of the Notice with the applicant for his or her records prior to completing the application for the new policy.

4. Submit a completed copy of the Notice with the application to the proposed insurer.

5. Maintain a copy of the Notice in the agent's file for that applicant for at least 3 years.

(5) DUTIES OF THE INSURER. (a) If agents are involved with the solicitation of life insurance or annuities on residents of this state, every authorized insurer shall inform its agents of the requirements of this section and:

1. Secure with or as part of each application the statements required by sub. (4) (a) as to whether the new insurance or annuity will replace existing insurance or an annuity on the same life.

2. Review the statements prior to commencing any underwriting, but in no event later than 5 days after receipt of the application, to determine if replacement is involved.

3. Keep a copy of the statements on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

4. Where a replacement is involved:

a. Secure with the application a completed Notice.

b. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

c. Maintain copies of the Notice and notifications for at least three years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(b) If agents are not involved with the solicitation of life insurance or annuities on residents of this state, every authorized insurer shall:

1. Provide a copy of the Notice contained in Appendix II with any solicitation material that proposes replacement and contains an application for life insurance or an annuity.

2. Prior to approving or issuing a policy, secure with or as part of the application a statement signed by the applicant as to whether the new insurance or annuity will replace existing insurance or an existing annu-

ity, and the name of every company and every policy number which may be replaced.

3. Review the statement prior to commencing any underwriting, in no event later than 5 days after receipt of the application, to determine if replacement is involved.

4. Keep a copy of the statement on file with the application for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

5. Where replacement is involved:

a. Within 5 days of receipt of the application, and prior to commencing any underwriting, send a written notification of the replacement or possible replacement to the home office of each replaced insurer. Notification shall include the applicant's name, the insured's name, the policy number of the policy being replaced, the generic name and face amount of the replacing policy and the legal names of all insurers.

b. Send the applicant a copy of the Notice contained in Appendix II no later than the time the policy is issued.

c. Maintain copies of the Notice and notifications for at least 3 years indexed so as to be readily available to the office of the commissioner of insurance.

d. Guarantee to the policyholder at least a 20-day right to return the policy after delivery for a full refund of premium, and provide a written notice attached to, or as part of, the first page of the policy informing the policyholder of this right.

(6) **CONTENTS OF THE NOTICE.** The Notices contained in the Appendixes to this section shall be reproduced in their entirety on one side of 8½" by 11" plain paper. The definitions in Appendix III shall be printed on the reverse side of the Notice. References to Appendix I, II or III should not be printed on the Notice or Definitions form. The insurer may print its legal name in the space provided.

(7) **VIOLATION.** Any violation of this section shall be deemed to be a misrepresentation for the purpose of inducing a prospect to purchase insurance and any person guilty of such violation shall be subject to s. 601.64, Stats. Failure to comply with the requirements of this section shall not alter the requirements of any insurer with respect to claims.

(9) **EFFECTIVE DATE.** This rule shall apply to all solicitations which commence on or after March 1, 1982.

Appendix I

IMPORTANT NOTICE
REQUIRED BY
WISCONSIN INSURANCE LAW

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
- 2) Your present occupation or activities may not be covered or could require additional premiums.
- 3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
- 4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.
- 5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract).

COMMISSIONER OF INSURANCE

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THE INSURANCE OR ANNUITY(IES) I INTEND TO PURCHASE FROM _____ MAY REPLACE OR ALTER EXISTING LIFE INSURANCE OR ANNUITY POLICY(IES).

The following policy(ies) may be replaced as a result of this transaction:

Insurer as it appears on the policy	Insured as it appears on the policy	Policy Number
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

The proposed policy is:

_____ \$ _____
 type of policy-generic name face amount

_____ date
 signature of applicant

_____ city state
 address of applicant

I certify that this form was given to and completed by

 (applicant—please print or type)
 prior to taking an application and that I am leaving a signed copy for the applicant.

_____ date
 agent's signature

_____ address

_____ state
 city

Appendix II

IMPORTANT NOTICE
REQUIRED BY
WISCONSIN INSURANCE LAW

DEFINITION: REPLACEMENT IS any transaction where, in connection with the purchase of New Insurance or a New Annuity, you LAPSE, SURRENDER, CONVERT to Paid-up Insurance, Place on Extended Term, or BORROW all or part of the policy loan values on an existing insurance policy or an annuity. (See reverse side for DEFINITIONS.)

IF YOU INTEND TO REPLACE COVERAGE In connection with the purchase of this insurance or annuity, if you have REPLACED or intend to REPLACE your present life insurance coverage or annuity(ies), you should be certain that you understand all the relevant factors involved.

You should BE AWARE that you may be required to provide Evidence of insurability and

- 1) If your HEALTH condition has CHANGED since the application was taken on your present policies, you may be required to pay ADDITIONAL PREMIUMS under the NEW POLICY, or be DENIED coverage.
- 2) Your present occupation or activities may not be covered or could require additional premiums.
- 3) The INCONTESTABLE and SUICIDE CLAUSE will begin anew in a new policy. This could RESULT in a CLAIM under the new policy BEING DENIED that would otherwise have been paid.
- 4) Current law DOES NOT REQUIRE your present insurer(s) to REFUND any premiums.
- 5) It may be to your advantage to OBTAIN INFORMATION regarding your existing policies from the insurer or agent from whom you purchased the policy.

(If an annuity is being purchased, Items 1, 2 and 3 above would not apply to the new contract).

CAUTION

If after studying the information made available to you, you decide to replace your existing life insurance or annuity with our contract, you are urged not to take action to terminate or alter your existing coverage until after you have been issued the new policy, examined it and found it to be acceptable to you. If you should terminate or otherwise materially alter your existing coverage and fail to qualify for the life insurance for which you have applied, you may find yourself unable to purchase other life insurance or be able to purchase it only at substantially higher rates.

INSURER'S MAILING DATE: _____

Appendix III**DEFINITIONS**

Premiums: Premiums are the payments you make in exchange for an insurance or annuity contract. They are unlike deposits in a savings or investment program, because if you drop the policy, you might get back less than you paid in.

Cash Surrender Value: This is the amount of money you can get in cash if you surrender your life insurance policy or annuity. If there is a policy loan, the cash surrender value is the difference between the cash value printed in the policy and the loan value. Not all policies have cash surrender values.

Lapse: A life insurance policy may lapse when you don't pay the premiums within the grace period. If you had a cash surrender value, the insurer might change your policy to as much extended term insurance or paid-up insurance as the cash surrender value will buy. Sometimes the policy lets the insurer borrow from the cash surrender value to pay the premiums.

Surrender: You surrender a life insurance policy when you either let it lapse or tell the company you want to drop it. Whenever a policy has a cash surrender value, you can get it in cash if you return the policy to the company with a written request. Most insurers will also let you exchange the cash value of the policy for paid-up or extended term insurance.

Convert to Paid-Up Insurance: This means you use your cash surrender value to change your insurance to a paid-up policy with the same insurer. The death benefit generally will be lower than under the old policy, but you won't have to pay any more premiums.

Place on Extended Term: This means you use your cash surrender value to change your insurance to term insurance with the same insurer. In this case, the net death benefit will be the same as before. However, you will only be covered for a specified period of time stated in the policy.

Borrow Policy Loan Values: If your life insurance policy has a cash surrender value, you can almost always borrow all or part of it from the insurer. Interest will be charged according to the terms of the policy, and if the loan with unpaid interest ever exceeds the cash surrender value, your policy will be surrendered. If you die, the amount of the loan and any unpaid interest due will be subtracted from the death benefits.

Evidence of insurability. This means proof that you are an acceptable risk. You have to meet the insurer's standards regarding age, health, occupation, etc., to be eligible for coverage.

Incontestable Clause: This says that after one or two years (depending on the policy or insurer) the life insurer will not resist a claim because you made a false or incomplete statement when you applied for the policy. For the early years, though, if there are wrong answers on the application and the insurer finds out about them, it can deny a claim as if the policy had never existed.

Suicide Clause: This says that if you commit suicide after being insured for less than one or two years (depending on the policy and insurer), your beneficiaries will receive only a refund of the premiums that were paid.

History: (See also history of Ins 2.065) Cr. Register, March, 1972, No. 195, eff. 6-1-72; emerg. am. (1) and (2) eff. 6-22-76; am. (1) and (2); Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; r. and recr. Register, January, 1982, No. 313, eff. 3-1-82; r. (8), under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 2.08 Special policies and provisions; prohibitions, regulations, and disclosure requirements. (1) **PURPOSE.** The interest of the public and the maintenance of a fair and honest life insurance market must be safeguarded by identifying and prohibiting certain types of policy forms and policy provisions and by requiring certain insurance premiums to be separately stated. This rule implements and interprets applicable statutes including ss. 628.34, 631.20, 632.44 (1) and 632.62, Stats.

(2) **SCOPE.** This rule shall apply to the kinds of insurance authorized by s. Ins 6.75 (1) (a), and shall also apply to fraternal benefit societies.

(3) **DEFINITIONS.** For the purpose of this rule certain life insurance policy forms and provisions referred to herein shall have the following meaning:

(a) *Coupon policy* is any policy form which includes a series of coupons prominently and attractively featured in combination with an insurance contract. Such coupons are one-year pure endowments whether or not so identified and whether or not physically attached to the insurance contract. The coupons are devised to give the appearance of the interest coupons that are frequently attached to investment bonds. Although the face amount of the coupon benefit is essentially a refund of premium previously paid by a policyholder, it is frequently represented that it is the earnings or return on the investment of the policyholder in life insurance.

(b) *Charter policy* is a term or name assigned by an insurance company to a policy form. Such a policy is usually issued by a newly organized company and it is sold on the basis that its availability will be limited to a specific predetermined number of units of a fixed dollar amount. Such policies generally provide that the policyholder shall participate in the earnings resulting from either or both participating policies and non-participating policies. It is characteristic of such a policy that in its presentation to the public it is represented that the policyholder will receive a special advantage in any future distribution of earnings, profits, dividends or abatement of premium. It is also represented that such advantage will not be made available to the persons holding other types of policies issued by the company. Other names such as *Founders, President, and Executive Special* are frequently used for policies of the type herein described, and for the purpose of this rule when they are so used they shall be considered as *charter policies*.

(c) A *Profit-sharing policy* is any policy form which contains provisions representing that the policyholder will be eligible to participate, with special advantage not available to the persons holding other types of policies issued by the same company, in any future distribution of general corporate profits. Such policy forms are so drafted that it appears to a prospective policyholder that he is purchasing a preferential share of the future profit and earnings of the insurance corporation rather than

purchasing a life insurance policy which may be subject to refund of excess premium payments. The provisions of the policy may incorrectly represent the amount and source of surplus that will be available for apportionment and return to policyholders in the form of dividends. Policy forms using such terms as *profits*, *surplus*, or *surplus-sharing* in the manner herein described shall, for the purpose of this rule, be considered as *profit-sharing policies*.

(4) PROHIBITIONS, REGULATIONS, AND DISCLOSURE REQUIREMENTS. In accordance with the purpose expressed in sub. (1) and in consideration of the apparent intent of the legislature, the use in this state of certain types of policy forms and policy provisions shall be subject to the following prohibitions and regulations:

(a) *Coupon policy* forms misrepresent, distort, and disguise the true nature of the insurance purchased. Therefore, no *coupon policy* shall be approved for use and no *coupon policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

Any policy, except a policy which is only used as a funding medium to provide gifts to a corporation without profit, as provided in s. 615.04, Stats., containing a series of one-year pure endowments or a series of guaranteed periodic benefits maturing during the premium-paying period of the policy in which the amount of any pure endowment or periodic benefit or benefits payable during any policy year is less than the total annual policy premium for such year has special characteristics making such policy peculiarly susceptible to misrepresentation and misunderstanding. Such policies are founded on the utmost good faith of the company, and the public interest requires that the premium charged for such benefits shall be fully and fairly disclosed to the policyholder without deception or misrepresentation. Therefore, on or after April 1, 1965, no such policy herein described shall be approved for use and no such policy heretofore approved shall be issued or delivered in this state unless:

1. The policy is nonparticipating.
2. The payment of a pure endowment or guaranteed periodic benefit is not contingent on the payment of premiums falling due on or after the time such pure endowment has matured,
3. The gross premium for the pure endowment or guaranteed periodic benefits is shown prominently and separately in the policy distinct from the regular insurance premium,
4. The gross premium for the pure endowment or guaranteed periodic benefits is based on reasonable assumptions as to interest, mortality, and expense,
5. The number of one-year endowment or guaranteed periodic benefits provided by the policy equals the number of annual premiums for such benefits,
6. All advertisements, sales materials, agent's presentations, and other representations of the policy to the public represent the pure endowment or guaranteed periodic benefits of the policy to be nothing other than insurance benefits for which a premium is being paid,

7. All representations of the total premium for the policy contract also show the gross premium for the pure endowment or guaranteed periodic benefits to an extent such that the prospect or purchaser is fully informed as to the separate costs involved.

(c) *Charter policy* forms are defined by s. 207.04 (1) (f), Stats., to be an unfair method of competition. They purport to provide a means to an end result that is not authorized by statute and an end result that is without reasonable expectation of achievement. Such policy forms misrepresent the responsibility and obligation of the company for equitable distribution of dividends or abatement of premiums. Therefore, no *charter policy* shall be approved for use and no *charter policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962.

(d) *Profit-sharing policy* forms are contrary to statute and the public interest by representing as an inducement to insurance that the person who purchases such a policy is procuring a preferential interest in the future profits and earnings of the insurance corporation. Any distribution to a policyholder of the company of earnings, profits, or surplus is a refund of the excess premiums paid by that policyholder. Such distribution must be fair and equitable to all policyholders, it must not discriminate unfairly between individuals of the same class and equal expectation of life, and it must be in the best interest of the company and its policyholders. Therefore, no *profit-sharing policy* shall be approved for use and no *profit-sharing policy* heretofore approved shall be issued or delivered in this state on or after June 15, 1962. Further, on or after June 15, 1962, no participating policy shall be approved and no participating policy heretofore approved shall be issued or delivered in this state unless the policy provides without deception or misrepresentation that the source of any dividends or abatement of premium is limited to the divisible surplus derived from participating business.

Note: Section Ins 2.08 is the end product of a careful study and evaluation of the transcript of the hearing on January 16 and January 17, 1962, on the proposed rule. Due consideration was given to the exhibits and the prepared statements presented at the hearing and to the several briefs filed subsequent to the hearing. This is the first time since the passage of Public Law 15 that such a large amount of legal and actuarial talent was focused on these specific matters of the life insurance business. The number and size of the briefs and exhibits reflect the substantial time involved with their preparation, and the information they contained cast considerable light on the issues under consideration.

It is of interest to note that the first coupon-type life insurance policy was accepted for use in Wisconsin about 1940. Chapter 207, Wisconsin Statutes, relating to Unfair Insurance Business Methods, was enacted in 1947. In 1959 a newly organized company commenced the use of a charter-type coupon policy with profit or surplus sharing provisions. Because of the infrequent submission of such a type of life insurance policy, the insurance department personnel did not fully appreciate the impact of the provisions of ch. 207 (1947, c. 520) on the provisions of life insurance policies filed pursuant to s. 206.17, Stats. The information made available as a result of the hearing serves to bring the issues and the requirements of statutes more clearly in focus.

An administrative agency has a responsibility to correct any errors in administration of the statutes which are brought to its attention. The premise suggested at the hearing by the opponents of the proposed rule that a previous administrative ruling (acceptance of the policy) should be controlling and should not be reversed is not supported by the Wisconsin supreme court. In *Universal Underwriters vs. Rogan*, 6 Wis. (2d) 623, the court in effect said that, in case of ambiguity in a statute, practical interpretation over a long period by the agency charged with administration of an act or statute may be deemed controlling, but where there is no ambiguity in the law, a previous administrative ruling thereon cannot be given any weight as an administrative interpretation. The basic responsibility for the drafting and construction of lawful, policy forms rests with an insurance company and its actuaries and lawyers. In reviewing policy forms, the insurance department, while seeking to protect the public interest to the best of its ability, does not inherit any basic responsibility for the lawfulness of any part or all of an insurance contract. Therefore, it appears proper to make a determination of the matters at hand based on the merits of the issues and without an obligation to be controlled by a previous ruling.

Life insurance contracts, more than any other kind of insurance, are made on the basis of the utmost good faith of the insurance company. It is fundamental that the provisions of such contracts be devised with clarity and precision. The commissioner has an obligation to see that the public interest be served and the statute complied with by refusing to accept policies that are or tend to be misleading or deceptive. Section 201.53 (1), Stats., states that: "No insurance company shall make any agreement of insurance other than as plainly expressed in the policy."

The principal issues involved are whether or not life insurance coupon policies, charter policies, and profit-sharing policies are consistent with and are authorized by statute. Some life insurance companies issue policy forms embodying one or more of these features in a single policy. It is necessary that each of these types of policies be discussed separately even though there is some overlapping of the issues involved and some of the same considerations are present in two or more of these policies.

In respect to the so-called coupon policies, wherein a series of coupons are sold in conjunction with conventional life insurance, there is no dispute but that the coupons are a series of one-year pure endowments. This being true, they should be properly identified as such. To print the coupon in the color and format of interest coupons commonly attached to investment bonds disguises the true nature of the product being purchased by the public. A series of one-year endowments affords a special type of benefit which the average life insurance buyer would seldom purchase if he were in possession of the full information concerning the premiums paid for the pure endowment benefits provided.

The gross premium cost to the policyholder for the pure endowment benefits can be readily determined by the company by loading the benefits to be afforded with the applicable expense items such as premium taxes, acquisition cost, and company administration expenses, with consideration for items such as interest, mortality, policy lapses, etc. It has been argued that it is only necessary to disclose the net premium cost, which is the premium needed to provide the benefits, without recognition and inclusion of the company administration expenses and overhead. These other expenses do exist and if not shown with the pure endowment premium they then are an additional load on the life insurance being purchased in conjunction with the pure endowment benefit. To argue that it is only necessary to disclose a portion of the premium cost is to argue that it is legal and proper to deceive the public into believing that they are purchasing the endowment benefit at a premium cost that is attractive in relation to the benefits. It is a fact that the gross premium cost will frequently be substantially in excess of benefits returned to the policyholder. At best, the total of the face value of the pure endowment benefits would approximate or be only slightly greater than the total gross premium paid by the policyholder. It is not in the public interest, nor is it consistent with ss. 201.53 (1), 206.51 (1), and 207.04 (1) (a), Stats., to permit such a deception and misrepresentation of the gross premium cost of a series of one-year pure endowments or of any series of guaranteed periodic benefits maturing during the premium-paying period of the policy.

Charter policy is a name given to a life insurance policy, usually by a newly organized insurance company. Its basic purpose is to provide the company agents with a policy form that is especially attractive to the purchaser in order that the new company will have a competitive advantage. The nature of the charter-type policy is that it is profit-sharing or that the policyholder will participate in the long-term earnings of the company. The usual representation is that the policies will be issued to the extent of a predetermined fixed number of units and that the policyholder will be one of a relatively small and limited number of the original policyholders of the company who will ultimately share in the business success of the company. While this may be a useful device to aid a new company in getting started in business, the technique, if it is to be permitted, must be consistent with the requirements of statute. Section 207.04 (1) (f) states that 'Issuing . . . any special or advisory board contracts or other contracts of any kind promising returns and profits as an inducement to insurance' is an unfair method of competition and is an unfair and deceptive act or practice in the business of insurance. Such trade practices are prohibited by s. 207.03. The technique of offering returns or profits to a small group of the first policyholders of a company is clearly contrary to statute. It is a characteristic of charter policies that they represent that the policyholder will participate with special advantage in the long-term earnings of the company. This is a misrepresentation when viewed in the light of the requirement of s. 206.33 (1) that 'No life insurance company shall make or permit any distinction or discrimination between insureds of the same class and equal expectation of life in the amount or payment of premiums or in any return of premium, dividends or other advantages.' After consideration of the issues involved it cannot be concluded that charter-type life insurance contracts are consistent with the requirement of statute.

Profit-sharing is a name used to describe any life insurance contract which provides that the policyholder will participate with special advantage in the general surplus accumulations of a life insurance company. If the company issuing such policies issues participating policies exclusively, then the right of each policyholder to participate in the surplus of the company is the same as the right of every other policyholder of the company. In such cases the statutes (206.13 (1), 206.33, 206.36, and 207.04 (1) (g)) require equitable and nondiscriminatory annual apportionment and return of the surplus accumulations.

However, the matters involved are much more complex when a life insurance company issues both participating and nonparticipating policies. Underlying the matters to be consid-

ered is the fact that any dividend on a participating policy is essentially a return of excess premium paid by the policyholder. Section 206.13 (1) provides that the participating policy, by its terms, must give the policyholder the full right to participate annually in the surplus accumulations from the participating business of the company. The issue in question is whether the statutes authorize a life insurance company to issue contracts which provide that a class of participating policyholders will participate with special advantage in the long-term corporate earnings of the company on both participating and nonparticipating business. Section 207.04 (1) (g) 1 defines as a prohibited unfair discrimination the 'making or permitting any unfair discrimination between individuals of the same class and equal expectation of life in the rates charged for any contract of life insurance or of life annuity or in the dividends or other benefits payable thereon, . . .'. Section 207.04 (1) (h) defines as rebating, prohibited by section 207.03, the 'paying or allowing or giving or offering to pay, allow or give, directly or indirectly, as inducement to such insurance or annuity, any rebate of premiums payable on the contract, or any special favor or advantage in the dividends or other benefits thereon, . . .'. From this it can be concluded that the statutes do not permit the issuance of a contract which gives the policyholder a promise of rebate of premium or a special advantage in dividend. Section 207.04 (1) (i) provides that, in respect to discrimination and rebates, the provisions of section 207.04 (1) (g) and (h) do not prevent the abatement of premium out of surplus accumulated from nonparticipating business provided that such abatement of premium shall be fair and equitable to policyholders and for the best interest of the company and its policyholders. This statute is the only authorization for payment of dividends from the surplus accumulated from nonparticipating business. The impact of this statute is that any distribution of surplus accumulated from nonparticipating business must be fair and equitable to both participating and nonparticipating policyholders and for the best interest of the company and the participating and nonparticipating policyholders. Thus, a participating policy which purports to provide by its own terms or by the net result of the application of its terms that the policyholder will participate in the surplus accumulated on nonparticipating business is not a true representation of fact since the participating policy can only participate to an extent that is equitable with the participation of the nonparticipating policy, and to be equitable and not misrepresent the rights of the policyholder the nonparticipating policy should have the same provisions for participation in the earnings on the nonparticipating business. If such a provision were to be inserted in all nonparticipating policies, such policies then, by their own terms, become participating policies and the distribution of dividends would be governed by the statutes cited above and the purported special advantage would not exist. It can be concluded that participating policy forms issued by life insurance companies should accurately state the conditions imposed by statute for distribution of surplus accumulations.

It is also worthy of mention that the Wisconsin Securities Law, in s. 189.02 (1), defines a security as including 'any interest, share or participation in any profits, earnings, profit-sharing agreement, . . .'. There appears to be substantial evidence that if the profit-sharing or surplus-sharing type of policy were to be considered as complying with the insurance statutes, it would then be considered as within the definition of a security and subject to regulation as such.

The provisions of s. Ins 2.08 are intended to apply only to policies issued on or after its effective date, and it does not apply to contracts issued prior to the effective date. The adoption of the rule should not disturb or cast doubt about the validity of previously issued contracts of the type described in the rule. Such contracts were issued in good faith by the insurance companies, and there is no retroactive impact of the rule.

The amendment to sub. (4) (b), effective December 1, 1964, does not impair the validity of any contracts in force prior to the effective date and does not prevent a company from performing on any such contracts.

All present tense statutory references herein are to 1973 Stats.

History: Cr. Register, May, 1962, No. 77, eff. 6-15-62; am. (4) (b), Register, August 1964, No. 104, eff. 12-1-64; am. (4) (b) (intro. par.), Register, March, 1965, No. 111, eff. 4-1-65, emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (2), Register, March, 1979, No. 279, eff. 4-1-79; am. (4) (b) (intro.), Register, January, 1984, No. 337, eff. 2-1-84; r. (5) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 2.09 Separate and distinct representations of life insurance. (1) PURPOSE. The interests of policyholders and purchasers of life insurance which is sold in connection with any security must be safeguarded by providing them with clear and unambiguous written proposals and statements in which all material relating to life insurance is set forth separately from any other material. This rule implements and interprets s. 628.34, Stats., by establishing minimum standards for the form of proposals and statements used to solicit, service, or collect premiums for life insurance which is sold in connection with a mutual fund or other security.

(2) SCOPE. This rule shall apply to the solicitation of, negotiation for, procurement of, or joint billing of any insurance specified in s. Ins 6.75

(1) (a), within this state or involving a resident of this state where it is known to the insurer or the insurance agent that the sale of any mutual fund or other security has been, may become, or is a part of any such transaction.

(3) DEFINITIONS. For the purposes of this rule:

(a) "Proposal" includes any estimate, illustration, or statement which involves a representation of any premium charge, dividends, terms, or benefits of any policy of life insurance within sub. (2).

(b) 'Life insurance' includes life insurance, annuities, and endowments.

(4) RESPONSIBILITY OF INSURER AND AGENT. No insurer and no insurance agent shall make, in connection with any transaction within sub. (2), a proposal or billing other than in accordance with this rule. Every insurer must inform its agents involved with the solicitation of life insurance on residents of this state of the requirements of this rule.

(5) WRITTEN PROPOSAL. In any solicitation or sale within sub. (2), the prospect or policyholder must be furnished with a copy of a clear and unambiguous written proposal not later than at the time the solicitation or proposal is made.

(6) CONTENTS OF PROPOSAL. Any proposal referred to in this rule must:

(a) Be dated and signed by the insurance agent or by the insurer if no agent is involved;

(b) State the name of the company in which the life insurance is to be written;

(c) Be accurate and complete;

(d) Contain no misrepresentations or false, deceptive or misleading statements;

(e) Show the premium charge for life insurance separately from any other charge;

(f) If values which may accrue prior to the death of the insured are involved in the presentation, show the value of the life insurance separately from any other values;

(g) Show, if it is involved in the presentation, the amount of the death benefit for the life insurance separately from any other benefit which may accrue upon the death of the insured;

(h) Set forth all matters pertaining to life insurance separately from any matter not pertaining to life insurance;

(i) Contain only such representations as will accurately reflect the actual conditions applicable to the proposed insured.

(7) STATEMENTS TO BE SEPARATE. Any bill, statement, or representation sent or delivered to any prospect or policyholder must show the premium charge for the life insurance and any other information mentioned

concerning life insurance separately from any other charges or values shown in the same billing.

(8) VIOLATION. Any violation of this rule shall be deemed to be a misrepresentation of the nature of the life insurance involved.

History: Cr. Register, October, 1963, No. 94, eff. 11-1-63; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, September, 1976, No. 249, eff. 10-1-76; am. (1) and (2), Register, March, 1979, No. 279, eff. 4-1-79; r. (9) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348.

Ins 2.12 Exceptions to unfair discrimination. The following practices, without being all-inclusive, shall not be considered unfairly discriminatory as considered by s. 628.34, Stats.:

(1) Issuing life insurance policies or life annuity contracts on a salary savings, salary allotment, bank draft, pre-authorized check, or payroll deduction plan or other similar plan at a reduced rate or with special underwriting considerations reasonably related to the savings made by use of such plan.

(2) Issuing life insurance policies or annuity contracts at premiums determined by rating plans which provide for modification of premiums based on the amount of insurance; but any such rating plans shall not result in reduction in premiums in excess of the savings reasonably related to the savings made by use of the plan. All cost factors must be given proper recognition in order to preserve equity between various classes of policyholders.

(3) Issuing so-called 'family plan' life insurance policies which include insured, spouse, and their children with the premium calculated on the basis of the family unit. The rating plan must give recognition to all cost factors in order to preserve equity between various classes of policyholders.

(4) Issuing policies under the authority of s. Ins 6.75 (1) (a), with the premium calculated on the basis of the average age of those insured or calculated in some other manner which is appropriate for the coverage offered, provided that the rate must be reasonably related to the coverage provided and to the savings made by use of the rating procedure.

(5) Issuing life insurance policies or life annuity contracts at special rates or with special underwriting considerations, reasonably related to the savings made, in connection with:

(a) Employee benefit trusts or plans conforming to the requirements of s. 815.18 (31) (a), Stats.

(b) Plans used to fund retirement benefits under the Federal Self-Employed Individuals Tax Retirement Act of 1962.

(c) Plans used to fund retirement benefits for employees of certain organizations exempt from Federal income tax and public schools (so-called tax sheltered annuity plans).

History: Cr. Register, May, 1964, No. 101, eff. 6-1-64; emerg. am. (intro.), (4) and (5) (d), eff. 6-22-76; am. (intro.), (4) and (5) (d), Register, September, 1976, No. 249, eff. 10-1-76; am. (4) and (5) (a), Register, March, 1979, No. 279, eff. 4-1-79; r. (5) (d), Register, June, 1982, No. 318, eff. 7-1-82; reprinted to correct error in (5), Register, August, 1982, No. 320.

Ins 2.13 Separate accounts and variable contracts. (1) PURPOSE. This section creates standards for establishing separate accounts and for issu-

ing contracts on a variable basis, both as provided by ss. 611.25 and 632.45 (1), Stats.

(2) DEFINITIONS. In this section:

(a) "Agent" means a person who sells or offers to sell any contract on a variable basis.

(b) "Contract on a variable basis" or "variable contract" means a policy or contract which provides for insurance or annuity benefits which may vary according to the investment experience of any separate account maintained by the insurer as to the policy or contract, as provided for in s. 632.45 (1), Stats., including contracts defined in pars. (e) and (f).

(c) "Interest credits" means all interest that is credited to a policy or contract.

(d) "Issue" means to issue for delivery or deliver.

(e) "Modified guaranteed annuity" means a deferred annuity contract, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(f) "Modified guaranteed life insurance policy" means an individual policy of life insurance, the underlying assets of which are held in a separate account and the values of which are guaranteed if held for specified periods, containing nonforfeiture values based on a market-value adjustment formula if held for shorter periods, which formula may or may not reflect the value of assets held in the separate account.

(g) "Policy processing day" means the day on which charges authorized in the policy are deducted from the policy's cash value.

(3) QUALIFICATION OF INSURER TO ISSUE VARIABLE CONTRACTS. (a) No insurer may issue variable contracts in this state unless:

1. It is licensed or organized to do a life insurance or annuity business in this state; and

2. The commissioner is satisfied that its condition or method of operation in connection with the issuance of variable contracts will not render its operation hazardous to the public or its policyholders in this state. In determining the qualification of an insurer requesting authority to issue variable contracts in this state, the commissioner shall consider among other things:

a. The history and financial condition of the insurer;

b. The character, responsibility and fitness of the officers and directors of the insurer; and

c. The law and regulation under which the insurer is authorized in the state of domicile to issue variable contracts.

(b) If the insurer is a subsidiary of an admitted life insurance company, or affiliated with an admitted life insurance company by common management or ownership, the commissioner may deem it to have satisfied par. (a) 2 if either it or the admitted life insurance company satisfies

the provisions of par. (a) 2. The commissioner may deem any licensed insurer which has a satisfactory record of doing business in this state for a period at least 3 years to have satisfied the provisions of par. (a) 2.

(c) Before any insurer issues variable contracts in this state, it shall submit to the commissioner:

1. A general description of the kinds of variable contracts it intends to issue;

2. If requested by the commissioner, a copy of the statutes and regulations of its state of domicile under which it is authorized to issue variable contracts; and

3. If requested by the commissioner, biographical data with respect to its officers and directors.

(4) SEPARATE ACCOUNTS. (a) A domestic insurer issuing variable contracts shall establish one or more separate accounts pursuant to s. 611.25, Stats., subject to the following provisions:

1. Except as provided in this subsection, an insurer may invest and reinvest amounts allocated to and accumulating in any separate account without regard to any requirements or limitations prescribed by the laws of this state governing the investments of life insurance companies. This subdivision applies only if the insurer maintains in any separate account its reserve liability with regard to benefits guaranteed as to amount and duration and funds guaranteed as to principal or rate of interest, and a portion of the assets of the separate account at least equal to the reserve liability, or another amount approved by the commissioner, is invested in accordance with the laws of this state governing the investments of life insurance companies. No investments in a separate account may be taken into account in applying the investment limitations applicable to the investments of the insurer.

2. With respect to 75% of the market value of the total assets in a separate account, no insurer may purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States if, immediately after the purchase or acquisition, the market value of the investment, together with prior investments of the separate account in the security taken at market, would exceed 10% of the market value of the assets of the separate account. The commissioner may waive this limitation if he or she believes that the waiver will not render the operation of the separate account hazardous to the public or the insurer's policyholders in this state.

3. No insurer may, either for its separate accounts or otherwise, invest in the voting securities of a single issuer in an amount exceeding 10% of the total issued and outstanding voting securities of the issuer. This limitation does not apply with respect to securities held in separate accounts, the voting rights in which are exercisable only in accordance with instructions from persons having interests in the accounts.

4. The limitations provided in subsds. 2 and 3 do not apply to the investment with respect to a separate amount in the securities of an investment company registered under the investment company act of 1940, 29 U.S.C. ss. 80a-1 to 80a-64, as amended, if the investments of the investment company comply in substance with subsds. 2 and 3.

(b) Unless otherwise approved by the commissioner, an insurer shall value assets allocated to a separate account at their market value on the date of valuation, or if there is no readily available market, then as provided under the terms of the contract or the rules or other written agreement applicable to the separate account, except that the insurer shall value the portion of the assets of the separate account equal to the insurer's reserve liability with regard to the benefits and funds described in par. (a) 1, if any, in accordance with the rules otherwise applicable to the insurer's assets.

(c) To the extent provided under any applicable contract, no portion of the assets of any separate account established under this subsection equal to the reserves and other applicable contract liabilities of the account are chargeable with liabilities arising out of any other business the insurer may conduct.

(d) Notwithstanding any other provision of law, an insurer may:

1. With respect to any separate account registered with the securities and exchange commission as a unit investment trust, exercise voting rights in connection with any securities of a regulated investment company registered under the investment company act of 1940, 15 U.S.C. ss. 80a-1 to 80a-64, as amended, which are held in separate accounts in accordance with instructions from persons having interests in the accounts ratably as determined by the insurer; or

2. a. With respect to any separate account registered with the securities and exchange commission as a management investment company, establish for the account a committee, board or other body, the members of which may or may not be otherwise affiliated with the insurer and may be elected to membership by the vote of persons having interests in the account ratably as determined by the insurer.

b. A committee, board or other body established under subd. 2. a may, alone or in conjunction with others, manage the separate account and the investment of its assets.

c. An insurer or a committee, board or other body established under subd. 2. a may make other provisions for any separate account established under this subsection in order to facilitate compliance with federal or state law, if the commissioner approves the provisions as not hazardous to the public or the insurer's policyholders in this state.

(e) 1. An insurer may not transfer assets between any of its separate accounts or between any other investment account and a separate account except that an insurer may transfer assets into a separate account solely to establish the account or to support the operation of the contracts with respect to the separate account to which the transfer is made.

2. An insurer may transfer assets under subd. 1 only as follows:

a. By a transfer of cash; or

b. By a transfer of securities having a readily determined market value, if the transfer is approved by the commissioner.

3. Notwithstanding subd. 2, the commissioner may authorize other transfers among accounts if he or she believes that the transfers would not be inequitable.

(f) The insurer shall maintain in each separate account established under this subsection assets with a value at least equal to the reserves and other contract liabilities with respect to the account, except as otherwise approved by the commissioner.

(g) Section 611.60, Stats., applies to the members of any separate account's committee, board or other body established under par. (d) 2. a. No officer or director of the insurer nor any member of a committee, board or body of a separate account may receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of the separate account.

(5) FILING OF CONTRACT FORMS. (a) No variable contract may be issued in this state until the commissioner has approved the form or until the form and rates have been filed with the commissioner for 30 days.

(b) The filing letter shall be in duplicate and shall contain the following information:

1. An identifying form number and title for each form submitted.
2. A general description of each form.
3. A listing of the types of policies to which rider or endorsement forms will be attached.
4. The form number and date of approval by the commissioner of any form to be superseded.

(c) One copy of all forms or rates submitted or approval shall be submitted with a copy of the application attached if the application is to be a part of the contract. If the application was previously approved, the form number and date of approval will suffice.

(d) Each form shall include hypothetical data showing its use, a correct table of values and an explanation of all variable information.

(e) Each filing shall include an actuarial statement of methods used to calculate values in the contract.

(6) (a) Any variable contract issued in this state shall contain a statement of the essential features of the procedures to be followed by the insurer in determining the amount of the variable benefits. Each variable contract, including a group contract and any certificate issued under a group contract, shall state that the amount of benefits will vary to reflect investment experience and shall contain on its first page, in a prominent position, a clear statement that the benefits under the contract are on a variable basis and the location in the contract of the details of the variable provisions.

(b) No illustration of benefits payable under any variable contract may include a projection of past investment experience into the future or a prediction of future investment experience. This paragraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits.

(c) No insurer may issue an individual variable annuity contract calling for periodic stipulated payments in this state unless the contract contains in substance all of the following provisions or provisions which in

the opinion of the commissioner are more favorable to the holder of the contract:

1. A grace period of 30 days or one month within which the holder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

2. A right to reinstatement of the contract at any time within 3 years from the date of default in making periodic stipulated payments to the insurer during the life of the annuitant, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. The options available in the event of default in a periodic stipulated payment. The options may include an option to surrender the contract for a cash value as determined by the contract, and shall include an option to receive a paid-up annuity if the contract is not surrendered for cash. The amount of the paid-up annuity shall be determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract.

(d) Any individual variable annuity contract issued in this state shall stipulate the expense, mortality and investment increment factors to be used in computing the amount of variable benefits or other contractual payments or values, and may guarantee that no expense or mortality results, or both, will adversely affect the amount of benefits. The expense factors may exclude some or all taxes, as stipulated in the contract. In computing the amount of variable benefits or other contractual payments or values under an individual variable annuity contract:

1. No annual net investment increment assumption may exceed 5%, except with the approval of the commissioner; and

2. To the extent that the level of benefits may be affected by mortality results, the insurer shall determine the mortality factor from the 1983 Table A, as defined in s. Ins 2.30 (2) (a), or any modification of that table not having a higher mortality rate at any age.

(e) The insurer shall establish the reserve liability for variable annuities under s. 623.06, Stats., in accordance with actuarial procedures that recognize the variable nature of the benefits provided.

(7) MODIFIED GUARANTEED LIFE INSURANCE. (a) An insurer that issues modified guaranteed life insurance policies in this state shall comply with all of the following requirements:

1. The insurer shall bear mortality and expense risks. The mortality and expense charges shall be subject to the maximum stated in the contract.

2. For scheduled premium policies, the insurer shall provide a minimum death benefit in an amount at least equal to the initial face amount of the policy as long as premiums are paid, subject to par. (d) 2.

3. The insurer shall determine the cash value of each policy at least monthly. Each policy shall describe the method of computing cash values and other nonforfeiture benefits and shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments.

4. With the form filing under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the policyholder and the insurer. The form filing shall demonstrate that, if the interest credits at all times during which the policy is in effect equal those guaranteed in the policy, with premiums and benefits determined under the terms of the policy, then, ignoring any market-value adjustment, the resulting cash values and other nonforfeiture benefits shall be at least equal to the minimum values required by s. 632.43, Stats., for a fixed benefit general account policy with the same premiums and benefits.

5. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

6. At the end of any specified guarantee period, the policyholder may select a new guarantee period of not more than 5 years or until the end of the coverage period, whichever is shorter.

(b) Each modified guaranteed life insurance policy form filed for approval shall contain all of the following:

1. A cover page, or pages corresponding to a cover page, which shall include all of the following:

a. A prominent statement that cash values may increase or decrease in accordance with the market-value adjustment formula.

b. A captioned notice that the policyholder may return the policy within 10 days of its receipt, and receive a refund equal to the sum of (i) the difference between premiums paid, including policy fees and other charges, and the amounts allocated to any separate accounts under the policy, and (ii) the value of the amounts allocated to any separate accounts under the policy, on the date the insurer or its agent receives the returned policy, as determined by the market-value adjustment formula.

c. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

2. If settlement options are provided, a provision that at least one of the options shall be provided on a fixed basis only.

3. A description of the basis for computing the cash value and the surrender value under the policy.

4. A separate statement of premiums or charges for incidental insurance benefits.

5. Any other policy provision required by this section.

6. Any other item required by statute or administrative rule for fixed benefit life insurance policies which is not inconsistent with this section.

7. A provision for nonforfeiture insurance benefits. The insurer may establish a reasonable minimum cash value below which any nonforfeiture insurance options will not be available.

(c) Each modified guaranteed life insurance policy issued in this state shall provide that the policyholder may borrow at least 75% of the policy's cash surrender value after the policy has been in force for at least 3 years unless the policy includes a policy loan provision that is no less favorable to the policyholder. Each policy loan provision shall provide all of the following:

1. The amount borrowed shall bear interest as provided under s. 632.475, Stats.

2. The insurer shall deduct any indebtedness from the proceeds payable on death.

3. The insurer shall deduct any indebtedness from the cash surrender value upon surrender or in determining any nonforfeiture benefit.

4. For scheduled premium policies, whenever the indebtedness exceeds the cash surrender value, the insurer shall give notice of any intent to cancel the policy if the excess indebtedness is not repaid within 31 days after the date the notice is mailed. For flexible premium policies, whenever the total charges authorized by the policy that are necessary to keep the policy in force until the next policy processing day exceed the amount available under the policy to pay those charges, the insurer shall mail the policyholder a report containing the information specified in par. (g) 2.

5. If the policy specifies a minimum amount which may be borrowed, the minimum may not apply to any automatic premium loan provision.

6. The policy loan provision does not apply if the policy is under an extended insurance nonforfeiture option.

7. A policyholder who has not exercised the policy loan provision may not be disadvantaged by exercising it.

8. Upon the exercise of any policy loan provision, the insurer shall withdraw from the separate account the amount paid to the policyholder and shall return that amount to the separate account upon repayment, except that a stock insurer may provide the amount for a policy loan from the general account.

(d) A modified guaranteed life insurance policy or related form issued in this state may, in substance, include one or more of the following provisions:

1. An exclusion for suicide within 2 years after the date the policy takes effect, except that, if the policy includes an increased death benefit as a result of the policyholder's application after the date the policy takes effect, the exclusion applies only to the amount of the increased benefit.

2. Incidental insurance benefits on a fixed or variable basis.

3. If the policy is issued on a participating basis, an offer to pay dividends in cash and other dividend options.

4. A provision allowing a policyholder to elect in writing, either in the application or after issuance of the policy, an automatic premium loan on a basis not less favorable than the requirements under par. (c), except that the insurer may restrict this provision to the payment of not more than 2 consecutive premiums.

5. A provision allowing the policyholder to make partial withdrawals.

6. Any other policy provision approved by the commissioner.

(e) 1. An insurer issuing any modified guaranteed life insurance policy in this state shall, before or at the time the application is taken, deliver to the applicant and obtain from the applicant a written acknowledgment of receipt of all of the following information:

a. A non-technical summary of the principal features of the policy, including a description of the manner in which the nonforfeiture benefits will be affected by the market-value adjustment formula and the factors which affect the variation. The summary shall include the notice required by par. (b) 1. b.

b. A summary of the federal income tax aspects of the policy applicable to the insured, the policyholder and the beneficiary.

c. Illustrations, prepared by the insurer, of benefits payable under the policy. No illustration may include a projection of past investment experience into the future or a prediction of future investment experience. This subparagraph does not prohibit the use of hypothetical assumed rates of return to illustrate possible levels of benefits if the insurer makes it clear that such assumed rates are hypothetical only.

2. An insurer may satisfy the requirements of subd. 1 by delivering to the policyholder a disclosure containing the information required by subd. 1, either in the form of a prospectus which is part of an effective registration statement under the securities act of 1933, 15 U.S.C. ss. 77a to 77aa or, if the policies are exempt from the registration requirements of the securities act of 1933, all information and reports required by the employee retirement income security act of 1974, 29 U.S.C. ss. 1001 to 1461.

(f) The application for a modified guaranteed life insurance policy shall contain all of the following:

1. Immediately before the signature line, a statement that amounts payable under the policy are subject to a market-value adjustment before a date or dates specified in the policy.

2. A request for information which will enable the insurer to determine the suitability of modified guaranteed life insurance for the applicant.

(g) 1. In this paragraph, "unadjusted cash value" means the cash value before applying any surrender charge or market-value adjustment formula.

2. An insurer shall mail to each holder of a modified guaranteed life insurance policy, at his or her last known address, an annual report showing the unadjusted cash value, the cash surrender value, death benefit, any partial withdrawal or policy loan, any interest charge and any optional payments allowed under the policy. The report shall also specify the surrender charge and market-value adjustment formula used to de-

termine the cash surrender value. Each report shall state that the cash values may increase or decrease in accordance with the market-value adjustment formula. The report shall prominently identify any stated value that may be recomputed before the next annual report.

3. For flexible premium policies, if the unadjusted cash value and cash surrender value are different, the annual report shall contain a reconciliation of these values based on payments made less deductions for expense charges, withdrawals, investment experience, insurance charges and any other charges made against the cash value. The annual report shall also show the projected unadjusted cash value and cash surrender value, if different, as of one year from the end of the period covered by the report assuming all of the following:

a. Planned periodic premiums, if any, are paid as scheduled.

b. Guaranteed costs of insurance are deducted.

c. Interest is credited at the guaranteed rate or, in the absence of a guaranteed rate, at a rate not greater than zero. If the projected unadjusted cash value is less than zero, the report shall include a warning stating that the policy may be in danger of terminating without value in the next 12 months unless additional premium is paid.

4. The insurer shall mail each annual report within 30 days after one of the following dates:

a. The policy anniversary date, in which case the amounts reported shall be computed as of the policy anniversary date.

b. Another date specified in the policy, in which case the amounts reported shall be computed as of a date no earlier than 60 days before the mailing date.

(h) For flexible premium policies, the insurer shall also send a report to the policyholder whenever the amount available under the policy on any policy processing day to pay the charges authorized by the policy are less than the amount necessary to keep the policy in force until the next policy processing day. The report shall state the minimum payment required under the terms of the policy to keep it in force and the length of the grace period for payment.

(8) MODIFIED GUARANTEED ANNUITIES. (a) Each insurer issuing modified guaranteed annuities in this state shall provide each contract holder with an annual report showing both the account value and the cash surrender value. The report shall clearly state that the account value does not include the application of any surrender charge or market-value adjustment formula. The annual report shall also specify the surrender charge and market-value adjustment formula used to determine the cash surrender value.

(b) 1. Each modified guaranteed annuity contract issued in this state shall describe the essential features of the procedures the insurer uses in determining the amount of nonforfeiture benefits.

2. No insurer may issue in this state a modified guaranteed annuity contract calling for periodic stipulated payments unless it contains in substance all of the following provisions:

a. A grace period of 30 days or one month within which the policyholder may make any stipulated payment, other than the first payment, due the insurer. During the grace period the contract shall continue in force. The contract may include a statement of the basis on which the insurer determines the date that it will apply any stipulated payment received during the grace period to produce the values under the contract arising from the application of the payment.

b. A right to reinstatement of the contract at any time within one year from the date of default in making periodic stipulated payments to the insurer during the life of the annuitant, upon payment to the insurer of the overdue payments as required by the contract, and of all indebtedness, including interest, on the contract. The right to reinstatement does not apply if the insurer has paid the cash surrender value of the contract. The contract may include a statement of the basis on which the insurer determines the date that it will apply the amount to cover the overdue payments and indebtedness to produce the values under the contract arising from the application of the payment.

3. Each modified guaranteed annuity contract shall state the market-value adjustment formula the insurer uses to determine nonforfeiture benefits. The formula shall apply to both upward and downward adjustments. With each policy form filed under s. 631.20, Stats., the insurer shall submit an actuarial statement of the basis for the market-value adjustment formula which states that the formula provides reasonable equity to both the contract holder and the insurer.

4. Unless provided under any applicable contract, the portion of the assets of any separate account equal to the reserves and other applicable contract liabilities of the account are not chargeable with liabilities arising out of any other business of the insurer.

(c) 1. Subdivisions 2 to 10 do not apply to any of the following:

a. Reinsurance.

b. A group annuity contract purchased in connection with a retirement plan or deferred compensation plan established or maintained by or for one or more employers, including partnerships, sole proprietorships, employe organizations or any combination thereof, other than plans providing individual retirement accounts or individual retirement annuities under 26 U.S.C. s. 408, as amended.

c. A premium deposit fund.

d. An investment annuity.

e. An immediate annuity.

f. A deferred annuity contract after annuity payments have commenced.

g. A reversionary annuity.

h. A contract which will be issued outside this state through an agent or other representative of the insurer.

2. No insurer may issue a modified guaranteed annuity contract in this state unless it contains in substance all of the following provisions:

a. A plan that complies with subd. 4 for granting a paid-up annuity benefit upon cessation of payment of considerations under the contract. The contract shall describe the plan and shall include a statement of the mortality table, if any, and guaranteed or assumed interest rates used in calculating annuity payments.

b. If the contract provides for a lump sum settlement at maturity or at any other time, a provision for the payment of a cash surrender benefit that complies with subd. 5 instead of a paid-up annuity benefit, upon surrender of the contract at or before the commencement of annuity payments. The contract shall describe the cash surrender benefit and may provide that the insurer may defer payment of the cash surrender benefit for a period of 6 months after demand.

3. In establishing the minimum value of a paid-up annuity, cash surrender or death benefit available under a modified guaranteed annuity contract, the insurer shall base the value on nonforfeiture amounts meeting the requirements of this subdivision and subd. 4. The unadjusted minimum nonforfeiture amount on any date before the annuity commencement date shall equal the percentages of net considerations, as specified in subd. 4, increased by the interest credits allocated to the percentage of net considerations. The insurer shall reduce this amount to reflect the effect of all of the following:

a. Any partial withdrawals from or partial surrender of the contract.

b. The amount of any indebtedness on the contract, including interest due and accrued.

c. An annual contract charge which shall equal the lesser of \$30 or 2% of the end-of-year contract value less the amount of any annual contract charge deducted from any gross considerations credited to the contract during the contract years. The contract charge may not be less than \$0.00.

d. A transaction charge of \$10 for each transfer to another investment division with the same contract.

4. For purposes of subd. 3:

a. Guaranteed interest credits in each year for any period of time for which interest credits are guaranteed shall be reasonably related to the average guaranteed interest credits over that period of time.

b. The minimum nonforfeiture amount shall be the unadjusted minimum nonforfeiture amount adjusted by the market-value adjustment formula contained in the contract.

c. The annual contract charge of \$30 and the transaction charge of \$10 shall be adjusted to reflect changes in the consumer price index as provided in subd. 5. c.

5. The percentages of net considerations used to define the minimum nonforfeiture amount under subd. 3 shall meet all of the following requirements:

a. If the contract provides for periodic considerations, the net considerations for a given contract year used to define the minimum nonforfeiture amount shall not be less than \$0.00 and shall equal the corresponding gross considerations credited to the contract during that contract year

less an annual contract charge of \$30 and less a collection charge of \$1.25 per consideration credited to the contract during that contract year and less any charge for premium taxes. The percentages of net considerations shall be 65% for the first contract year and 87½% for the 2nd and subsequent contract years except that the percentage shall be 65% of the portion of the total net consideration for any renewal contract year which exceeds, by not more than 2 times, the sum of those portions of the net considerations in all prior contract years for which the percentage was 65%.

b. With respect to contracts providing for a single consideration, the net consideration used to define the minimum nonforfeiture amount shall be the gross consideration less a contract charge of \$75 and less any charge for premium taxes. The percentage of the net consideration shall be 90%.

c. The annual contract charge of \$30 and the collection charge of \$1.25 under subpar. a and the single consideration contract charge of \$75 under subpar. b, shall be adjusted annually to reflect changes in the consumer price index by multiplying each charge by the ratio of the consumer price index for June of the year preceding the date of filing to the consumer price index for June, 1979. "Consumer price index" means the index for all urban consumers for all items as published by the bureau of labor statistics of the United States department of labor or any successor agency. If publication of the consumer price index ceases, or if the index otherwise becomes unavailable or is altered so as to be unusable for purposes of this paragraph, the commissioner may substitute another suitable index.

6. An insurer shall use any paid-up annuity benefit available under a modified guaranteed annuity contract that has a present value on the annuity commencement date that is at least equal to the minimum nonforfeiture amount on the date. The insurer shall compute the present value using the mortality table, if any, and the guaranteed or assumed interest rates used in calculating the annuity payments.

7. For modified guaranteed annuity contracts which provide cash surrender benefits, the cash surrender benefit at any time before the annuity commencement date shall be equal to or greater than the minimum nonforfeiture amount next computed after the insurer receives a request for surrender. The death benefit under the contract shall be at least equal to the cash surrender benefit.

8. Any modified guaranteed annuity contract which does not provide either a cash surrender benefit or a death benefit at least equal to the minimum nonforfeiture amount before the annuity commencement date shall include, in a prominent place in the contract, a statement that these benefits are not provided.

9. Notwithstanding any other requirement of this paragraph, a modified guaranteed annuity contract may provide that the insurer, at its option, may cancel the annuity and pay the contract holder the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount, and that the payment shall release the insurer from any further obligation under the contract. This option shall apply only under one of the following conditions:

a. At the time the annuity becomes payable, the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than \$2,000, or would provide an income the initial amount of which is less than \$20 per month.

b. Before the annuity becomes payable under a periodic payment contract, the insurer has not received any considerations under the contract for a period of 2 years and the total consideration paid before the 2-year period, reduced to reflect any partial withdrawals from or partial surrenders of the contract, plus the larger of the unadjusted minimum nonforfeiture amount or the minimum nonforfeiture amount is less than \$2,000.

10. For any modified guaranteed annuity contract which provides in the same contract, by rider or supplemental contract provision, both annuity benefits and life insurance benefits that exceed the greater of cash surrender benefits or a return of the gross considerations with interest, the minimum nonforfeiture benefits shall equal the sum of the minimum nonforfeiture benefits for the annuity portion and the minimum nonforfeiture benefits, if any, for the insurance portion computed as if each portion were a separate contract. Notwithstanding subd. 2, in determining the minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits required by this paragraph, the insurer shall disregard additional benefits payable in the event of the total and permanent disability of the contract holder, as reversionary annuity or deferred reversionary annuity benefits or as other policy benefits additional to life insurance, endowment and annuity benefits and considerations for all such additional benefits. The inclusion of such additional benefits is not required in any paid-up benefits unless the additional benefits would, if provided separately, require minimum nonforfeiture amounts and paid-up annuity, cash surrender and death benefits.

(d) The application for a modified guaranteed annuity shall contain, immediately before the signature line, a prominent statement that amounts payable under the contract are subject to a market-value adjustment before a date or dates specified in the contract.

(9) PROVISIONS APPLICABLE TO MODIFIED GUARANTEED LIFE INSURANCE AND ANNUITIES. (a) Before any insurer issues any modified guaranteed life insurance policy or modified guaranteed annuity contract in this state, the commissioner may require the insurer to file a copy of any prospectus or other sales material to be used in connection with the marketing of the modified guaranteed life insurance policy or modified guaranteed annuity contract. The sales material shall clearly illustrate that there can be both upward and downward adjustments due to the application of the market-value adjustment formula in determining nonforfeiture benefits.

(b) An insurer issuing a modified guaranteed life insurance policy or a modified guaranteed annuity in this state shall submit to the commissioner all of the following:

1. A separate account annual statement which shall include the business of these policies or contracts.
2. Any additional information required by the commissioner.

(c) The commissioner may disapprove any material required to be filed if the commissioner finds that the material does not comply with this section.

(d) The statutes and administrative rules governing individual life insurance and individual annuity form filings also apply to modified guaranteed life insurance policies and modified guaranteed annuity contracts. Each filing shall demonstrate in a form satisfactory to the commissioner that the nonforfeiture provisions of the policy or contract comply with this section.

(e) 1. An insurer shall establish reserve liabilities in accordance with actuarial procedures that recognize all of the following:

- a. The market-value basis of the assets of the separate account.
- b. The variable nature of the benefits provided.
- c. Any mortality guarantees.

2. The separate account liability shall equal the surrender value based on the market-value adjustment formula contained in the modified guaranteed life insurance policy or modified guaranteed annuity contract. If that liability is greater than the market value of the assets, the insurer shall transfer assets into the separate account so that the market value of the assets at least equals that of the liabilities. The insurer shall establish any additional reserve that is needed to cover future guaranteed benefits.

3. An insurer shall consider the market-value adjustment formula, the interest guarantees and the degree to which projected cash flow of assets and liabilities are matched. The statement of actuarial opinion accompanying each annual statement shall include an opinion on whether the assets in the separate account are adequate to provide all future guaranteed benefits.

4. An insurer shall maintain in the general account reserve liabilities for all fixed incidental insurance benefits and any guarantees associated with variable incidental insurance benefits.

(10) **REQUIRED REPORTS.** (a) Each insurer issuing individual variable contracts shall mail to each contractholder, at least once in each contract year after the first, at his or her last address known to the insurer, a statement reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting either of the following as of a date not more than 4 months before the date of mailing:

1. The number of accumulation units credited to the contract and the dollar value of a unit.
2. The value of the contractholder's account.

(b) The insurer shall submit annually to the commissioner a statement of the business of each of its separate accounts in the form as required by the annual statement form designated as Life and Accident and Health Association Edition-Variable Life Insurance Separate Account.

(11) **FOREIGN COMPANIES.** If the law or regulation in the place of domicile of a foreign insurer provides protection to the policyholders and the public which is substantially equal to that provided by this section, the commissioner, to the extent he or she considers appropriate, may consider compliance with that law or regulation as compliance with this section.

(12) **AGENT QUALIFICATIONS.** Any person selling or offering for sale a variable contract shall have a valid license under s. Ins 6.59, authorizing the solicitation of life insurance as listed in s. Ins 6.50 (2) (a), and shall have passed any of the following alternative security examinations administered by the National Association of Securities Dealers:

- (a) General Securities Registered Representation Examination.
- (b) Investment Company Products/Variable Contracts Limited Representative Qualification Examination.
- (c) NASD Non-Member General Securities Examination.
- (d) General Securities Principal Qualification.
- (e) Investment Company Products/Variable Contracts Limited Principal Qualification Examination.

(13) **NONAPPLICABILITY.** To the extent that any provision of sub. (7) or (8) is inconsistent with a provision of sub. (6) or (10), sub. (6) or (10) does not apply to a policy or contract described in sub. (7) or (8).

History: Cr. Register, October, 1968, No. 154, eff. 11-1-68; emerg. am. (1), (2) (a), (4) (a) and (g), eff. 6-22-76; am. (1), (2) (a), (4) (a) and (g), Register, September, 1976, No. 249, eff. 10-1-76; am. (6) (e), Register, March, 1979, No. 279, eff. 4-1-79; r. (2) (d) 5., (9) (g), to (m) and (p), am. (2) (b) to (d) (intro.), (6) (a), (9) (a) to (f), cr. (9) (g) to (i), renum. (9) (n) and (o) to be (9) (j) and (k), Register, May, 1979, No. 281, eff. 6-1-79; r. and recr. (2) and (9), Register, October, 1981, No. 310, eff. 11-1-81; am. (1), (3) (a) (intro.) and 2., (b), (c) (intro.), 2. and 3., (4) (a) to (g), (5) (a), (b) 2., (d), (e) and (6), renum. (2) (a) and (b), (7) to (9) to be (2) (b) and (a), (10) to (12) and am. (2) (a) and (b), (10) (a) (intro.) and 1., (b), (11) and (12), cr. (2) (intro.), (c) to (g), (7) to (9) and (13), Register, April, 1990, No. 412, eff. 5-1-90.

Ins 2.14 Life insurance solicitation. (1) The purpose of this section is to require insurers to deliver to purchasers of life insurance information which will improve the buyer's ability to select the most appropriate plan of life insurance for his or her needs, improve the buyer's understanding of the basic features of the policy which has been purchased or which is under consideration and improve the ability of the buyer to evaluate the relative costs of similar plans of life insurance. This section does not prohibit the use of additional material which is not in violation of this section or any other Wisconsin statute or rule. This section interprets ss. 628.34 and 628.38, Stats. This section is in addition to and not a substitute for the requirements set forth in s. Ins 2.16.

(2) **SCOPE.** (a) Except as hereafter exempted, this section shall apply to any solicitation, negotiation, or procurement of life insurance occurring within this state. This section shall apply to any issuer of life insurance contracts including fraternal benefit societies and the State Life Insurance Fund.

(b) Unless otherwise specifically included, 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), 29 U.S.C. ss. 1001 to 1461. Register, April, 1990, No. 412

5. Variable life insurance under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

(3) DEFINITIONS. For the purposes of this section, the following definitions shall apply:

(a) *Cash dividend.* A cash dividend is the current illustrated dividend which can be applied toward payment of the gross premium.

(b) *Equivalent level death benefit.* The equivalent level death benefit of a policy or term life insurance rider is an amount calculated as follows:

1. Accumulate the guaranteed amount payable upon death, regardless of the cause of death, at the beginning of each policy year for 10 and 20 years at 5% interest compounded annually to the end of the tenth and twentieth policy years, respectively.

2. Divide each accumulation of step 1 by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the value in step 1 over the respective periods stipulated in step 1. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

(c) *Generic name.* Generic Name means a short title which is descriptive of the premium and benefit patterns of a policy or a rider.

(d) *Life insurance indexes.* 1. Surrender Cost Index. The Surrender Cost Index is calculated by applying the following steps:

a. Determine the guaranteed cash surrender value, if any, available at the end of the tenth and twentieth policy years.

b. For participating policies, add the terminal dividend payable upon surrender, if any, to the accumulation of the annual Cash Dividends at 5% interest compounded annually to the end of the period selected and add this sum to the amount determined in step a.

c. Divide the result of step b (step a for guaranteed-cost policies) by an interest factor that converts it into an equivalent level annual amount that if paid at the beginning of each year, would accrue to the value in step b (step a for guaranteed-cost policies) over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

d. Determine the equivalent level premium by accumulating each annual premium payable for the basic policy or rider (if the annual premium includes supplemental benefits without separate identifiable charge, a reasonable adjustment may be made) at 5% interest compounded annually to the end of the period stipulated in step a and dividing the result by the respective factors stated in step c. (This amount is the annual premium payable for a level premium plan).

e. Subtract the result of step c from step d.

f. Divide the result of step e by the number of thousands of the Equivalent Level Death Benefit to arrive at the Surrender Cost Index.

2. Net Payment Cost Index. The Net Payment Cost Index is calculated in the same manner as the comparable Surrender Cost Index except that the cash surrender value and any terminal dividend are set at zero.

3. Equivalent Level Annual Dividend. The Equivalent Level Annual Dividend is calculated by applying the following steps:

a. Accumulate the annual cash dividends at 5% interest compounded annually to the end of the tenth and twentieth policy years.

b. Divide each accumulation of step a by an interest factor that converts it into one equivalent level annual amount that, if paid at the beginning of each year, would accrue to the values in step a over the respective periods stipulated in step a. If the period is 10 years, the factor is 13.207 and if the period is 20 years, the factor is 34.719.

c. Divide the results of step b by the number of thousands of the Equivalent Level Death Benefit to arrive at the Equivalent Level Annual Dividend.

(e) *Policy summary.* 1. For the purposes of this section, Policy Summary means a written statement in substantially the same format for all companies and describing the elements of the policy including but not limited to:

a. A prominently placed title as follows: STATEMENT OF POLICY COST AND BENEFIT INFORMATION.

b. The name and address of the insurance intermediary, or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries regarding the Policy Summary.

c. The full name and home office or administrative office address of the company in which the life insurance policy is to be or has been written.

d. The Generic Name of the basic policy and each rider.

e. The following amounts, where applicable, for the first 5 policy years and representative policy years thereafter sufficient to clearly illustrate the premium and benefit patterns, including but not necessarily limited to, the years for which the Surrender Cost Index is displayed and at least one age from 60 through 65 or maturity whichever is earlier:

i. The annual premium for the basic policy.

ii. The annual premium for each optional rider.

iii. Guaranteed amount payable upon death, at the beginning of the policy year regardless of the cause of death other than suicide, or other specifically enumerated exclusions, which is provided by the basic policy and each optional rider, with benefits provided under the basic policy and each rider shown separately.

iv. Total guaranteed cash surrender values at the end of the year with values shown separately for the basic policy and each rider.

v. Cash Dividends payable at the end of the year with values shown separately for the basic policy and each rider. (Dividends need not be displayed beyond the twentieth policy year.)

vi. Guaranteed endowment amounts payable under the policy which are not included under guaranteed cash surrender values above.

f. The effective policy loan annual percentage interest rate, if the policy contains this provision, specifying whether this rate is applied in ad-

vance or in arrears. If the policy loan interest is variable, the Policy Summary shall include the maximum annual percentage rate.

g. Surrender Cost Indexes for 10 and 20 years. Separate indexes are displayed for the basic policy and for each optional term life insurance rider. Such indexes need not be included for optional riders which are limited to benefits such as accidental death benefits, disability waiver of premium, preliminary term life insurance coverage of less than 12 months and guaranteed insurability benefits nor for the basic policies or optional riders covering more than one life.

h. A Policy Summary which includes dividends shall also include a statement that dividends are based on the company's current dividend scale and are not guaranteed.

i. A statement in close proximity to the Surrender Cost Index (and other cost indexes) as follows: A further explanation of the intended use of this (these) index(es) is provided in the *Buyer's Guide to Life Insurance*.

j. The date on which the Policy Summary is prepared.

2. The Policy Summary must consist of a separate document. All information required to be disclosed must be set out in a manner as to not minimize or render any portion thereof obscure. Any amounts which remain level for 2 or more years of the policy may be represented by a single number if it is clearly indicated what amounts are applicable for each policy year. Amounts in subd. 1.e. above shall be listed in total, not on a per thousand nor per unit basis. If more than one insured is covered under one policy or rider, guaranteed death benefits shall be displayed separately for each insured or for each class of insureds if death benefits do not differ within the class. Zero amounts shall be displayed as zero and shall not be displayed as a blank space.

(4) DISCLOSURE REQUIREMENTS. (a) The insurer shall provide a Policy Summary upon delivery of the policy.

(am) The insurer shall provide to all prospective purchasers of any policy subject to this section a copy of the *Buyer's Guide to Life Insurance*, at the time the application is taken, except that insurers which do not market policies through an intermediary may provide the *Buyer's Guide to Life Insurance* at the time the policy is delivered provided they guarantee to the policyholder a 30-day right to return the policy for a full refund of premium.

(b) The insurer may provide information concerning life insurance cost indexes other than the surrender cost index so long as the information and its method of presentation is in conformance with this section.

(c) For policies already issued and paying premiums on the effective date of this section, policyholders shall have the right to obtain a Policy Summary at cost. The company may charge a reasonable fee for preparing this summary, not to exceed \$5, and may utilize reasonable assumptions in providing the cost disclosure information, so long as they are clearly disclosed.

(5) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office, a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of 3 years

following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30).

(b) An intermediary shall inform the prospective purchaser, prior to commencing a life insurance sales presentation, that he is acting as a life insurance intermediary and inform the prospective purchaser of the full name of the insurance company which he is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name.

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales unless such is actually the case.

(d) Any reference to policy dividends must include a statement that dividends are not guaranteed.

(e) Any sales presentation subject to this section shall comply with the requirements of s. Ins 2.16 (7) (b) and (c).

(f) Recommendations made by a person subject to this section concerning the purchase or replacement of any life insurance policy are subject to the requirements of s. Ins 2.16 (6);

(g) A system or presentation which does not recognize the time value of money through the use of appropriate interest adjustments shall not be used for comparing the cost of 2 or more life insurance policies.

(h) No presentation of benefits may display guaranteed and nonguaranteed benefits as a single sum unless the guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21).

(i) A statement regarding the use of the Surrender Cost Index shall include an explanation to the effect that the index is useful only for the comparison of the relative costs of 2 or more similar policies.

(j) A Life Insurance Index which reflects dividends or an Equivalent Level Annual Dividend shall be accompanied by a statement that it is based on the company's current dividend scale and is not guaranteed.

(k) For the purposes of this section, the annual premium for a basic policy or rider, for which the company reserves the right to change the premium, shall be the maximum annual premium.

(6) UNUSUAL CIRCUMSTANCES. Insurers with unique difficulties in implementing provisions of this section may petition the commissioner for allowance to meet the requirements of the section through alternative approaches.

History: Cr. Register, March, 1972, No. 195, eff. 4-1-72; emerg. am. (1) and (2), eff. 6-22-76; am. (1) and (2), Register, 1976, No. 249, eff. 10-1-76; r. and recr. Register, November, 1978, No. 275, eff. 1-1-79; am. (3) (a) and (6), r. and recr. appendices, Register, January, 1980, No. 289, eff. 2-1-80; r. (3) (a) and (f), (4) (a) and (c), Appendices 1, 2 & 3, renum. (3) (b) to (e) and (g) to be (3) (a) to (e), (4) (b), (d) and (e) to be (4) (a) to (c), Register, May, 1984, No. 341, eff. 6-1-84; r. (10) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; am. (1) and (3) (e) 1. i, cr. (4) (am) and appendix 1, Register, October, 1986, No. 370, eff. 11-1-86; am. (1), (2) (a) and (b) (intro.) and 4., (3) (intro.), (e) 1., (4) (b) and (c), (5) (a), (h) and (k), r. (3) (d) 4., (6), (8) and (9), r. and recr. (5) (e) and (f), renum. (7) to be (6) and am. Register, July, 1989, No. 403, eff. 8-1-89.

APPENDIX I

BUYER'S GUIDE
TO
LIFE INSURANCE

State of Wisconsin
Office of the Commissioner
of Insurance
P.O. Box 7873
Madison WI 53707-7873

Adapted from the 1983 Life Insurance Buyer's Guide prepared by the National Association of Insurance Commissioners

BUYER'S GUIDE TO LIFE INSURANCE

This guide can help you get the most for your money when you shop for life insurance. It can help you answer questions about:

- Buying Life Insurance
- Deciding How Much You Need
- Choosing the Right Kind
- Finding a Low Cost Policy

Buying Life Insurance

When you buy life insurance, you want coverage that fits your needs and does not cost too much.

First, decide how much you need — and for how long — and what you can afford to pay.

Next, find out what kinds of policies are available to meet your needs and pick the one that suits you best.

Then, find out what different companies charge for the kind of policy and the amount of insurance you want. You can find important cost differences between life insurance policies by using the *cost comparison indexes* described in this guide.

Ask a life insurance agent or company to help you. An agent can be particularly useful in reviewing your insurance needs and in giving you information about the kinds of policies that are available. If one kind does not seem to fit your needs, ask about others.

This guide provides only basic information. You can get more facts from a life insurance agent or company or at your public library.

What About Your Present Policy? Think twice before dropping a life insurance policy you already have to buy a new one.

It can be costly because much of what you pay in the early years of a policy is used for the company's expense of selling and issuing the policy. This expense will be incurred again for a new policy.

If you are older or your health has changed, premiums for the new policy will often be higher.

You may have valuable rights and benefits in your present policy that are not in the new one.

You might be able to change your present policy or even add to it to get the coverage or benefits you now want.

Check with the agent or company that issued your present policy — get both sides of the story. In any case, do not give up your present policy until you are covered by a new one.

How Much Do You Need?

To decide how much life insurance you need, figure out what your dependents would have if you were to die now, and what they would actually need. Your new policy should come as close to making up the difference as you can afford.

In figuring this out, think of the income your dependents will need for family living expenses, educational costs and any other future expenses. Think also of cash needs — for the expenses of a final illness and for paying taxes, mortgages or other debts.

What is the Right Kind?

All life insurance policies agree to pay an amount of money when you die. But all policies are not the same. Some provide permanent coverage and others temporary coverage. Some build up cash values and others do not. Some policies combine different kinds of insurance, and others let you change from one kind of insurance to another. Your choice should be based on your needs and what you can afford.

Many different plans are offered today. Here is a brief description of two basic kinds — term and whole life — and some combinations and variations.

Term Insurance covers you for a *term* of one or more years. It pays a death benefit only if you die in that term. Term insurance generally provides the largest immediate death protection for your premium dollar.

Most term insurance policies are *renewable* for one or more additional terms, even if your health has changed. Each time you renew the policy for a new term, premiums will be higher. Check the premiums at older ages and how long the policy can be continued.

Many term insurance policies can be *converted* to a whole life policy — even if you are not in good health. Premiums for the new policy will be higher than you have been paying for the term insurance.

Whole Life Insurance covers you for as long as you live. The most common type is called *straight life* or *ordinary life* insurance — you pay the same premiums for as long as you live. These premiums can be several times higher than you would pay at first for the same amount of term insurance. But they are smaller than the premiums you would eventually pay if you were to keep renewing a term policy until your later years.

Some whole life policies let you pay premiums for a shorter period such as 20 years, or until age 65. Premiums for these policies are higher than for ordinary life insurance since the premium payments are squeezed into a shorter period.

Whole life policies develop cash values. If you stop paying premiums, you can take the cash or you can use the cash value to buy continuing insurance protection for a limited time or for a reduced amount. (Some term policies that provide coverage for a long period also have cash values.)

You may borrow against the cash values by taking a policy loan. Any loan and interest on the loan that you do not pay back will be deducted from the benefits if you die or from the cash value if you stop paying premiums.

Combinations and Variations. You can combine different kinds of insurance. For example, you can buy whole life insurance for lifetime coverage and add term insurance for the period of your greatest insurance need. Usually the term insurance is on your life — but it can also be bought for your spouse or children.

Endowment insurance policies pay a sum or income to you if you live to a certain age. If you die before then, the death benefit is paid to the person you named as beneficiary.

Other policies may have special features which allow flexibility as to premiums and coverage. Some let you choose the death benefit you want and the premium amount you can pay. The kind of insurance and coverage period are determined by these choices.

One kind of flexible premium policy, often called *universal life*, lets you vary your premium payments every year, and even skip a payment if you wish. The premiums you pay (less expense charges) go into a policy account that earns interest and charges for the insurance are deducted from the account. Here, insurance continues as long as there is enough money in the account to pay the insurance charges.

Variable life is a special kind of insurance where the death benefits and cash values depend upon investment performance of one or more separate accounts. Be sure to get the prospectus provided by the company when buying this type of policy. The method of cost comparison outlined in this Guide does not apply to policies of this kind.

Finding a Low Cost policy

After you have decided which kind of life insurance is best for you, compare similar policies from different companies to find which one is likely to give you the best value for your money. A simple comparison of the premiums is not enough. There are other things to consider. For example:

- Do premiums or benefits vary from year to year?
- How much cash value builds up under the policy?
- What part of the premiums or benefits is not guaranteed?
- What is the effect of interest on money paid and received at different times on the policy?

Cost Comparison Index numbers, which you get from life insurance agents or companies, take these items into account and can point the way to better buys.

Cost Comparison Indexes. There are two types of cost comparison index numbers. Both assume you will live and pay premiums for the next 10 or 20 years.

1. *The Surrender Cost Comparison Index* helps you compare costs over a 10 or 20 year period assuming you give up (surrender) the policy and take its cash value at the end of the period. It is useful if you consider the level of cash values to be of special importance to you.

2. *The Net Payment Cost Comparison Index* helps you compare costs over a 10 or 20 year period assuming you will continue to pay premiums on your policy and do not take its cash value. It is useful if your main concern is the benefits that are to be paid at your death.

The two index numbers are the same for a policy without cash values.

Guaranteed and Illustrated Figures. Many policies provide benefits on a more favorable basis than the minimum guaranteed basis in the policy. They may do this by paying dividends or by charging less than the maximum premium specified. Or they may do this in other ways, such as by providing higher cash values or death benefits than the minimums guaranteed in the policy. In these cases the index numbers are shown on both a guaranteed and currently illustrated basis. The currently illustrated basis reflects the company's current scale of dividends, premiums or benefits. These scales can be changed after the policy is issued, so that the actual dividends, premiums or benefits over the years may be higher or lower than those assumed in the indexes on the currently illustrated basis.

Some policies are sold only on a *guaranteed* or *fixed cost* basis. These policies do not pay dividends; the premiums and benefits are fixed at the time you buy the policy and will not change.

Using Cost Comparison Indexes. The most important thing to remember is that a policy with smaller index numbers is generally a better buy than a similar policy with larger index numbers.

Compare index numbers only for similar policies — those which provide essentially the same benefits, with premiums payable for the same length of time. Make sure they are for your age and for the kind of policy and amount you intend to buy. Remember that no one company offers the lowest cost at all ages for all kinds and amounts of insurance.

Small differences in index numbers should be disregarded, particularly when there are dividends or nonguaranteed premiums or benefits. Also, small differences could easily be offset by other policy features or differences in the quality of service from the agent or company. When you find small differences in the indexes, your choice should be based on something other than cost.

Finally, keep in mind that index numbers cannot tell you the whole story. You should also consider:

The pattern of policy benefits. Some policies have low cash values in the early years that build rapidly later on. Other policies have a more level cash value build-up. A year by year display of values and benefits can be very helpful. (The agent or company will give you a Policy Summary that will show benefits and premiums for selected years.)

Any special policy features that may be particularly suited to your needs.

The methods by which nonguaranteed values are calculated. For example, interest rates are an important factor in determining policy dividends. In some companies dividends reflect the average interest earnings on all policies whenever issued. In others, the dividends for policies issued in a recent year or a group of years reflect the interest earnings on those policies; in this case, dividends are likely to change more rapidly when interest rates change.

Things to Remember

Review your particular insurance needs and circumstances. Choose the kind of policy with benefits that most closely fit your needs. Ask an agent or company to help you.

Be sure that the premiums are within your ability to pay. Do not look only at the initial premium but take account of any later premium increase.

Ask about cost comparison index numbers and check several companies which offer similar policies. Remember, smaller index numbers generally represent a better buy.

Do not buy life insurance unless you intend to stick with it. It can be very costly if you quit during the early years of the policy.

Read your policy carefully. Ask your agent or company about anything that is not clear to you.

Review your life insurance program with your agent or company every few years to keep up with changes in your income and your needs.

Ins 2.15 Annuity benefit solicitation. (1) FINDINGS. Information on file in the office of the commissioner of insurance and submitted as Exhibit 4 at the hearing February 28, 1980 shows that some of the brochures, presentations, illustrations and other sales material which have been used by insurers and their representatives to sell annuity contracts to Wisconsin residents are confusing, misleading and incomplete, and that annuity purchasers are not receiving the information needed to make sound purchase decisions. The commissioner of insurance finds that such presentations and sales material are misleading, deceptive and restrain competition unreasonably as considered by s. 628.34 (12), Stats., and that their continued use would constitute an unfair trade practice under s. 628.34 (12), Stats. and would result in misrepresentation as defined and prohibited in s. 628.34 (1), Stats.

(2) (a) The purpose of this section is to require insurers to deliver to prospects for deferred annuity contracts or deposit funds, riders or provisions accepted in conjunction with insurance policies or annuity contracts, information which helps the prospect select an annuity benefit appropriate to the prospect's needs, improves the prospect's understanding of the basic features of the plan under consideration and improves the prospect's ability to evaluate the relative benefits of similar plans. This section does not prohibit the use of additional material which is not in violation of any other Wisconsin rule or statute. This section is in addition to and not a substitute for the requirements set forth in s. Ins. 2.16.

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

(3) SCOPE. (a) Except as specified in par. (b), this section shall apply to any solicitation, negotiation or procurement of annuity or deposit fund arrangements occurring within this state. This section shall apply to any issuer of life insurance policies or annuity contracts, including fraternal benefit societies.

(b) This section shall not apply to:

1. Variable annuities;
2. Contracts registered with the federal securities and exchange commission;
3. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer (including a partnership or sole proprietorship) or by an employe organization, or both;
4. Immediate annuity contracts (arrangements under which payments begin within 13 months of the issue date);
5. Policies or contracts issued in connection with employe benefit plans as defined by 29 U.S.C. s. 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except policies or contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 U.S.C. s. 403 (b) of the internal revenue code;
6. Individual retirement accounts and individual retirement annuities as described in 26 U.S.C. s. 408 of the internal revenue code;
7. A single advance payment of specified premiums equal to the discounted value of such premiums;
8. A policyholder's deposit account established solely to facilitate payment of regular premiums;
9. Settlement options under life insurance or annuity contracts.

(4) DEFINITIONS. (a) "Contract Summary" means a written statement to be provided to the buyer at the time of contract delivery describing the elements of the annuity contract or deposit fund in the manner set out in sub. (6).

(b) "Preliminary Contract Summary" means a written statement to be provided to the buyer prior to sale which describes the elements of the annuity contract or deposit fund in the manner set out in sub. (5).

(c) "Wisconsin Buyer's Guide to Annuities" means the document which contains, and is limited to, the language set forth in Appendix I to this section.

(d) "Yields" means those effective annual interest rates at which the accumulation of 100% of all gross considerations would be equal to the guaranteed and illustrated cash surrender values at the points specified. For contracts without surrender values the yields shall be figured on the basis of the contract values used to determine annuity payments at the points specified.

(5) **PRELIMINARY CONTRACT SUMMARY.** The Preliminary Contract Summary shall include:

(a) A prominently placed title, **PRELIMINARY CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) A statement as to whether the arrangement provides any guaranteed death benefits during the deferral period;

(e) A prominent statement that the contract does not provide cash surrender values, if such is the case;

(f) For arrangements under which guaranteed cash surrender values at any duration are less than the total scheduled considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years;

(g) Any minimum or maximum premium limitations;

(h) A prominent description of all fees, charges, and loading amounts that are or may be deducted from initial or subsequent considerations paid or that are or may be deducted from the contract or fund values prior to or at contract maturity, including but not limited to, any surrender penalties, discontinuance fees, partial surrender or withdrawal penalties or fees, transaction fees, and account maintenance fees;

(i) In the event any sales promotion literature or oral representation illustrates values or annuity payments which are based on dividends, excess interest credits, or current annuity rates, then the Preliminary Contract Summary shall contain a statement that such dividends, excess interest credits, and current annuity purchase rates are not guaranteed and that any corresponding values and annuity amounts are illustrations only and are not guaranteed;

(j) A statement that the insurer shall provide the prospective customer a Contract Summary upon request.

(6) **CONTRACT SUMMARY.** The Contract Summary shall include:

(a) A prominently placed title, **CONTRACT SUMMARY**, followed by an identification of the arrangement to which the statement applies;

(b) The name and address of the insurance intermediary or, if no intermediary is involved, a statement of the procedure to be followed in order to receive responses to inquiries;

(c) The full name and home office or administrative office address of the insurer;

(d) Any guaranteed death benefits during the deferral period, and the form of annuity payment selected for pars. (f), (g) and (i);

(e) A prominent statement that the contract does not provide cash surrender values if such is the case;

(f) The amount of the guaranteed annuity payments at the scheduled commencement thereof, based on the assumption that all scheduled considerations are paid and there are no prior withdrawals from or partial surrenders of the arrangement and no indebtedness to the insurer on the contract;

(g) Illustrative annuity payments on a current basis, if shown, must be on the same basis as for par. (f) except for guarantees, and may not be greater in amount than those based on:

1. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements, or the current excess interest rate credited by the insurer, and

2. Current annuity purchase rates;

(h) For arrangements under which guaranteed cash surrender values at any duration are less than the total considerations paid, a prominent statement that such contract or fund may result in loss if kept for only a few years and showing the number of years such a relationship exists, together with a reference to the schedule of guaranteed cash surrender values required by par. (i) 3.;

(i) The following amounts, where applicable, for the first 5 years and representative years thereafter sufficient to illustrate clearly the patterns of considerations and benefits, including but not limited to the tenth and twentieth contract years and at least one age from 60 through 65 or the scheduled commencement of annuity payments:

1. The gross consideration for the arrangement;

2. Any minimum or maximum premium limitation;

3. The total guaranteed cash surrender value at the end of the year or, if no guaranteed cash surrender values are provided, the total guaranteed paid-up annuity at the end of the year;

4. If other than guaranteed cash values are shown, the total illustrative cash value or paid-up annuity at the end of the year may not be greater in amount than that based on:

- a. The current dividend scale and the interest rate currently used to accumulate dividends under such arrangements or the current excess interest rate credited by the insurer, and

- b. Current annuity purchase rates.

(im) If the annuity payments have not yet commenced, the yield on gross considerations at the end of 10 years and at the scheduled commencement of annuity payments. For contracts without surrender values, only the yield at the scheduled commencement of annuity payments need be shown. The yield shall be figured on the basis of the contract value used to determine the annuity payments. These yield figures shall be shown on a guaranteed basis and, if current annuity payments or cash surrender values are shown, on an illustrative basis also.

(in) A statement of the interest rates used in calculating the guaranteed and illustrative contract or fund values.

(j) For a Contract Summary which includes values based on the current dividend scale or the current dividend accumulation or excess interest rate, a statement that such values are illustrations and are not guaranteed;

(k) The date on which the Contract Summary is prepared.

(7) PREPARATION OF PRELIMINARY CONTRACT SUMMARY AND CONTRACT SUMMARY. The following must be considered in preparing the Preliminary Contract Summary and the Contract Summary:

(a) The Preliminary Contract Summary and the Contract Summary must be separate documents;

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

(c) Any amounts which remain level for 2 years or more contract years may be represented by a single number if it is clearly indicated what amounts are applicable for each contract year;

(d) Amounts in sub. (6) (d), (f), (g) and (i) shall, in the case of flexible premium annuity arrangements, be determined either according to an anticipated pattern of consideration payments or on the assumption that considerations payable will be a specified level amount, such as \$100 or \$1,000 per year;

(e) If not specified in the contract, annuity payments shall be assumed to commence at age 65 or 10 years from issue, whichever is later;

(f) A dividend scale or excess interest rate which has been publicly declared by the insurer with an effective date not more than two months subsequent to the date of declaration shall be considered a current dividend scale or a current excess interest rate.

(8) DISCLOSURE REQUIREMENTS. (a) The insurer and its intermediaries shall provide, to all prospective purchasers of any contract or arrangement subject to this section, a copy of the current edition of the Wisconsin Buyer's Guide to Annuities and a properly completed Preliminary Contract Summary or Contract Summary prior to accepting the applicant's initial consideration for the annuity contract, or, in the case of a rider or provision, prior to acceptance of the applicant's initial consideration for the associated insurance policy or annuity contract. Insurers which do not market contracts through an intermediary may provide the Contract Summary, and the Wisconsin Buyer's Guide to Annuities at the point of contract delivery provided they:

1. Guarantee to the contractholder the right to return the contract for a full refund of premium any time during a 30 day period commencing on the date such contractholder receives the Contract Summary and the Wisconsin Buyer's Guide to Annuities;

2. Alert the prospective contractholder, in advertisements or direct mail solicitations, of his or her right to obtain a copy of the Wisconsin Buyer's Guide to Annuities and a Preliminary Contract Summary prior to the sale.

(b) The insurer and its intermediaries shall provide a Contract Summary upon delivery of the contract, if it has not been delivered beforehand;

(c) The insurer and its intermediaries shall provide a Wisconsin Buyer's Guide to Annuities and a Contract Summary to individual prospective purchasers upon reasonable request;

(d) Any statement provided subsequent to sale to a contractholder which purports to show the then current value of an arrangement subject to this section shall show the then current guaranteed cash surrender value or, if no guaranteed cash surrender value is provided the then current guaranteed paid-up annuity.

(9) GENERAL REQUIREMENTS. (a) Each insurer shall maintain at its home office or principal office a complete file containing one copy of each document authorized by the insurer for use pursuant to this section. The file shall contain one copy of each authorized form for a period of at least 3 years following the date of its last authorized use. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (30);

(b) An intermediary shall inform the prospective purchaser, prior to commencing a sales presentation, that the intermediary is acting as an insurance intermediary and shall inform the prospective purchaser of the full name of the insurer which the intermediary is representing to the buyer. In sales situations in which an intermediary is not involved, the insurer shall identify its full name;

(c) Terms such as financial planner, investment advisor, financial consultant, or financial counseling shall not be used in such a way as to imply that the insurance intermediary is generally engaged in an advisory business in which compensation is unrelated to sales, unless such is actually the case;

(d) Any reference to dividends or to excess interest credits must include a statement that such dividends or credits are not guaranteed;

(f) Recommendations made by any person subject to this section concerning the purchase or replacement of any arrangement subject to this section are subject to the requirements of s. Ins 2.16 (6);

(g) No presentation of benefits may display guaranteed and non-guaranteed benefits as a single sum unless guaranteed benefits are shown separately in close proximity thereto and with equal prominence. The requirements of this paragraph are in addition to the requirements set forth in s. Ins 2.16 (21);

(h) Sales promotion literature and contract forms shall not state or imply that annuity arrangements are the same as savings accounts or deposits in banking or savings institutions. The use of policies or certificates which resemble savings bank passbooks is prohibited. If savings accounts or deposits in banking and savings institutions are utilized in connection with such annuity arrangements, this shall not prohibit the use of an accurate description of the annuity arrangement.

History: Cr. Register, October, 1980, No. 298, eff. 1-1-81; am. (1) and (2) (b) and appendix I, Register, June, 1982, No. 318, eff. 7-1-82; r. (11) under s. 13.93 (2m) (b) 16, Stats., Register, December, 1984, No. 348; r. and recr. (4) and appendix 1, am. (5) (intro.), (a), (i) and (j), (6) (intro.), (a), (j) and (k), (7) (intro.), (a), (8) (a), (b) and (c), cr. (6) (im) and (in), r. (9) (e) and (12), Register, July, 1987, No. 379, eff. 8-1-87; reprinted to correct error in appendix I, Register, October, 1987, No. 382; am. (2) (a), (3) (b) 5. and 6., (9) (a) and (g), r. and recr. (9) (f), r. (10), Register, July, 1989, No. 403, eff. 8-1-89.

APPENDIX I**WISCONSIN BUYER'S GUIDE TO ANNUITIES****WHAT IS AN ANNUITY?**

An annuity is a written contract between you and a life insurance company. In return for your premiums, the company will pay you an annuity which is a series of payments made at regular intervals. An annuity contract is not a life insurance policy or a health insurance policy. It is not a savings account or savings certificate and it should not be bought for short term purposes.

- AN ANNUITY IS NOT "RISK FREE" OR "GUARANTEED SAFE." IT IS ONLY AS SOUND AS THE INSURANCE COMPANY WHICH ISSUES IT.
- IF YOU TAKE YOUR MONEY OUT AFTER A SHORT TIME PENALTY PROVISIONS OF MANY CONTRACTS MEAN THAT YOU MAY GET BACK LESS THAN YOU PUT IN.

TYPES OF ANNUITY CONTRACTS

Annuity contracts vary in a number of ways. The following are some of the more important ways:

WHEN BENEFITS ARE RECEIVED

- Annuities may be either immediate or deferred. Immediate annuities provide income payments that start shortly after you pay the premium. Deferred annuities provide income payments that start at a later date. The main reason for buying an immediate annuity is to obtain an immediate income, most frequently for retirement purposes. The main reason for buying a deferred annuity is to accumulate money on a tax-deferred basis, which can then provide an income at a later date.

HOW PREMIUMS ARE PAID

- Annuities may be either single premium or installment premium. Single premium contracts require you to pay the company only one premium. Installment premium contracts are designed for a series of premiums. Most of these are flexible premium contracts. You pay as much as you wish whenever you wish, within specified limits. Some are scheduled premium contracts that specify the size and frequency of your premiums.

FIXED OR VARIABLE

- Annuities may be fixed, variable, or a combination of both. During the deferred period of a fixed annuity contract, interest is paid on the accumulated premiums (minus charges) at a rate set by the company. The amount of each annuity payment is determined when payments begin. During the deferred period of a variable annuity, interest is paid on the accumulated premiums (minus charges) at a rate that varies with the performance of a specified pool of investments. The amount of each annuity payment also varies with the performance of the pool. Combination annuities allow you to put

part of your premium in a fixed annuity and part in a variable annuity.

ANNUITY CONTRACT FEATURES

The value of your annuity consists of the premiums you have paid, less charges, plus interest credited. This value is used to calculate the amount of benefits that you will receive. Charges, interest, surrender rights, and benefits are explained below.

CHARGES

There are many types and amounts of charges. Companies may refer to these charges by different names. Some annuities are "front loaded", which means that most of the costs to the company are charged to you in the beginning. Some are "back loaded", which means that most of these costs are charged to you later on. Others spread their charges evenly throughout the life of the annuity. Some charges will be fixed by the contract while some may be changed by the company from time to time.

Before buying an annuity you should know all of the charges that you will pay and when you will pay them. Also, you should understand how these charges might affect the actual amount of money that will accumulate from your premium payments. A typical contract might contain one or more of the following types of charges:

- Percentage of Premium Charge. This charge, often called a "load," is deducted from each premium before any interest is added. The percentage may reduce after the contract has been in force for a certain number of years or after the total premiums paid have reached a certain level.
- Contract Fee. This is a flat dollar amount charged either once at the time of issue, or charged once each year.
- Transaction Fee. This is a fixed charge per premium payment or other transaction.
- Surrender Charge. This charge is usually a percentage of the value of the contract or of premiums paid. The percentage may be reduced or eliminated after the contract has been in force for a certain number of years. Sometimes the charge is a reduction in the interest rate credited. Sometimes the charge is eliminated if the interest rate declared by the company falls below a certain level.

INTEREST

The interest rate used to accumulate contract values may never be less than the guaranteed rate stated in the contract. In practice, the interest rate actually used by a company, usually referred to as the "current" rate, is often higher. The company may change the current rate from time to time, but it cannot be lower than the guaranteed rate. Companies differ substantially in their methods of determining the current rate.

SURRENDER RIGHTS

Most annuities allow you to surrender your contract if income payments have not yet started. Upon surrender, the contract terminates.

The surrender value is equal to your contract value less the surrender charge, if any. This amount could be less than you paid in.

Many annuities also provide that you may withdraw a portion of your contract value, under certain conditions, without terminating the contract. A charge may be deducted from the amount withdrawn. This charge is usually a percentage of either the accumulated value of the contract, the premiums paid or the portion withdrawn.

There may be certain tax penalties for early surrenders. Be sure you understand any tax implications before surrendering an annuity contract.

BENEFITS

Annuity contracts provide a number of benefits. While the annuity income benefit is the primary one, other benefits are also important. Some of the more important ones are described below:

Annuity Income Benefit

Income payments are usually made monthly, although other frequencies are available. The amount of the annuity payments is based on both the value of the contract and the contract's "benefit rate" when the first payment is made. The benefit rate depends on your age, sex, and the specific features of the annuity you chose.

Annuity contracts contain a table of guaranteed benefit rates. Most companies periodically develop "current" benefit rates as well. These rates are subject to change by the company at any time. When annuity payments begin, the company will determine the amount of each payment according to the current benefit rates then in effect. If the guaranteed benefit rates would provide higher income payments, those rates will be used. Once payments begin, they are unaffected by any future benefit rate changes.

The most commonly available annuity income benefits are:

- **Straight Life.** The annuity is paid as long as you are alive. There are no further payments to anyone after your death.
- **Life With Period Certain.** The annuity is paid as long as you are alive. If you die before the end of the period referred to as the "certain period," the annuity will be paid to your beneficiary for the rest of that period. Typical certain periods are 10 to 20 years.
- **Joint and Survivor.** The annuity is paid as long as either you or another named annuitant is still alive. In some variations, the annuity is decreased after the first death. A period certain may also be available with this form.

Death Benefit

Most contracts provide that, if you die before the annuity payments start, the contract value will be paid to your beneficiary. Some contracts provide that the death benefit will be the total premiums paid if that amount is greater than the value of the contract at death.

Waiver of Premium Benefit

Some companies offer a benefit which will pay premiums for you if you become disabled. A charge is made for this benefit.

HOW MUCH SHOULD I BUY?

Before buying, ask yourself these questions:

1. How much annuity income will I need in addition to social security, pension savings and investments?
2. Will I need an income only for myself or also for someone else?
3. How much can I afford to pay in premiums?
4. How will the annuity contract fit in with my total financial planning?

HOW TO BUY AN ANNUITY

Buying an annuity contract is a major financial decision which should be considered carefully. The prospective purchaser of an annuity contract should consider the offerings of as many different companies and agents as possible.

CONTRACT SUMMARY

In addition to receiving this Buyer's Guide, you must receive either a Preliminary Contract Summary or a Contract Summary prior to the time you pay the initial premium. If you did not receive a Contract Summary with this Buyer's Guide, you must receive one when the contract is delivered or you can ask for one. You should review the contract summary thoroughly.

Accumulated values and surrender values under the contract are illustrated for various years on this summary. During the first few years, these values may be less than premiums paid. This is why an annuity contract should not be purchased for short term purposes.

Also illustrated are the yields on gross premiums at specified times. Yields take into account not only the interest credited under the contract, but also the effect of all charges. The yield on gross premiums is a figure you can use to compare annuity contracts. Be careful in comparing this yield with yields available on other investments. The tax treatment of annuity earnings is usually substantially different from that of earnings from other investments.

One reason for buying an annuity contract is to obtain an income, so you should review the life income figures.

Values and income figures may be shown on both a "guaranteed" and an "illustrated" basis. The guaranteed basis shows the minimum values and income which would be paid under the contract. The "illustrated" basis shows the values and income which would be paid if the current interest and benefit rates were to continue in effect. Since it is impossible to predict future interest and benefit rates, you will have to decide whether to rely on any illustrated basis values when making your purchase decision.

OTHER POINTS TO CONSIDER

Be certain you understand all charges that will be made and how they may reduce the value of the annuity.

Be certain you can afford the premium payments.

Check whether the annuity contract allows you to change the amount and frequency of your premium payments. Find out what happens if you stop paying premiums.

You may want to obtain and compare Contract Summaries for similar contracts from several companies. Comparing these should help you in your selection.

If you are buying an annuity contract for an Individual Retirement Account (IRA) or another tax deferred retirement program, make sure that you are eligible. Make sure that you understand any restrictions and tax implications connected with the program.

If you are shown a presentation which illustrates tax savings, be sure the assumptions, such as the tax bracket, apply in your case.

Some companies offer deposit fund arrangements with their life insurance policies or annuity contracts. These arrangements allow you to pay amounts in addition to your premiums that will be accumulated at interest in much the same way as under a deferred fixed annuity contract.

READ THE CONTRACT

When you receive your new annuity contract read it carefully. Ask the agent or the company for an explanation of anything you do not understand.

If you have a specific complaint or cannot get the answers you need from the agent or company, please contact the

Office of the Commissioner of Insurance
123 West Washington Avenue

Mailing Address
P.O. Box 7873
Madison, WI 53707-7873

Phone: (608) 266-0103

This Guide Does Not Endorse Any Company Or Policy

Ins 2.16 Advertisements of and deceptive practices in life insurance and annuities. (1) **PURPOSE.** This section safeguards the interests of prospective purchasers of life insurance and annuities by providing the prospective purchasers with clear and unambiguous statements, explanations, advertisements and written proposals concerning the life insurance policies and annuity contracts offered to them. The commissioner may best achieve this purpose by establishing certain minimum standards of and guidelines for conduct in the advertising and sale of life insurance and annuities. These minimum standards and guidelines prevent unfair competition among insurers and are conducive to the accurate presentation and description to the insurance buying public of policies or contracts of life insurance and annuities. This section interprets and implements, including but not limited to, the following Wisconsin statutes: ss. 601.01

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(2) and (3) and 628.34. The requirements of this section are in addition to and not a substitute for the requirements set forth in ss. Ins 2.14 and 2.15.

(2) SCOPE. (a) Unless otherwise provided under a particular provision of this section, the section applies to any person who makes, directly or indirectly on behalf of an insurer, fraternal benefit society, or intermediary, an advertisement, representation, or solicitation in this state of any insurance specified in s. Ins 6.75 (1) (a).

(b) This section does not apply to:

1. Credit life insurance.

2. Group life insurance purchased, established, or maintained by an employer including a corporation, partnership, or sole proprietorship, or by an employe organization, or both, except for group life insurance purchased, established or maintained by these persons in connection with a multiple employer welfare arrangement as defined under 29 U.S.C. s. 1002 (40).

3. Life insurance policies issued in connection with pension and welfare plans as defined by and which are subject to the federal employe retirement income security act of 1974 (ERISA), 29 U.S.C. ss. 1001 to 1461.

4. Variable life insurance policies under which the death benefits and cash values vary in accordance with unit values of investments held in a separate account.

5. Variable annuities.

6. Group annuity and pure endowment contracts purchased under a retirement plan or plans of deferred compensation established or maintained by an employer, including a partnership or sole proprietorship, or by an employe organization, or both.

7. Immediate annuity contracts, which are arrangements under which payments begin within 13 months of the issue date.

8. Annuity contracts issued in connection with employe benefit plans as defined by 29 U.S.C. s. 1002 (3) of the federal employe retirement income security act of 1974 (ERISA), except annuity contracts issued in connection with plans providing for the purchase of annuity contracts solely by reason of salary reduction agreements under 26 U.S.C. s. 403 (b) of the internal revenue code.

9. A policyholder's deposit account established solely to facilitate payment of regular premiums.

10. Settlement options under life insurance or annuity contracts.

(3) DEFINITIONS. In this section:

(a) 1. "Advertisement" means:

a. Printed and published material, audio visual material and descriptive literature of an insurer or intermediary used in direct mail, newspapers, magazines, other periodicals, radio and TV scripts, billboards and similar displays, excluding advertisements prepared for the sole purpose of obtaining employes, intermediaries or agencies;

b. Descriptive literature and sales aids of all kinds authored, issued, distributed or used by an insurer, intermediary or third party for presentation to members of the public, including but not limited to circulars, leaflets, booklets, depictions, illustrations and form letters. Descriptive literature and sales aids do not include material in house organs of insurers, communications within an insurer's own organization not intended for dissemination to the public, individual communications of a personal nature, and correspondence between a prospective group or blanket policyholder and an insurer in the course of negotiating a group or blanket policy, and general announcements from group or blanket policyholders to eligible individuals that a contract has been written;

c. Prepared sales talks, presentations and material for use by intermediaries and representations made by intermediaries in accordance therewith, excluding materials to be used solely by an insurer for the training and education of its employees or intermediaries; and

d. Packaging, including but not limited to envelopes, used in connection with subpar. a, b, and c.

2. Advertisement does not include a policy summary as defined in s. Ins 2.14 (3) (e), the "Buyer's Guide to Life Insurance" as set forth in s. Ins 2.14, APPENDIX I, a contract summary as defined in s. Ins 2.15 (4) (a), a preliminary contract summary as defined in s. Ins 2.15 (4) (b), and the "Wisconsin Buyer's Guide to Annuities" as defined in s. Ins 2.15 (4) (c).

(b) "Analysis" means the separation of a life insurance policy or annuity contract into constituent parts for comparison, special emphasis, or other purposes.

(c) "Appraisal" means an evaluation or estimate of the quality or other features of a life insurance policy or annuity contract. Appraisal does not include a statement which is also an endorsement or testimonial.

(d) "Endorsement" means any statement promoting the insurer, its policy, or both, made by an individual, group of individuals, society, association or other organization which makes no reference to the endorser's experience under the policy.

(e) "Guaranteed interest rate" means the lowest rate of interest which an insurer may pay under the terms of a policy during the duration of the policy.

(f) "Illustrated rate" means a rate shown in an advertisement, representation, or solicitation which an insurer may guarantee for a limited period of time, but not guarantee for the duration of the policy.

(g) "Individual policy issued on a group basis" means an individual policy issued for which:

1. Coverage is provided to employees or members or classes of employees or members defined in terms of conditions pertaining to employment or membership in an association or other group which is eligible for franchise or group insurance as defined in s. 600.03 (22) and (23), Stats.;

2. The coverage is not available to the general public and can be obtained and maintained only because of the covered person's membership in or connection with the group;

3. The employer, association or other group, or a designated person acting on behalf of one of these persons, pays premiums or subscription charges to the insurer; and

4. The employer, association or other group sponsors the insurance plan.

(h) "Institutional advertisement" means an advertisement which is prepared solely to promote the reader's or listener's interest in the concept of life insurance or annuities, or of promoting the insurer sponsoring the advertisement, or both.

(i) "Intermediary" has the meaning provided in s. 628.02 (1), Stats.

(j) "Policy" means any document, including a policy, plan, contract, agreement, rider or endorsement, used to set forth in writing life insurance or annuity benefits.

(k) "Representation" means any communication, other than an advertisement or solicitation, relating to an insurance policy, the insurance business, any insurer, or any intermediary.

(l) "Solicitation" means an attempt to persuade a person to make an application for an insurance policy.

(m) "Testimonial" means any statement made by a policyholder, certificate holder or other person covered by the insurer which promotes the insurer and its policy or contract by describing the person's benefits, favorable treatment or other experience under the policy or contract.

(4) APPLICATION OF THIS SECTION. (a) The commissioner shall construe this section in a manner which does not unduly restrict, inhibit or retard the promotion, sale and expansion of life insurance policies or annuity contracts. The commissioner shall consider differences in the purposes served by various advertisements and in the insurance product being advertised when interpreting this section. When applying this section to a specific advertisement, the commissioner shall consider the detail, character, purpose, use and entire content of the advertisement.

(b) The extent to which a person subject to this section shall disclose policy provisions in an advertisement will depend on the content, detail, character, purpose and use of the advertisement and the nature of any qualifications involved. The principle criterion is whether the advertisement has the capacity or tendency to mislead or deceive if such a provision is not disclosed.

(c) The commissioner shall determine whether an advertisement has the capacity or tendency to mislead or deceive from the overall impression that the advertisement may be reasonably expected to create upon a person of average education or intelligence within the segment of the public to which it is directed.

(5) ADVERTISEMENTS, REPRESENTATIONS, AND SOLICITATIONS IN GENERAL. (a) Advertisements, representations, and solicitations shall be truthful and not misleading in fact or in implication and shall accurately describe the policy, the insurance business, any insurer, or any intermediary to which they apply. No advertisement may contain words or phrases the meaning of which is clear only by implication or by familiarity with insurance terminology.

(b) Oral representations and solicitations shall conform to the requirements of this section.

(6) **SUITABILITY OF POLICIES.** No insurer or intermediary may recommend to a prospective buyer the purchase or replacement of any individual life insurance policy or annuity contract without reasonable grounds to believe that the recommendation is not unsuitable to the applicant. The insurer or intermediary shall make all necessary inquiries under the circumstances to determine that the purchase of the insurance is not unsuitable for the prospective buyer. This subsection does not apply to an individual policy issued on a group basis.

(7) **DECEPTIVE WORDS, PHRASES OR ILLUSTRATIONS.** (a) No person subject to this section may use an advertisement that exaggerates a benefit or minimizes cost by overstatement, understatement or incompleteness. No advertisement may omit information or contain words, phrases, statements, references or illustrations if the omission or use has the capacity, tendency, or effect of misleading or deceiving purchasers or prospective purchasers as to the nature or extent of any policy benefit payable, loss covered, premium payable or state or federal tax consequences. An advertisement referring to any policy benefit payable, loss covered, premium payable, or state or federal tax consequences shall be sufficiently complete and clear as to avoid deception or the capacity or tendency to mislead or deceive.

(b) No advertisement may state or imply that life insurance arrangements are the same as savings accounts or deposits in banking or savings institutions. No person subject to this section may use policies which resemble savings bank passbooks. If savings accounts or deposits in banking and savings institutions are utilized in connection with life insurance arrangements, this paragraph does not prohibit the use of an accurate description of the life insurance arrangement.

Note: Annuity contracts are subject to the same limitations under s. Ins 2.15 (9) (h).

(c) No advertisement may contain the terms "investment," "investment plan," "founder's plan," "charter plan," "deposit," "expansion plan," "profit," "profits," "profit sharing," "interest plan," "savings," "savings plan," or other similar terms in connection with a policy in a context or under circumstances or conditions as to have the capacity or tendency to mislead a purchaser or prospective purchaser of the policy to believe that he or she will receive, or that it is possible that he or she will receive, something other than a policy or some benefit not available to other persons of the same class and equal expectation of life.

(d) An advertisement may refer to immediate coverage or guaranteed issuance of a policy only if suitable administrative procedures exist so that the policy is issued within a reasonable time after the application is received.

(e) No advertisement may refer to a policy or coverage as "special" unless a person subject to this section can show that a reasonable basis exists for the use of this term.

(8) **IDENTITY OF INSURER.** (a) Each advertisement shall clearly identify the insurer. If an application is a part of the advertisement, the application shall show the name of the insurer.

(b) No advertisement may contain a trade name, an insurance group designation, the name of the parent company of the insurer, the name of a government agency or program, the name of a department or division of an insurer, the name of an agency, the name of any other organization, a service mark, a slogan, a symbol or any other device which has the capacity or tendency to mislead or deceive as to the identity of the insurer or create the impression that an entity other than the insurer has any responsibility for the financial obligation under any policy.

(c) No advertisement may contain any combination of words, symbols or materials which, by its content, phraseology, shape, color, nature or other characteristics, is so similar to combinations of words, symbols or materials used by federal, state or local government agencies that it tends to confuse or mislead prospective buyers into believing that the solicitation is in some manner connected with such a government agency.

(d) No advertisement may refer to an affiliate of the insurer without disclosing that the 2 organizations are separate legal entities.

(e) No advertisement may indicate an address for an insurer in any manner that may mislead or deceive as to the insurer's identity or licensing status. An advertisement which indicates an address for an insurer other than that of its home office shall clearly identify the address other than that of its home office and clearly disclose the actual city and state of domicile of the insurer.

(9) TESTIMONIALS, ENDORSEMENTS, APPRAISALS, ANALYSIS OR COMMENDATIONS BY THIRD PARTIES. (a) No advertisement may contain a testimonial, endorsement or other commendatory statement concerning the insurer, its policies or activities by any person who receives any pay or remuneration, directly or indirectly, from the insurer in connection with the testimonial, endorsement or statement unless the advertisement, testimonial or endorsement includes a full and prominent disclosure therein of the relationship, direct or indirect, including but not limited to the existence of any financial interest, remuneration, or both, between the insurer and the person making the testimonial, endorsement or statement. The provisions of this paragraph do not apply to any person holding a Wisconsin intermediary's license nor to any radio or television announcer or other person employed or compensated on a salaried or union wage scale basis.

(b) A testimonial, endorsement, appraisal, or analysis used in an advertisement shall be genuine, represent the current opinion of the author, apply to the policy advertised and be accurately reproduced.

(c) No person subject to this section may use a testimonial, endorsement, appraisal or analysis:

1. Which is fictional;
2. If the insurer has information indicating a substantial change of view on the part of the author;
3. If a reasonable person would conclude that the views expressed do not correctly reflect the current opinion of the author;
4. For more than 2 years after the date on which it was originally given or 2 years after the date of a prior confirmation without obtaining a confirmation that the statement represents the author's current opinion;

5. Which does not accurately reflect the present practices of the insurer;

6. To advertise a policy other than the policy for which the author gave the statement, unless the statement clearly has some reasonable application to the second policy;

7. Which effects a change or omission which alters or distorts its meaning or intent as originally written; or

8. Which does not disclose the true nature of the insurance coverage under which the benefits were paid if it contains a description of benefit payments.

(d) No advertisement may state or imply, unless true, that an individual, group of individuals, society, association or other organization approves or endorses an insurer or a policy. An advertisement shall disclose any affiliated relationship between the society, association or other organization and the insurer. If the insurer or the person or persons who own or control the insurer has formed or owns or controls the society, association or other organization, the advertisement shall clearly disclose this fact.

(e) If a testimonial refers to benefits received under a policy, the insurer shall retain a summary of the pertinent claim information including claim number and date of loss with the advertisement in the advertising file required by sub. (30).

(f) No advertisement may state or imply that a government publication commends or recommends the insurer or its policy.

(10) JURISDICTIONAL LICENSING; APPROVAL BY GOVERNMENTAL AGENCY. (a) No advertisement which may be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed may state or imply licensing beyond those limits.

(b) In any advertisement any reference to licensing shall contain an appropriate disclaimer that the viewer, listener, or reader should not construe the reference as an endorsement or implied endorsement of the insurer or its products by any agency of this state or the commissioner of insurance.

(c) No advertisement may state or imply that the insurer, its financial condition or status, the payment of its claims, its policy forms or the merits or desirability of its policy forms or kinds or plans of insurance are approved, endorsed or accredited by any agency of this state or the federal government.

(d) No advertisement may contain a reproduction of a portion of a state insurance department report of examination.

(11) INTRODUCTORY, INITIAL OR SPECIAL OFFERS AND LIMITED ENROLLMENT PERIODS. (a) No advertisement may state or imply, unless true, that a policy or combination of policies is an introductory, initial or special offer and that the applicant will receive advantages not available at a later date by accepting the offer, that only a limited number of policies will be sold, that a time is fixed for the discontinuance of the sale of the policy advertised because of special advantages available in the policy, or that an individual will receive special advantages by enrolling within an open enrollment period or by a deadline date.

(b) No advertisement may state or imply that enrollment under a policy is limited to a specific period unless the advertisement discloses the period of time permitted to enroll. This period of time may not be less than 10 days and not more than 40 days from the date of the advertisement.

(c) If the insurer making an introductory, initial or special offer has previously offered the same or similar policy on the same basis or intends to repeat the current offer for the same or similar policy, the advertisement shall disclose this fact.

(d) No insurer may establish for residents of this state a limited enrollment period within which a person may purchase an individual policy less than 6 months after the close of an earlier limited enrollment period for the same or similar policy. The restriction shall apply to all advertisements in newspapers, magazines and other periodicals circulated in this state, all mail advertisements sent to residents of this state and all radio and TV advertisements broadcast in this state. This restriction does not apply to the solicitation of enrollments under individual policies issued on a group basis.

(e) Where an insurer is an affiliate of a group of insurers under common management and control, the word "insurer" for the purposes of this subsection means the insurance group. The requirements and restrictions applicable to an insurer shall apply to the insurance group.

(12) MAIL ORDER REFUSAL FORM. No person subject to this section may use a mail order advertisement which requires the recipient, in order to refuse a policy, to sign a refusal form and return it to a specified person or insurer.

(13) GROUP, QUASI-GROUP OR SPECIAL CLASS IMPLICATIONS. No advertisement may state or imply, unless true, that prospective policyholders or members of a particular class of individuals become group or quasi-group members or are uniquely eligible for a special policy or coverage and will be subject to special rates or underwriting privileges or that a particular coverage or policy is exclusively for preferred risks, a particular segment of people, or a particular age group or groups.

(14) INSPECTION OF POLICY. (a) An offer in an advertisement of free inspection of a policy or an offer of a premium refund shall not be a cure for misleading or deceptive statements contained in such advertisement.

(b) An advertisement which refers to the provision in the policy advertised regarding the right to return the policy shall disclose the time limitation applicable to this right.

(15) IDENTIFICATION OF PLAN OR NUMBER OF POLICIES. (a) When an advertisement refers to a choice regarding benefit amounts, it shall disclose that the benefit amounts provided will depend upon the plan selected and that the premium will vary with the amount of the benefits.

(b) When an advertisement refers to various benefits, all of which can be obtained only by purchasing 2 or more policies, it shall disclose that the benefits are provided only through a combination of such policies.

(16) USE OF STATISTICS. (a) An advertisement which sets out the dollar amounts of claims paid, the number of persons insured or other statistical information shall identify the source of the statistical information.

No person subject to this section may use an advertisement unless it accurately reflects all of the relevant facts. No advertisement may contain irrelevant statistical data.

(b) No advertisement may imply that the statistical information given is derived from the insurer's experience under the policy advertised unless true. The advertisement shall specifically so state if the information applies to other policies or plans.

(c) An advertisement which sets out the dollar amounts of claims paid shall also indicate the period during which such claims have been paid.

(17) CLAIMS. No advertisement may:

(a) Contain untrue statements with respect to the time within which claims are paid;

(b) State or imply that claim settlements will be liberal or generous or use words of similar import;

(c) State or imply that claim settlements will be beyond the actual terms of the policy; or

(d) Contain a description of a claim which involves unique or highly unusual circumstances.

(18) STATEMENTS ABOUT AN INSURER. No advertisement may contain untrue statements or statements that by implication mislead with respect to the insurer's assets, corporate structure, financial standing, age, experience or relative position in the insurance business.

(19) DISPARAGING COMPARISONS AND STATEMENTS. No advertisement may directly or indirectly contain unfair or incomplete comparisons of policies or benefits or falsely or unfairly disparage, discredit or criticize competitors, their policies, services or business methods or competing marketing methods.

(20) PREMIUMS. (a) An advertisement for a policy with nonlevel premiums shall contain a prominent description of the premium changes.

(b) No person subject to this section may describe in an advertisement a life insurance policy under which the insurer reserves the right to change the amount of the premium during the policy term unless this feature is prominently described in the advertisement.

(c) Except as otherwise allowed under this paragraph, no advertisement may contain a statement or representation that an insured may withdraw under the terms of the policy any premiums paid for a life insurance policy. The advertisement may refer to amounts paid into an advance premium fund, which are intended to pay premiums at a future time, to the effect that they may be withdrawn under the conditions of the prepayment agreement. The advertisement may also refer to withdrawal rights under any unconditional premium refund offer.

(d) No advertisement may state or imply that a pure endowment benefit is a "profit" or "return" on the premium paid rather than a policy benefit for which a specified premium is paid.

(21) NONGUARANTEED POLICY ELEMENTS. (a) No advertisement may contain a description of or otherwise refer to nonguaranteed policy elements.
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ments in a manner which is misleading or has the capacity or tendency to mislead.

(b) No advertisement may state or imply that the payment or amount of nonguaranteed policy elements is guaranteed. If an insurance policy's or annuity contract's nonguaranteed policy elements are illustrated, they may not be more favorable to the policyholder than those based on the current interest rates, dividend scales, mortality tables, and other variable components currently used by the insurer for that insurance policy or annuity contract. The illustration shall contain a statement to the effect that the viewer, listener, or reader should not construe the nonguaranteed policy elements as guarantees or estimates of amounts to be paid in the future.

(c) No advertisement may state or imply that illustrated nonguaranteed policy elements will be or can be sufficient at any future time to assure, without the further payment of premiums, the receipt of benefits, such as a paid-up policy, unless the advertisement clearly and precisely explains what benefits or coverage would be provided at the future time and under what conditions this would occur.

(d) 1. No advertisement may refer to dividends as "tax free" or contain words of similar import, unless the tax treatment of dividends is accurately explained and the nature of the dividend as a return of premium is indicated clearly.

2. The requirements of this subsection are in addition to the requirements set forth in ss. Ins 2.14 (5) (h) and 2.15 (9) (g).

(22) POLICIES SOLD TO STUDENTS. (a) A person subject to this section may address an advertisement for policies sold to students to the parents of students. No address on the advertisement may include any combination of words which imply that the correspondence is from a school, college, university or other education or training institution nor may it imply that the institution has endorsed the material or supplied the insurer with information about the student unless true.

(b) All advertisements, including but not limited to information flyers used in the solicitation of insurance, shall contain clear identification that the advertisement comes from an insurer or intermediary, if this is the case, and these entities shall be clearly identified as insurers or intermediaries.

(c) No return address on the advertisement may state or imply that the soliciting insurer or insurance intermediary is affiliated with a university, college, school, or other educational or training institution, unless true.

(23) INDIVIDUAL DEFERRED ANNUITY PRODUCTS OR DEPOSIT FUNDS. For individual deferred annuity products or deposit funds, the following shall apply:

(a) Any illustrations or statements containing or based upon interest rates higher than the guaranteed accumulation interest rates for the annuity product or deposit fund shall likewise set forth with equal prominence comparable illustrations or statements containing or based upon the guaranteed accumulation interest rates. No higher interest rate may be greater than those currently being credited by the insurer unless the higher rate has been publicly declared by the insurer with an effective

date for new issues not more than 2 months subsequent to the date of declaration.

(b) If an advertisement states the net premium accumulation interest rate, whether guaranteed or not, it shall also disclose in close proximity thereto and with equal prominence, the actual relationship between the gross and net premiums.

(c) If any policy does not provide a cash surrender benefit prior to commencement of payment of any annuity benefits, any illustrations or statements concerning the policy shall prominently state that cash surrender benefits are not provided.

(24) ADVERTISEMENTS SHOWING A SPECIFIC RATE OF RETURN ON PREMIUMS OR CASH VALUES. All life insurance or annuity solicitations, representations, and advertisements used in Wisconsin which show a specific rate of return on premiums or cash values shall also show, in close proximity thereto and with equal prominence, the following:

(a) 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.

(b) The guaranteed rate of interest paid on the cash value.

(c) The amounts of the cash value or premium to which the guaranteed and the illustrated rates are applied; for example, an advertisement, representation, or solicitation shall disclose if interest on the first \$1,000 of cash value is limited to the guaranteed rate.

(d) 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.

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

(25) GRADED OR MODIFIED BENEFITS AFTER A POLICY IS ISSUED. (a) An advertisement, representation, or solicitation for a policy containing graded or modified benefits shall prominently disclose this fact. If applicable, an advertisement, representation, or solicitation shall prominently disclose the fact that the premium is level and coverage decreases or increases with age or duration. Graded or modified benefits shall include, but are not limited to, life insurance policies that, within a specified period after the policy is issued, may pay no death benefits or death benefits that are less than premiums paid should the insurer pay the death benefits.

(b) The prominent disclosure required in par. (a) shall mean the following for the specified type of advertisement:

1. For television advertisements, an announcement describing the graded or modified benefits to be displayed during the advertisement for at least 10 seconds.

2. For radio advertisements, an announcement describing the graded or modified benefits.

3. For pre-printed advertisements intended for general distribution, a written description of the graded or modified benefits printed on the first page of the advertisement and in at least 12 point bold type.

(26) MISCELLANEOUS DISCLOSURE REQUIREMENTS. (a) In the event an advertisement uses "Nonmedical," "No Medical Examination Required," or similar terms where issue is not guaranteed, the terms shall be accompanied by a further disclosure in close proximity thereto and with equal prominence to the effect that issuance of the policy may depend upon the answers to the health questions set forth in the application.

(b) No advertisement may contain as the name or title of a life insurance policy any phrase which does not include the words "life insurance" unless accompanied by other language clearly indicating it is life insurance.

(c) An advertisement shall prominently describe the type of policy advertised.

(d) No advertisement of an insurance policy marketed by direct response techniques may state or imply, unless the condition is true, that because there is no intermediary or commission involved there will be a cost saving to prospective purchasers.

(e) No advertisement may state or imply in any way that interest charged on a policy loan or the reduction of death benefits by the amount of outstanding policy loans is unfair, inequitable, or in any manner an incorrect or improper practice.

(f) If nonforfeiture values are shown in any advertisement, the advertisement shall show the values either for the entire amount of the basic life policy death benefit or for each \$1,000 of initial death benefit.

(g) No advertisement may contain the words "free," "no cost," "without cost," "no additional cost," "at no extra cost," or words of similar import with respect to any benefit or service being made available with a policy, unless the insured is not charged for any benefit or service. If the insured is not charged, then the advertisement shall prominently disclose the identity of the payor.

(27) METHOD OF DISCLOSURE OF REQUIRED INFORMATION. (a) A person subject to this section shall set out all information required to be disclosed by this section clearly, conspicuously and in close proximity to the statements to which the information relates or under appropriate captions of sufficient prominence that it shall be readily noticed and not minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisements so as to be confusing or misleading.

(b) No person subject to this section may set out information required by this section under inappropriate captions or headings or under inappropriate questions where a question and answer format is used.

(28) FORM NUMBER. A person subject to this section shall identify by form number an advertisement other than an institutional advertisement defined in sub. (3) (h) which is mass-produced. The form number shall be sufficient to distinguish it from any other advertising form or any policy, application or other form used by the insurer.

(29) **INSURER'S RESPONSIBILITY FOR ADVERTISEMENTS.** (a) The insurer whose policy is advertised has responsibility for the content, form and method of dissemination of all advertisements, regardless of by whom designed, created, written, printed or used.

(b) An insurer shall require its intermediaries and all other persons or agencies acting on its behalf in preparing advertisements to submit proposed advertisements to it for approval prior to use.

(30) **INSURER'S ADVERTISING FILE.** Each insurer shall maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its policies hereafter disseminated in the state. With respect to group, blanket and franchise policies, all proposals prepared on the same printed form need not be included in the file; only typical examples of these proposals shall be included. A notation shall be attached to each such advertisement in the file indicating the manner and extent of distribution and the form number of any policy, amendment, rider, or endorsement form advertised. The file shall be subject to regular and periodic inspection by the office of the commissioner of insurance. A person subject to this section shall maintain all of these advertisements in the file while in use and for a period of 3 years after an advertisement's authorized use. If applicable, a person subject to this section shall also maintain files in accordance with ss. Ins 2.14 (5) (a) and 2.15 (9) (a).

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; r. and recr. Register, July, 1989, No. 403, eff. 8-1-89.

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.

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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.

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(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 lx .

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 non-smokers 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.

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.

Ins 2.40 Annuity contracts without life contingencies. (1) PURPOSE. This section implements and interprets s. 632.66, Stats., by authorizing life

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insurers to issue annuity contracts without life contingencies and setting forth the conditions under which these annuity contracts may be issued.

(2) **SCOPE.** This section applies to all annuity contracts without life contingencies and which are classified as life and disability insurance under s. Ins 6.75 (1).

(3) **GRANT OF AUTHORITY.** A life insurer that holds a valid certificate of authority to transact the business of life insurance and annuities in this state may issue in this state annuity contracts without life contingencies, subject to the following conditions:

(a) No insurer may base the consideration to be paid to the insurer for the annuity contract without a life contingency upon the age or condition of health of the purchaser of the contract or any other person, or on any mortality or morbidity contingencies.

(b) An insurer shall base the amounts guaranteed to be paid under an annuity contract without a life contingency upon reasonable assumptions as to investment income and expenses, determined in a manner which is equitable to all holders of such contracts.

(c) An insurer may offer to the public an annuity contract without a life contingency only through licensed intermediaries or directly by the insurer.

(4) **APPLICABLE STATUTES AND ADMINISTRATIVE RULES.** An annuity contract without a life contingency is deemed to be an annuity for purposes of chs. 600 to 645, Stats., and all rules adopted thereunder, including, but not limited to, ch. 623, Stats., ss. 631.20 to 631.27, Stats., and ss. Ins 2.07, 2.15, 6.05, and 14.02.

History: Cr. Register, December, 1988, No. 396, eff. 1-1-89.